

# Publications

## *The Bankers' Statement: Summer 2020*

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Cannabis, Hemp and CBD  
 Financial Institutions

**AUTHORED ARTICLE** | Summer 2020

## Federal Relief Programs Aid Businesses Affected by COVID-19

As a result of the COVID-19 pandemic, the U.S. Senate passed multiple phases of federal Coronavirus relief legislation, including the Coronavirus Aid, Relief, and Economic Security Act (the CARES Act), the third phase of the legislation. The CARES Act, among other things, created and funded three major programs intended to provide aid to businesses facing economic hardship. These three programs were the Paycheck Protection Program (PPP), Economic Injury Disaster Loans (EIDL) and the Main Street Lending Program (MSLP).

## Five Manageable COVID-19 Employment Law Risks

Summer is winding down but on the COVID-19 front, the challenges abound for bankers. Nearly all financial institutions have made substantial adjustments in operations. Closing lobbies (now reopening them). Physical distancing. Face masks. Temperature monitoring or taking. Remote work.

These changes – and COVID-19 generally – have some obvious consequences for bank operations and profitability.

## Confidential Supervisory Information

A recent Cease and Desist consent order published by the Federal Reserve Board involving disclosure actions by a (now former) bank employee helps to illustrate the importance of understanding what constitutes “confidential supervisory information” (CSI), the importance of maintaining the confidentiality of CSI, and the importance of educating bank employees, directors and other institution-affiliated parties in that regard.

## Choice of Charters Redux: OCC Governance Proposals for National Banks and Federal Thrifts

On July 7, 2020, the Office of the Comptroller of the Currency (OCC), primary regulator for national banks and Federal thrifts, published a lengthy proposal for significant and extensive revisions to certain of its current regulations (the Proposal). The Proposal, contained in OCC Docket 2020-0003, addresses a number of OCC regulations, including a new proposed section regarding powers and permissible activities for national banks and Federal thrifts.

## FinCEN Issues Additional Guidance for Financial Institutions Serving Hemp-Related Businesses

On June 29, 2020, the Financial Crimes Enforcement Network (FinCEN), a bureau of the U.S. Department of the Treasury, issued new guidance (2020 Guidance) addressing due diligence requirements under the Bank Secrecy Act (BSA) for financial institutions that provide services to hemp-related business customers. Specifically, the 2020 Guidance seeks to clarify questions surrounding customer due diligence expectations and suspicious activity reporting requirements. This new guidance clarifies and supplements a joint statement issued in 2019 by FinCEN, federal banking regulators and state banking supervisors (2019 Joint Statement), following the federal legalization of hemp, detailing how banks may lawfully provide financial services to hemp-related businesses.

## About the Vorys Banking Group

With nearly 20 lawyers dedicated to our banking practice, we have hundreds of years of combined practical, hands-on experience in the banking industry. We have been named a "Top Lead Legal Advisor" by American Banker magazine and a Go-To Law Firm® in banking and finance, securities and corporate transactions by Fortune 500 general counsel.

Our group has extensive experience with all aspects of bank corporate and regulatory legal matters, and our attorneys are in constant contact with senior representatives of state and federal banking agencies concerning a diverse variety of significant client matters. We have been intimately involved in the comprehensive rewrite of Ohio banking laws, currently underway with the Ohio Division of Financial Institutions. In fact, since the inception of this project, one of our lawyers, along with representatives from the Ohio Division of Financial Institutions and the Ohio Bankers League, has been a member of the four-person team tasked with handling the rewrite.

We represent public and non-public institutions, from community banks and thrifts to large, multinational financial institutions throughout the United States including clients in Ohio, Washington, D.C., Pennsylvania, Maryland, Virginia, Arizona, Florida, Indiana, Michigan, Kentucky, Missouri, New York, North Carolina, South Carolina and West Virginia.

We assist our clients with bank, thrift, holding company and non-bank affiliate formations; securities law matters; board governance and education; regulatory enforcement actions involving state and federal agencies; mergers, acquisitions and divestitures; branch acquisitions and divestitures; regulatory compliance; capitalization, recapitalization and private equity as well as debt transactions; litigation; employment law matters; executive compensation and benefit plans; tax matters; and the negotiation of

all types of contracts. We also represent financial institutions and other institutional lenders, as well as borrowers, in all types of complex commercial and real estate financings, bankruptcies and restructurings.

If you have an idea for an article you would like us to pursue, please contact your Vorys attorney. We hope you enjoy the read.