

ICBA ORAL COMMENTS ON HEMP March 13, 2019 Hemp Listening Session

On behalf of the Independent Community Bankers of America (ICBA), which represents over 52,000 banking locations across America, we appreciate USDA conducting this listening session today regarding the hemp provisions of the farm bill.

We are hearing from a growing number of community banking institutions that are assessing the legal risk of financing hemp growers and related businesses post-farm bill. Since the farm bill makes growing hemp legal under certain parameters, a number of community banks would like to finance hemp growers.

Lenders would like to see a crop insurance product as soon as possible, even for the 2019 crop year. Some community banks would finance hemp in 2019 grown under the farm bill's restrictions in cases where the hemp crop was a smaller portion of the farm's income generating potential and secured by other collateral even without a viable crop insurance product in place. In general, however, most community banks would like to see crop insurance coverage for hemp. Several other community banks would like to learn more about the legalities and economics of financing hemp production and the ancillary businesses that are associated with hemp production. The hemp provisions in the farm bill hold great promise to producers and related businesses.

Our recommendations include:

- USDA should quickly approve state plans submitted for USDA approval without trying to make these plans uniform nationally or without first requiring a rulemaking process for states that submit their own plans.
- A subsequent rulemaking process can be instigated for those states that do not submit a plan to USDA if the department feels a formal rulemaking process is necessary.

- However, a national regulation or ‘final rule’ by USDA should not preclude approval of state plans that have already been previously submitted to USDA.
- USDA should also engage in outreach to banking regulators to ensure the federal banking regulators understand that producers of hemp as well as businesses marketing or handling hemp-derived products under the farm bill’s guidelines are indeed legal businesses able to access loans and financial services from community banks.
- Bank examiners should also be made aware of the legality of these businesses due to the farm bill’s exemption of hemp from the list of Schedule 1 drugs.
- The regulatory framework, federal regulators and banking examiners should clearly communicate that banks do not have to file suspicious activity reports (SARs) for hemp and hemp products that meet the guidelines of the 2018 farm bill.
- USDA should approve a crop insurance program for hemp producers as soon as possible, even for the 2019 crop year, perhaps by establishing a ‘catastrophic’ plan with some restricted buy-up options.
- No regulation should require banking institutions be put into a position of being an enforcer of the legal mechanisms of the statute either by USDA or at the state level.

Within the parameters of the above recommendations, we urge maximum flexibility on the regulatory front by USDA to ensure a viable and robust hemp industry gets off the ground. Farmers have told lenders that hemp is not the easiest crop to produce. Some farmers have stated hemp is very weather dependent, subject to disease, and if the farmer cannot get it out of the field on time, they run the risk of having THC levels that exceed the maximum allowable in the farm bill.



There should be enough leniency in the regulatory oversight to accommodate situations that are beyond the control of the farmer due to weather related problems. Lenders will have to make decisions on how to finance hemp production and therefore more information on proper underwriting criteria would be useful.

The farm bill's provisions for legally growing hemp will prove valuable to growers and their lenders since cannabis banking outside the parameters of the farm bill are too risky for most community banks, even where legal under state law.

Thank you.