FAQs for Financial Services Providers as Federal Cannabis Policies Shift

[Updated Hemp Definition + Potential Rescheduling]

Assessing Impact & Exposure | Understanding Compliance Requirements

Whether currently banking hemp and/or state-regulated cannabis businesses, considering establishing a cannabis banking program, or assessing how changes in federal policy may impact risk exposure of those servicing these industries, **it is vital for financial institutions to understand what these federal cannabis policy changes mean, how they may impact operations in the future, and start any planning that needs to be done now.** This is more important now than ever before as 47 states allow for some form of cannabis use, a recent Executive Order supporting the process to federally reclassify marijuana, and the prevalence of consumable cannabinoid products nationwide that, in November of 2026, will no longer be considered hemp but marijuana under federal law.

In recent years, there has been growing debate over the emergence of consumable cannabinoid products following the legalization of hemp in the 2018 Farm Bill that inadvertently allowed for interstate commerce of intoxicating hemp-derived products that often are unregulated and synthetically derived. In November 2025, following more than a year of debate of such language, Congress passed into law a new definition of hemp to effectively "close the loophole" with a one-year enforcement delay. This will result in the vast majority of consumable products that entered the market under the 2018 Farm Bill definition to once again be classified and treated as marijuana, rather than hemp, under federal law in November 2026 when the new definition becomes effective. The impacts of this change will be widespread – including on service providers and financial institutions currently servicing clients outside of any formal cannabis banking program that either directly or indirectly engage in this industry, requiring proactive risk assessments, client audits, SARs planning, and transition strategies.

Additionally, President Donald Trump signed an Executive Order December 18, 2025, directing U.S. Attorney General (AG) Pam Bondi and the U.S. Department of Justice (DOJ) to take "all necessary steps to complete the rulemaking process" to move marijuana from Schedule I to Schedule III in the most "expeditious" manner. While a move to Schedule III will not, on its own, legalize state programs federally or change banking regulations surrounding marijuana specifically, updated Treasury guidance may follow this change. ***NOTE: At the time of publication, marijuana remains classified as a Schedule I substance under federal law.***

Against this backdrop, the **Cannabis Financial Industry Group** (CFIG), a coalition of financial institutions and leading risk mitigation services providers serving the regulated U.S. cannabis industry, has prepared the following Frequently Asked Questions to help other financial institutions and risk services providers that are trying to assess their risk, operational considerations, and responsibilities as it pertains to both potential rescheduling and the new hemp definition's impact on existing clients as federal cannabis laws change.

For more on Cannabis Banking Program Standards, see CFIG's guide HERE.

DISCLAIMER: This document is not intended to constitute legal advice and should not be relied upon as such by the recipient. At the time of this document's publication on March 4, 2026, cannabis remains a Schedule I substance under the Controlled Substances Act and therefore the manufacture, distribution, dispensation, and possession of cannabis or cannabis-derived products is prohibited under federal law – even as 47 states, the District of Columbia, and four U.S. territories allow for some form of cannabis use. While proposed federal legislation has been debated that would create protections for financial institutions that provide banking services to state sanctioned cannabis businesses and legitimate service providers for such cannabis-related businesses, at the time of this document's publication on March 4, 2026, such legislation has yet to be signed into law.

As it currently remains a violation of federal law for a financial institution regulated by the federal government to accept deposits or provide services to a cannabis related business, none of the recommendations in this document can protect one from potential federal enforcement actions due to the contradiction between federal and state cannabis laws, but are rather intended to help financial institutions that are evaluating the impact of the changing federal hemp definition has on existing and future clients as well as those considering or having fully evaluated and accepted the applicable risks of servicing the state-sanctioned cannabis industry to: 1) better assess the Banking Secrecy Act (BSA) requirements and compliance costs associated with servicing this unique industry; and 2) maintain a compliant and transparent banking program.

