July 21, 2026

Via email at dara.steele-belkin@globalpay.com

Dara Steele-Belkin
Chief Legal Officer and Corporate Secretary
Global Payments Inc.
3550 Lenox Road
Atlanta, GA 30326

Dear Ms. Steele-Belkin:

We are a coalition of national trade groups representing regulated retailers and wholesalers and are writing to address an email message from Global Payments Inc., dated July 13, 2026, to various merchants entitled "URGENT: Immediate Compliance Action Required - Vape/ENDS Products" (example enclosed)." The message states, in relevant part:

> To protect your business and maintain uninterrupted payment processing, **please take the following steps immediately**:
> 1. Inventory & Product Review – **review all vape/ENDS-related products**, both online and in-store.
> 2. Removal of Non-Compliant Products – **immediately remove any products violating FDA or card brand rules**, including **prohibited flavored vape products** and any unapproved ENDS items. For more information, click here.

We understand that this recent communication was likely in response to letters sent from various State Attorneys General in April 2026 to credit card companies to request immediate assistance in stopping sales of illicit e-cigarette products facilitated through payment card networks. While we also support efforts to stop the sale of illicit vape/ENDS products, your recent communication does not account for recent enforcement guidance issued by the U.S. Food and Drug Administration (FDA) in May 2026, described below.

We believe the July 13, 2026, message from Global Payments does not fully reflect FDA's current enforcement policy. While premarket authorization for ENDS is required under the Federal Food, Drug, and Cosmetic Act (FFDCA) the FDA ***does not*** strictly enforce such a requirement, and instead opts to exercise its enforcement discretion as to certain products. Accordingly, it is not correct that all "unapproved ENDS items" are currently subject to enforcement action by FDA.

On May 8, 2026, FDA issued a new guidance document entitled "Enforcement Priorities for Certain New Tobacco Products Marketed Without Premarket Authorization."[1] In the

[1] While FDA has indicated that it intends to create and maintain a public-facing webpage identifying manufacturers and their associated products that FDA generally does not intend to prioritize enforcement

guidance, FDA remarks that it "lacks the resources to pursue enforcement against every product that has not received authorization." Therefore, it provides:

> For ENDS products marketed without FDA authorization [i.e., "unapproved"], FDA generally does not intend to prioritize enforcement of the premarket authorization requirement, where the product:
>
> - is subject to an application that is pending, and the application has been accepted and filed[2] or is subject to a supplemental application (sPMTA) that has been accepted and pending for more than 180 days; and
>
> - for non-tobacco-flavored ENDS products, if FDA has determined that the application also includes data necessary to evaluate whether such product is appropriate for the protection of the public health.

While this policy would not apply to products with certain presumptively underage-appealing elements (e.g., cartoon characters, resembling a children's toy) or products that present a significant public health or safety concern greater than those generally presented by other tobacco products, it currently applies to most ENDS products sold by responsible retailers, such as our collective members. Thus, FDA is not prioritizing enforcement against "unapproved" ENDS products if they are covered by a pending premarket tobacco product application (PMTA) that FDA has "filed" (and, for flavored ENDS products, the PMTA includes sufficient data to evaluate whether the product is appropriate for the protection of the public health).

Based on the above, the coalition requests that Global Payments issue a correction to the July 13, 2026 message to clarify that ENDS/vape products marketed pursuant to the May 8, 2026 guidance and in compliance with other applicable state and local restrictions may be sold at retail pending a final FDA determination on the PMTA at issue. The coalition further requests that this clarification be reflected in all future communications regarding this issue.

Should you have any questions or require additional information, please do not hesitate to reach out to us to discuss further information. We look forward to your response.

Sincerely,

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against, it has not yet published this list. Nonetheless, the policy is still currently applicable to such products.

[2] FDA must "file" a PMTA where the application contains sufficient information to permit a substantive review. 21 C.F.R. § 1114.27(b)(1).