July 25, 2019

Statement for the Record

On Behalf of the

American Bankers Association

before the

Agriculture, Nutrition and Forestry Committee

of the

United States Senate

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Chairman Roberts, Ranking Member Stabenow, and members of the Committee, the American Bankers Association (ABA) would like to thank you for holding this hearing on Hemp Production and the 2018 Farm Bill.

ABA is the voice of the nation's $18 trillion banking industry, which is composed of small, regional and large banks that together employ more than 2 million people, safeguard $14 trillion in deposits and extend over $10 trillion in loans. ABA is uniquely qualified to comment on agricultural credit issues as banks have provided credit to the agriculture industry since the founding of our country. Nearly 5,000 banks — 83 percent of all banks nationwide — reported agricultural loans on their books at year-end 2018 with a total outstanding portfolio of more than $186 billion.

Banks continue to be one of the first places that farmers and ranchers turn to when looking for agricultural loans. Agricultural credit portfolios typically finance a wide array of customers, including large and small farms, urban farmers, beginning farmers, women farmers and minority farmers. To bankers, agricultural lending is good business and credit is available to all who can demonstrate they have a sound business plan and the ability to repay.

In 2018, farm banks — banks with more than 16.05 percent of their loans made to farmers or ranchers — increased lending by 5.3 percent to meet the rising needs of farmers and ranchers, and now provide over $107 billion in total farm loans. Farm banks are an essential resource for small farmers, holding more than $49 billion in small farm loans, with $12.3 billion in micro-small farm loans (loans with origination values less than $100,000). Farm banks are healthy, well-capitalized, and stand ready to meet the credit demands of our nation's farmers large and small.

In addition to our commitment to farmers and ranchers, thousands of farm dependent businesses — food processors, retailers, transportation companies, storage facilities, manufacturers, etc. — receive financing from the banking industry as well. Agriculture is a vital industry to our country, and financing it is an essential business for many banks.

Banks are Uncertain about how to Finance Hemp

There continue to be persistent challenges to providing financing for hemp, hemp derived products, and hemp-related businesses. The Agricultural Improvement Act of 2018, also known as the 2018 Farm Bill, removed hemp from the Controlled Substances Act (CSA) and classified hemp as a legal agricultural commodity. Despite this, banks remain uncertain about the degree to which they can serve hemp-related businesses, and the compliance and reporting requirements that such relationships require.

Banks want to serve their communities and support their local economies, but they need clear, unequivocal assurance from their regulators that hemp is distinguishable from cannabis. This is vital to protect banks from criminal and civil liability or regulatory censure. The unique nature of hemp as a low-Tetrahydrocannabinol (THC) strain of marijuana, which remains a Schedule I substance under the CSA, means banks must have a reliable mechanism to distinguish legal hemp from federally illegal marijuana with extreme confidence. Banks would also benefit from guidance regarding retail products containing hemp or hemp-derived CBD and the appropriate procedures for sourcing those products back to legal cultivators and processors. Without appropriate guidelines, banks will have great difficulty in financing hemp-related businesses.

ABA recognizes that this is an evolving area of law and regulation and that several federal agencies, including the United States Department of Agriculture, Food and Drug Administration, and financial regulators, will need to issue rules and regulations pertaining to many elements of this emerging industry. In some cases, the shape and specificity of those regulations will impact the ability of financial institutions to provide financial services to hemp-related businesses. For banks, it is critical that legal hemp can be reliably differentiated from federally illegal marijuana, testing procedures for crops and retail products are clear, consistent and transparent, and that procedures are in place to prevent farmers and businesses from inadvertently triggering CSA liability. Banks must also be able to rely on a license issued by a state department of agriculture or the U.S. Department of Agriculture to confirm that a hemp producer is operating in compliance with state and federal law, and that their product qualifies as "hemp" as defined in the 2018 Farm Bill.

Finally, it should be noted that ABA supports the creation of a crop insurance program for hemp production. Crop insurance is a risk management tool for banks and allows an institution to provide financing at a lower cost. Due to the nature of hemp with a THC level above 0.3 percent, there needs to be serious consideration for having a crop insurance product that not only provides protections for yield loss, but also provides protections for hemp that may exceed legal THC limits through no fault of the producer. This two-fold approach would provide the adequate amount of risk protection that is needed for lenders to finance hemp production.

In conclusion, banks are willing to provide financing to hemp-related businesses, but challenges still exist. Banks need federal agencies to issue guidelines in a timely manner that are clear, consistent and create a predictable legal standard that is easy for banks to confirm and their customers to adhere to. With these guidelines in place, it will increase the availability of credit to hemp-related businesses and producers.