

DACO and PR Treasury approve Joint Regulation regarding Alternative Payment Methods for Licensed Services and Commercial Establishments

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PRACTICE AREAS

- Retail

An McV Retail Alert

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On May 16, 2016, the Governor of Puerto Rico signed into law Act No. 46-2016 to amend Act No. 42-2015 (as so amended, the “Act”) requiring **all commercial establishments** (defined as those businesses dedicated to the sale, rent or transfer of goods or services) to offer clients at least two alternative payment methods, including, but not limited to, credit or debit cards, cash, certified checks, electronic transfer of funds, payment via internet and direct payment (wire transfer). One of the alternative payment methods must be credit or debit card, electronic transfer of funds, payment via internet or direct payment. The Act also requires all commercial establishments to place signs identifying the alternative payment methods accepted.

The Act also provides that a violation to the law constitutes a misdemeanor and, if convicted, entails a penalty between \$500 and \$3,000 for the first violation and between \$5,000 and \$10,000 for subsequent violations. Additionally, Treasury or the Department of Consumer Affairs (“DACO”) may issue penalties between \$1,000 and \$5,000 per violation. The Act authorizes DACO to enact a regulation to enforce the provisions of the Act, including the **sign requirement** and the **administrative penalties**.

As authorized by the Act, on November 18, 2016, DACO and Treasury approved a “Joint Regulation regarding Alternative Payment Methods for Licensed Services and Commercial Establishments in Puerto Rico pursuant to Act No. 42-2015.”

Regarding the **sign**, the Regulation did not include the language of the sign. Thus, you can draft your own sign to read something as follows:

“La Ley Núm. 46-2016 establece que todo establecimiento comercial tiene que proveer al menos 2 alternativas de pago a sus consumidores, una de las cuales tiene que ser tarjeta de crédito o débito. **En este establecimiento se puede pagar con efectivo, cheques, tarjetas de crédito y tarjetas de débito.**”

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You can modify the sentence in bold to include the different methods of payment that you accept. This sign can be included with any other sign required to be placed at the stores but must be placed at the entrance doors, cash registers, **or** service counter.

Regarding the **administrative penalties**, the Regulation provides that DACO can issue penalties in the amount of \$1,000 for the first violation, in the amount of \$2,500 for the second violation, and in the amount of \$5,000 for the third violation.

Regarding the payments with **credit cards**, the Regulation provides that the commercial establishments cannot establish a minimum purchase amount of more than \$10. If there is a minimum purchase amount of \$10 or less, the minimum amount must be included in the sign. Regarding the payments with **debit cards**, the Regulation provides that the commercial establishments cannot establish a minimum purchase amount of more than \$5. If there is a minimum purchase amount of \$5 or less, the minimum amount must be included in the sign.

The effective date of this Regulation is December 18, 2016.

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