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RETAIL ALERT

DACO Issues New Regulation Requiring Privacy Policies for the Management of Personal Information

The Department of Consumer Affairs of Puerto Rico ("DACO" under its Spanish acronym) issued Regulation No. 8568, titled "Regulation to Implement the Publication of Privacy Policies Regarding the Management of Citizens' Private and Personal Information, as Collected in Puerto Rico" (the "Regulation").

This Regulation applies to all entities that are registered to do business in Puerto Rico or are doing business in Puerto Rico and, while doing so, collect information from Puerto Rico residents through the Internet, and becomes effective June 27, 2015.

The purpose of the Regulation is to establish the way in which businesses will publish their Privacy Policies, regarding the personal information collected as part of online transactions. Under the Regulation, every covered entity must have a link on its webpage to its Privacy Policy with regards to the personal information that is collected through the Internet. The term "personal information" is defined as any information that could be used to identify a natural person, either physically or electronically, and includes a series of key items that fall within the scope of the term.

Every Privacy Policy must include the following: 1) name of the entity; 2) types of personal information that will be collected by the entity; 3) the policy on dissemination of personal information collected and when it will be shared with third parties; 4) methods available for consumers to find out about amendments to the Privacy Policy; 5) date when the amendments to the Privacy Policy will become effective; 6) settings related to reactions of webpage to "Do Not Track" signals and; 7) if third parties can collect personal information.

The Regulation allows covered entities to craft their own Privacy Policies based on the previous requirements. However, entities may also choose from 3 proposed models. These models, which the Regulation designates as Levels I, II and III, have their own distinct logo to differentiate between increasing levels of protection to consumers. If an entity chooses to draft its Privacy Policy based on one of these models, it must meet the requirements of the model it chooses, and must also display the logo that corresponds to that particular model.

The DACO Secretary is authorized to perform investigations related to the collection of personal information by any entity. Accordingly, the Secretary may summon witnesses, send interrogatories, and request the production of documents and information. The Regulation authorizes the Secretary to impose administrative penalties up to \$50,000 for certain violations and up to \$10,000 on a daily basis for other violations.

If you have any questions or comments, or wish additional information regarding this matter, please contact any of the following attorneys:

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