CFIG Cannabis Financial Industry Group

The **Cannabis Financial Industry Group** (CFIG) coalesces financial institutions and leading risk mitigation services providers serving the regulated U.S. cannabis industry. Visit www.CFIG.org or email Erin@EMMinentStrategiesLLC.com for more information. For more on Cannabis Banking Program Standards, see CFIG's guide ***HERE.***

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FAQs for Financial Institutions: Updated Hemp Definition + Rescheduling

1. **What changed in the federal definition of hemp?**
   The definition now uses total THC (including THC-A), excludes synthetic cannabinoids, imposes a 0.4 mg total THC per container cap, and excludes intoxicating cannabinoids similar to THC. Products outside this definition are considered marijuana under the Controlled Substances Act.

2. **When does the change take effect?**
   The law is enacted, but enforcement begins on November 12, 2026. Despite the sunrise provision, institutions must assess exposure, transitions, and future illegality risks now.

3. **How broad of an impact will this change cause?**
   The U.S. Hemp Roundtable has estimated this definitional change will impact 95 percent of products in the market, including THC-beverages and full-spectrum CBD.

4. **Will this impact hemp seeds and other raw materials?**
   While the 2026 language specifically defines industrial hemp "as hemp grown for the use of the stalk, whole grain, oil, cake, nut, hull, or any other non-cannabinoid derivative of the seeds" that will remain federally legal, explicitly exempted from the new hemp definition are "viable seeds from a cannabis plant that exceed a total THC concentration, including THCA, of 0.3% on a dry weight basis," which would make them future marijuana products. At the same time, hulled hemp seeds, hemp seed protein powder, and hemp seed oil have been approved as food additives by the FDA. This quagmire perfectly encapsulates the challenges faced when assessing potential exposure and highlights the importance of better understanding what products current clients may be producing and their end use.

5. **Why does this matter for financial institutions?**
   Banks face underwriting, compliance, SAR filings, and reputational risks when servicing businesses whose products may become federally illegal over the course of the relationship. Many ancillary businesses that currently serve the hemp industry purportedly legalized under the 2018 Farm Bill may be subject to new reporting and compliance regulations upon this change going into effect reclassifying many such products as marijuana.

   The compliance requirements may also extend to a broader ecosystem than just those directly manufacturing the products in question but to retail facilities that may carry these products, landlords that may lease space where these products are manufactured or sold, and transit of such products, which is why conducting an audit to assess potential exposure is critical now.

6. **How does this affect FinCEN guidance?**
When this law takes effect on November 12, 2026, many products that were once legal under the 2018 Farm Bill will fall outside the prior hemp definition and be treated as Schedule I marijuana under federal law. As such, the transactions for these products may need to be treated under FinCEN marijuana guidance, including priority SARs considerations. However, it is worth noting that the current FinCEN guidance predates any federal change to hemp's definition, so the products that exceed the new threshold will be treated the same under FinCEN as existing marijuana products that exceed 0.3% total THC on a dry weight basis.

7. **What *is* the current FinCEN guidance regarding banking marijuana-related businesses?**
In February 2014, FinCEN released guidance on "BSA Expectations Regarding Marijuana-Related Businesses" following an August 2013 DOJ memo on "Guidance Regarding Marijuana Enforcement," which is more commonly referred to as the "Cole Memo." While the "Cole Memo" was rescinded in January 2018, the FinCEN guidance remains in place. While you should review it in its entirety **here**, below are a few points of note that are particularly of interest as it relates to how these future marijuana products that are currently marketed in interstate commerce, outside of state regulated cannabis programs, and without age restrictions may fall outside this guidance.

- As part of its customer due diligence, a financial institution should consider whether a marijuana-related business implicates one of the Cole Memo priorities or violates state law. Cole Memo priorities include:
  - Preventing the diversion of marijuana from states where it is legal under state law in some form to other states.
  - Preventing the distribution of marijuana to minors.

- In assessing the risk of providing services to a marijuana-related business, a financial institution should conduct customer due diligence that includes:
  - Verifying with the appropriate **state authorities** whether the business is **duly licensed and registered.**
  - Reviewing the license application (and related documentation) submitted by the business for **obtaining a state license** to operate its marijuana-related business.

