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## **DIVISION OF BANKING**

1601 N. Harrison Avenue, Suite 1, Pierre, SD 57501  
605-773-3421

## **MEMORANDUM**

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NUMBER: 07-015

DATE: February 9, 2021

TO: SOUTH DAKOTA STATE CHARTERED BANKS and MONEY LENDERS

FROM: BRET AFDAHL, Director

RE: INDUSTRIAL HEMP

During the 2020 legislative session, South Dakota legislators passed, and Governor Kristi Noem signed, House Bill 1008, which legalized the growth, production, and transportation of industrial hemp in South Dakota under SDCL Chapter 38-35<sup>1</sup>. On October 16, 2020, the U.S. Department of Agriculture approved the South Dakota Department of Agriculture's Industrial Hemp Plan<sup>2</sup> and on December 7, 2020, the South Dakota Legislature's Rules Review Committee approved the proposed rules of the South Dakota Department of Agriculture which established ARSD Article 12:82<sup>3</sup> to govern Industrial Hemp in South Dakota.

The purpose of this Memorandum is to provide guidance to South Dakota state-chartered banks and licensed money lenders that have customers engaged in Industrial Hemp growth, production, and transportation in South Dakota. This Memorandum does not cover Medical or Recreational Marijuana use in South Dakota.

Prior to offering financial services to customers engaged in industrial hemp growth, production, and/or transportation in South Dakota, your institution must have appropriate risk management practices in place, including:

- A strong understanding of applicable state and federal laws and regulations
- A risk assessment that considers potential impacts to all areas of your institution
- An effective audit program
- Policies and procedures to effectively guide staff
- A training program for staff and management
- Management Information Systems to monitor trends and activities, and
- A robust BSA/AML program that ensures:
  - Appropriate methods exist for identifying customers engaged in these activities
  - Customers have obtained proper state and federal licensure
  - Customers possess and maintain necessary records
  - Customers have appropriate plans for testing and inspections

Additional information on BSA/AML requirements can be found in the Joint Agency Guidance titled *Providing Financial Services to Customers Engaged in Hemp-Related Businesses*<sup>4</sup> issued on December 3, 2019, and in FinCEN Guidance titled *Due Diligence Requirements under the Bank Secrecy Act for Hemp-Related Business Customers*<sup>5</sup> dated June 29, 2020. The Conference of State Bank Supervisors (CSBS) has also produced the CSBS Cannabis Job Aid<sup>6</sup> which is a great resource on federal Hemp laws and regulations.

While the demand for Industrial Hemp production in South Dakota remains unknown, I encourage you to review this information with your Board of Directors and Senior Management Team to ensure your institution understands the unique risks involved with Industrial Hemp, and that you have appropriate risk management plans in place.

If your institution is considering providing financial services to customers engaged in the Industrial Hemp industry, or if you have any questions, please do not hesitate to contact the Division of Banking at 605-773-3421.

<sup>1</sup> [https://sdlegislature.gov/Statutes/Codified\\_Laws/2078446](https://sdlegislature.gov/Statutes/Codified_Laws/2078446)

<sup>2</sup> <https://www.ams.usda.gov/sites/default/files/media/SouthDakotaIndustrialHempPlan.pdf>

<sup>3</sup> <https://sdlegislature.gov/Rules/Administrative/39943>

<sup>4</sup> <https://www.csbs.org/system/files/2019-12/Hemp%20Guidance%20%28Final%2012-3-19%29.pdf>

<sup>5</sup> [https://www.fincen.gov/sites/default/files/2020-06/FinCEN\\_Hemp\\_Guidance\\_508\\_FINAL.pdf](https://www.fincen.gov/sites/default/files/2020-06/FinCEN_Hemp_Guidance_508_FINAL.pdf)

<sup>6</sup> <https://www.csbs.org/job-aids>