H.R. 1595 – The Secure and Fair Enforcement Banking Act of 2019 or “SAFE Banking Act”

Summary:
- This bill prohibits a federal banking regulator from:
  - Terminating or limiting the deposit insurance or share insurance of a depository institution solely because the institution provides financial services to a legitimate marijuana-related business;
  - Forbidding or otherwise discouraging a depository institution from offering financial services to such a business;
  - Recommending, incentivizing, or encouraging a depository institution to not offer financial services to an account holder solely because the account holder is affiliated with such a business;
  - Taking any adverse or corrective supervisory action on a loan made to a person solely because the person either owns such a business or owns real estate or equipment leased or sold to such a business; and
  - Penalizing a depository institution for processing or collecting payments for such a business.
- Protects ancillary businesses from money laundering penalties
- Requires the Financial Institution Examination Council develop guidance to help credit unions and banks understand how to lawfully serve cannabis businesses

Background Information:
H.R. 1595 – the Secure and Fair Enforcement Banking Act (SAFE Banking Act), introduced by Representative Perlmutter (D-CO-7) in the House, would provide protections to banks and ancillary businesses, like accounting, payroll, etc., that provide services to legitimate cannabis-related entities. Specifically, the bill aims to shield depository institutions that serve cannabis-related businesses from federal penalties in states and in Indian Country where “cultivation, production, manufacture, sale, transportation, display, dispensing, distribution, or purchase” of cannabis is legal.

Historically, tribal governments and individual American Indians/Alaska Natives have had tremendous difficulty accessing banking services, however, the challenge is further exacerbated for tribal governments seeking to enter the cannabis industry. The SAFE Banking Act is an important step toward enabling banking, as well as ancillary services, for the cannabis-related businesses across Indian Country.

Although many states and tribes have legalized adult use or medical marijuana, since the possession, distribution or sale of cannabis remains federally illegal, any contact with money that
can be traced back to cannabis could be considered money laundering and expose a bank to significant risk. Under the SAFE Banking Act, proceeds from a legitimate tribal cannabis business would not be considered unlawful under federal money laundering statutes or any other federal law, so long as such businesses are acting in accordance with state or tribal law. Such a change would remove significant criminal and civil risk for banks and ancillary service providers like accountants, allowing them to serve tribal businesses without fear.

Only a small number of tribal governments are currently engaged in the rapidly growing cannabis industry, however, the tribal governments that are participating, often have difficulty finding and retaining banking services. As such, many tribal cannabis businesses are forced to operate outside of the guard rails of a regulated banking system and utilize a cash-intensive business model, making businesses susceptible to violence and theft.

The legislation also requires that financial regulators issue guidance “confirming the legality of hemp, hemp-derived CBD products, and other hemp-derived cannabinoid products, and the legality of engaging in financial services with businesses selling hemp, hemp-derived CBD products, and other hemp-derived cannabinoid products, after the enactment of the Agriculture Improvement Act of 2018.”

By passing this bill, financial institutions, ancillary service providers, and tribes will have more certainty and stability in conducting routine business transactions.

**Recommendation:**
Support H.R. 1595, the Secure and Fair Enforcement Banking Act, which would shield depository institutions that serve cannabis-related businesses from federal penalties in states and in Indian Country where “cultivation, production, manufacture, sale, transportation, display, dispensing, distribution, or purchase” of cannabis is legal.