8. **Do the FinCEN SAR reporting requirements extend to those servicing the industry?**
The FinCEN guidance states that "Because federal law prohibits the distribution and sale of marijuana, **financial transactions involving a marijuana-related business would generally involve funds derived from illegal activity**. Therefore, a financial institution is required to file a SAR on activity involving a marijuana-related business (including those duly licensed under state law), in accordance with this guidance and FinCEN's suspicious activity reporting requirements and related thresholds. Consider setting an internal policy for how such relationships will be handled, in consultation with a BSA specialist or regulator.

9. What Suspicious Activity Reports (SARs) categories are most impacted?

Out of the three outlined SAR filings, "Marijuana Priority" designations may be most deeply affected by the change as it relates to interstate commerce and lack of state law compliance, as outlined further below.

- The business is unable to demonstrate that its revenue is derived exclusively from the sale of marijuana **in compliance with state law**, as opposed to revenue derived from (i) the sale of other illicit drugs, (ii) the sale of marijuana not in compliance with state law, or (iii) other illegal activity.

- The business is unable to produce satisfactory documentation or evidence to demonstrate that it is **duly licensed** and operating consistently with state law.

- A marijuana-related business engages **in international or interstate activity**, including receiving cash deposits from locations outside the state in which the business operates, making or receiving frequent or large interstate transfers, or otherwise transacting with individuals or entities located in different states or countries.

10. How does interstate commerce affect risk?

Interstate transport of newly defined marijuana products would be federally illegal, increasing SAR obligations and multi-state compliance burdens. Notably, FinCEN guidance includes as a "Marijuana Priority" transaction, "A marijuana-related business engages in international or interstate activity, including by receiving cash deposits from locations outside the state in which the business operates, making or receiving frequent or large interstate transfers, or otherwise transacting with persons or entities located in different states or countries." As such, the bar against interstate activity may catch many companies in the crosshairs that currently ship products across state lines directly to consumers.

11. What about states that say they won't enforce the new hemp definition?

States do not enforce federal law. Federal agencies may act regardless of state posture due to the Supremacy Clause.

12. What is the impact in states that have Controlled Substances Act "trigger" laws?

States tied to the federal CSA may see immediate legality changes, eliminating reliance on state licensure as a compliance safe harbor. For example, South Carolina requires state agencies to automatically change how substances are classified under state law within 30 days of a federal change.

13. What will state regulators expect?

Evidence of proactive risk assessment, client audits, SARs planning, and transition strategies.

14. Will individual companies and retail establishments be required to be licensed to produce, transport, and sell these products in the future?

On the federal level, these products will be classified as Schedule I substances under the Controlled Substances Act and there is no pathway to federal licensing to sell Schedule I substances. ***NOTE****: If marijuana is moved to Schedule III, such products would require FDA approval, DEA registration, qualified prescription, and pharmacy distribution to be in compliance with federal law, otherwise it is still considered trafficking, unless a forthcoming rulemaking specifically states otherwise.*

On the state level, it will depend on state cannabis laws. While 47 states allow for some form of cannabis in conflict with federal law, many of these pre-existing laws did not factor hemp-derived products into their regulations, given that federal law (the 2018 Farm Bill) pre-empted any state policies. Some states have enacted laws and regulations to treat these products, and therefore registration requirements, the same as medical and/or adult-use marijuana. Other states have banned these future marijuana products preemptively. Others are currently debating proposals during their state legislative sessions on how to potentially license, regulate, or ban these products with the change in federal law. Therefore, the potential for specific state licensing for these products remains very volatile and may not be in place to provide the due diligence referenced in the FinCEN guidance.

15. If a state has an established cannabis program, does that cover these future cannabis companies and products?

State-regulated cannabis programs differ widely, and this would be a state-by-state assessment, but all established programs require licenses and are highly regulated with ongoing compliance requirements. The vast majority of companies operating under the 2018 Farm Bill definition did so outside of state-regulated programs, meaning they are not currently licensed to operate in any state program pursuant to the state's cannabis regulatory structure, come November 2026.

