

June 27, 2016

Legal Update

Commercial Establishments and Service Providers Shall Offer their Clients the Use of Credit or Debit Cards as a Payment Alternative

On May 16, 2016, the Governor of Puerto Rico signed Act No. 46-2016, which amends Act No. 42-2015 ("Act No. 42"), to, effective June 15, 2016, require all commercial establishments engaged in business in the Commonwealth of Puerto Rico to provide at least two (2) payment alternatives to their clients. One of such alternatives must be the use of a credit or debit card.

As amended, Act No. 42 requires all service providers and commercial establishments to install a visible and legible sign in the office or commercial establishment specifying the payment methods available. Those services providers or commercial establishments that do not offer their goods or services from an office or commercial space are required to inform their clients verbally or in writing about the payment alternatives.

Act No.42 excludes from its applicability financial institutions, bona fide farmers certified by the Department of Agriculture and commercial establishments with an annual volume of business of \$50,000 or less.

Although the measure seems to be targeted to retail level sales, statutory definitions are broad enough to cover most service providers and commercial establishments even if no retail sales are made. The Secretary of the Department of Consumer Affairs ("DACO", for its Spanish acronym) is currently working in the draft of a joint regulation with the Department of the Treasury, as required by Act No. 42.

Violations of Act No. 42 constitute a misdemeanor punishable by a fine of not less than \$500 nor more than \$3,000 for a first violation and not less than \$5,000 nor more than \$10,000 for subsequent violations. In addition, the Secretary of the Department of the Treasury or the Secretary of DACO may impose administrative fines of not less than \$1,000 nor more than \$5,000.

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