



NEW YORK STATE  
DEPARTMENT *of*  
FINANCIAL SERVICES

Andrew M. Cuomo  
Governor

Maria T. Vullo  
Superintendent

TO: Chief Executive Officers or Equivalents of New York State-Chartered Banks & Credit Unions

FROM: Maria T. Vullo, New York State Superintendent of Financial Services

DATE: January 7, 2019

RE: Updated Guidance on Provision of Financial Services to Hemp-Related Businesses in New York State

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The New York State Department of Financial Services (the "Department") issued a Guidance memorandum on July 3, 2018 (the "2018 Department Guidance") in response to inquiries received from financial institutions regarding the provision of financial services to both medical marijuana-related businesses licensed by New York State, as well as businesses participating as research partners in the New York State Industrial Hemp Research Program. The 2018 Department Guidance, among other things, included matters relating to the growth or cultivation of industrial hemp for research purposes, as authorized by the Agriculture Act of 2014 (the "2014 Farm Bill"), and as allowed under New York State law.

The Department is issuing this Guidance to update the 2018 Department Guidance solely with respect to hemp in light of the enactment of the Agriculture Improvement Act of 2018 (the "2018 Farm Bill") on December 20, 2018. The 2018 Department Guidance with respect to medical marijuana-related businesses is not affected by the 2018 Farm Bill and remains fully applicable.

The 2018 Farm Bill addresses the production and sale of hemp and hemp-related products. As relevant here, until the passage of the 2018 Farm Bill, virtually all parts of the cannabis plant, and anything containing a compound derived from the plant, were deemed marijuana under the Controlled Substances Act (the "Act"). The 2018 Farm Bill changes this by removing hemp, defined as the cannabis plant and any part of the plant with a delta-9 tetrahydrocannabinol ("THC") of not more than 0.3 percent on a dry weight basis, from the Schedule I status under the Act. The 2018 Farm Bill authorizes cannabidiol ("CBD") to the extent that it is contained in hemp produced in a manner consistent with the 2018 Farm Bill and other federal and state regulations.

The 2018 Farm Bill allows states to become the primary regulators with authority to regulate and limit production and sale of hemp and hemp-related products within their borders. States are required to submit a plan to the U.S. Department of Agriculture for monitoring and regulating the production of hemp in their states, including a procedure for testing THC

concentration levels of hemp, maintenance of relevant information regarding land on which hemp is produced, and procedures for conducting annual inspections.

However, the 2018 Farm Bill does not affect the authority of the U.S. Food and Drug Administration ("the "FDA") to regulate hemp or hemp products, or change the regulatory requirements for such materials in FDA-regulated products like food, dietary supplements, cosmetics, or drugs. In fact, Congress has explicitly preserved the FDA's current authority to regulate products containing cannabis or cannabis-derived compounds under the Food, Drug and Cosmetic Act, and Section 351 of the Public Health Service Act.<sup>1</sup>

In light of the passage of the 2018 Farm Bill, the Department updates its 2018 Department Guidance to inform New York State chartered banks and credit unions of this new legislation relating to hemp, as defined above, that removes hemp from Schedule I under the Act, which means that it will no longer be considered by the federal government to be an illegal substance under the Act.

The Department continues to support responsible and legitimate businesses, including those relating to hemp and hemp-related products, and is issuing this updated Guidance to encourage all New York State chartered banks and credit unions to provide access to financial services and products to hemp-related businesses that operate in New York in full compliance with federal and New York State laws and regulations, as described above.



Maria T. Vullo  
Superintendent of Financial Services

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<sup>1</sup> See "Statement from the FDA Commissioner Scott Gottlieb, M.D., on Signing of the Agriculture Improvement Act and the agency's regulation of products containing cannabis and cannabis-derived components" dated December 20, 2018.