Additionally, many operators in this space took advantage of the ability to engage in interstate commerce, having central operations in one state or location that then serviced retailers and consumers nationwide. State-licensed marijuana cannot cross state lines; to be compliant, those operating under the 2018 Farm Bill definition would need to shift operations to a single state or set up siloed operations in multiple states. This would significantly change bottom lines and viability – particularly as individual state policies are being debated surrounding these products.

On the other hand, it is also important to note that just because a state does not have an established cannabis program, it does not automatically mean they have not taken or will not take action specifically on how to treat these future marijuana products. That is why it is critical to assess the state laws where any clients are located, operating in, or selling to.

16. What is the impact of transferring these accounts to a third-party vendor?

Transfer of the accounts to a third party may not absolve liability if there was knowledge of activity that would merit a Marijuana Termination or Marijuana Priority SARs filing.

17. What is the impact on other service providers and credit cards?

Delivery platforms, processors, landlords, retail establishments, distributors, insurance providers, and financial institutions may face indirect enforcement or litigation risk. Major credit card companies continue to prohibit the use of their networks to process marijuana-related transactions, which in November 2026, sales of these products will be classified as.

18. What are some other risk analysis impacts of this change to consider?

Bankruptcy courts operating under the federal Bankruptcy Code are not able to intervene when the business is operating in violation of federal law. Courts have continued to uphold this policy as it pertains to state-regulated cannabis businesses seeking relief. While previously operating in compliance with federal law, these future marijuana operators will no longer have the same access to bankruptcy protections.

Additionally, commercial insurance policies frequently contain cannabis exclusions. Businesses currently insured as federally compliant hemp operations may find their existing coverage automatically nullified or non-renewed once products are reclassified as marijuana, even if state licensed. With broader exclusions than standard commercial policies, coverage gaps are created that affect loan collateral security and increase lender risk. Premium increases associated with reduced carrier availability for cannabis appropriate coverage also directly impact cash flow.

Furthermore, for those with operations utilizing rental properties, many commercial leases require minimum insurance and an inability to secure adequate coverage could trigger operational shutdowns.

19. Are there any tax implications?

Future marijuana operators will also face the application of Section 280E of the Tax Code while cannabis remains a Schedule I substance, meaning they will no longer be able to take routine business deductions or take advantage of tax credits, impacting bottom lines. Should marijuana be reclassified to Schedule III or lower, 280E will no longer automatically apply, however, it is expected that in such a situation there would be guidance from Treasury on how this change would apply and potentially additional requirements to be met for relief.

20. What is the likelihood that the hemp definition change will be reversed before enforcement?

Low. The provision had strong bipartisan support in both chambers of Congress after being debated for more than a year. Additionally, there are realistically limited legislative windows for reversal before November 2026 due to other congressional priorities, deadlines, and continued gridlock. While there have been bills introduced to repeal or delay this language, there has not been serious momentum behind these efforts at the time of publication. In fact, the 2026 Farm Bill prepared by the Chairman of the House Agriculture Committee, which had been seen as a potential vehicle to reverse or further delay this new definition, included no language to do so. Instead, it aligns its hemp definition language to reflect a **total** THC limit of no more than 0.3% on a dry weight basis with what was signed into law closing the loophole while easing regulatory burdens specifically on industrial hemp, further differentiating between hemp grown strictly for industrial purposes versus non-industrial (consumable) purposes.

21. Will marijuana rescheduling solve this?

No. Interstate commerce, FDA approval, and DEA registration issues remain unresolved for marijuana – even in state-regulated programs – under a Schedule III classification. Additionally, FinCEN guidance under the U.S. Department of Treasury is unchanged by the DEA rescheduling process alone. As referenced in #19, reclassification to Schedule III or lower would remove the automatic application of 280E, however, it is expected that in such a situation there would be guidance from Treasury on how this change would apply and potentially additional requirements to be met for relief.

Key Takeaway: This is a material, durable regulatory change requiring planning — not a symbolic or temporary shift.

What steps should financial institutions take now?

While enforcement will not begin until November 2026, internal policy decisions and risk assessments cannot wait – and cannot rely on the hope that enforcement of this law will be further delayed or amended. State-by-state policy changes currently being debated further complicate planning, but here are some key actions to take now to prepare, assess risk, evaluate relationships, and implement any internal policies and procedures deemed necessary.

