

March 21, 2019

The Honorable Maxine Waters  
Chairwoman  
Committee on Financial Services  
2129 Rayburn House Office Building  
Washington D.C., 20515

The Honorable Gregory W. Meeks  
Chairman  
Subcommittee on Consumer Protection and Financial Institutions  
2129 Rayburn House Office Building  
Washington D.C. 20515

Dear Chairwoman Waters and Chairman Meeks:

We write today to seek your agreement to delay consideration of H.R. 1595, the SAFE Act, currently scheduled to be marked up on March 26, 2019, until the Committee has a better understanding of the full range of consequences that enacting such legislation may trigger. As you know, marijuana is a schedule I controlled substance as defined in 21 U.S.C. § 802. The impact that many state laws, which have legalized marijuana, have on the federal laws governing the manufacturing, use, and sale of marijuana, including proceeds, raise many questions and concerns. Any change to these statutes, or those that impact them, has the potential to divide the Congress and the country. We must ensure that Congress has done its due diligence, including conducting thorough oversight and review, before moving such legislation.

The hearing at the Committee on Financial Services on February 13, 2019, made clear that we need to better comprehend and address the supervisory and regulatory issues that would result from enactment of H.R. 1595. Many outstanding questions remain, which include but are not limited to the following:

1. What changes to our banking laws are necessary to implement the SAFE Banking Act or other legislation creating a safe harbor for cannabis-related businesses?
2. How would individual agencies enforce Bank Secrecy Act (BSA) requirements following enactment of the SAFE Banking Act? What changes would be required of BSA requirements?
3. How would individual agencies enforce anti-money laundering (AML) regulations following enactment of the SAFE Banking Act? Would AML reforms be necessary?

4. How would individual agencies enforce Know Your Customer (KYC) rules following enactment of the SAFE Banking Act? What changes would be required of KYC rules?
5. How would individual agencies enforce Suspicious Activity Report (SAR) filing requirements and guidelines following passage of the SAFE Banking Act? What changes would be required of SAR filing requirements and guidelines to ensure illicit financial activities were not being financed?
6. How would individual agencies enforce Currency Transaction Report (CTR) filing requirements and guidelines following enactment of the SAFE Banking Act? What changes would be required of CTR filing requirements and guidelines?
7. In what ways are agencies working with state counterparts, including state banking and securities supervisors, under the existing regime? How would those cooperative relationships change with enactment of H.R. 1595?
8. Would H.R. 1595 require conforming changes to any of the statutes, rules, and requirements previously listed to ensure there are no unintended consequences, such as cartels and other bad actors gaining access to our financial system?
9. Would the safe harbor require any changes to the rules or processes governing federal deposit insurance systems?
10. What are the implications of H.R. 1595 on nonbank financial firms, including insurers and investment companies?
11. What are the implications of H.R. 1595 on third parties, including payment processors?
12. What are the implications of H.R. 1595 on individual and institutional investors of cannabis-related businesses?
13. What are the implications of H.R. 1595 on federal, state, and local law enforcement, including the Department of Justice and the Drug Enforcement Agency?
14. How are proceeds from state licensed growers and distributors taxed under federal law? Relatedly, what conforming changes to our tax code are necessary?
15. What are the implications of H.R. 1595 on other products and services offered by financial institutions, including but not limited to mortgage products, deposit advance products or general commercial lending?

As Members of Congress, and the Committee of primary jurisdiction, we owe it to our constituents and to the public to fully understand the implications of any legislation before supporting or opposing it. We urge you to hold H.R. 1595 and any related legislation until we have a full understanding of the consequences of this bill.

Sincerely,

A handwritten signature in blue ink that reads "Patrick McHenry". The signature is fluid and cursive, with the first name being particularly prominent.

Patrick McHenry  
Ranking Member

A handwritten signature in blue ink that reads "Blaine Luetkemeyer". The signature is fluid and cursive, with the first name being particularly prominent.

Blaine Luetkemeyer  
Ranking Member