I. **INFORM.** Notify your clients that the definition of hemp is changing in November 2026 to make sure both those directly and indirectly involved in the industry know this change happened and the unlikelihood that it will be reversed before the enforcement date. Some entities, particularly those that may have ancillary relationships with future marijuana products, may not know about this change or understand the impact it will have more broadly on how these products will be treated under federal law moving forward.

II. **AUDIT.** Audit clients currently operating as hemp under the 2018 Farm Bill that may be future marijuana products, those potentially selling these products, those potentially transporting these products, those potentially leasing to these clients, and others in the potential ecosystem to better ascertain exposure.

a. ***Direct Engagement:*** Entities directly engaged in the hemp and future hemp industry should provide a full list of products being manufactured and/or sold to include: types of products; source material; lab results; end use of product; distribution channels; interstate activity; states operating in (and what the operations are in each state); any state licenses currently held or being sought; and any business model changes underway to address compliance under the new definition.

b. ***Indirect Engagement:*** Ancillary entities should provide information on any relationships with future hemp entities or operations and provide the above information from that entity for assessment. Additionally, ancillary entities should provide information on how much of their business is dedicated to this industry to gauge overall impact and risk.

III. **ASSESS RISKS.** Armed with the information provided by clients, internal assessments can begin to discuss how this change in federal law will impact current relationships and the extent of the risk of these relationships moving forward to make recommendations on any new policies on how such relationships will be treated.

a. **Understand the Regulatory Environment:** It is imperative that financial institutions understand the unique rules in every state where there is a nexus to future marijuana products as no two jurisdictions' rules will be identical – with some treating such products more lenient than federal law while others may treat stricter.

b. **Reassess SARs Frameworks:** Review the FinCEN guidance as it applies to the three types of marijuana-related SARs and what relationships may merit which.

c. **Determine Risk Appetite:** Establish a well-defined risk appetite and assessment statement that addresses at a minimum: 1) what risks the financial institution is willing to take related to future hemp; 2) how the financial institution will scale while considering future hemp risk; and 3) what share of deposits and/or loans is the financial institution willing to have be future marijuana-related (if any). Banks may also want to confirm that their borrowers are properly protected by a cannabis appropriate insurer before products are reclassified.

d. **Understand Compliance Costs:** If the financial institution does not currently have a cannabis banking program, it is important to review what additional technology and staff resources continuing future hemp relationships may demand. This may include having a subject-matter expert in-house, additional support for increased SARs filings and ongoing elevated due diligence needs, and creating a program policy and procedures manual.

IV. **ESTABLISH POLICIES.** Once the financial institution has determined what its policy will be in regards to relationships with those directly engaged in the future marijuana industry as well as those indirectly connected to future marijuana products and companies, whether it be increased compliance fees for specific parameters, exiting high-risk relationships, or setting up a formal cannabis-banking program, it is vital that this policy be clearly communicated with all internal parties as well as existing clients.

   a. **Exiting Relationships:** If the financial institution chooses not to continue a high-risk relationship, it should also determine if such an action demands a "Marijuana Termination" SAR.

   b. **Establishing a Formal Cannabis Banking Program:** Determine the types of businesses the program will service, fee structures, the markets that will be serviced (i.e., statewide, multi-state, or regional), and continued compliance needs. For a more in-depth guide on considerations for establishing such a program, please see the Cannabis Financial Industry Group's "Program Standards for Cannabis-Serving Financial Institutions." Many of the topics discussed in this guide are also applicable for the auditing/assessment steps outlined above.

V. **ONGOING ASSESSMENTS:** As state laws are continuing to change as it relates to cannabis, it is important to conduct routine surveys of any potential new exposures to then handle these relationships in line with the now established policy guidance. If choosing to continue to bank future marijuana companies, those connected to or servicing the industry, as well as state-regulated cannabis-related businesses, ongoing compliance monitoring to those entities should be more regular with established processes that align with FinCEN and state guidance.
