Dear NBPCA Members:

As a follow-up to its September 2016 Final Rule regulating the Methods of Payment of Wages (including the use of payroll cards) in the State of New York, the New York Department of Labor (“NY DOL”) has recently published two model templates: one for the Notice and Consent for Payroll Debit Card and one for the Notice and Consent for Direct Deposit (collectively, the “Templates”). The NY DOL is accepting public comment and feedback on the model Templates until February 10, 2017. Also, please keep in mind that the effective date of the Final Rule is March 7, 2017.

A copy of the Final Rule can be found on page 8 of the September 7th edition of the New York State Register. As a reminder, Section 192-1.3 of the Final Rule titled “Written Notice and Consent” requires the following:

“[a]n employer who uses methods of payments other than cash or check shall provide employees with a written notice that identifies the following:

(1) a plain language description of all of the employee’s options for receiving wages;

(2) a statement that the employer may not require the employee to accept wages by payroll debit card or by direct deposit;

(3) a statement that the employee may not be charged any fees for services that are necessary for the employee to access his or her wages in full; and

(4) if offering employees the option of receiving payment via payroll debit card, a list of locations where employees can access and withdraw wages at no charge to the employees within reasonable proximity to their place of residence or place of work.”

In response to Comment 5 appearing in the Assessment of Public Comment at the end of the Final Rule, the NY DOL noted “the Department will prepare templates that contain all of the information necessary for compliance with the requirements of the rule. Employers are free to utilize such templates, model their notices after such templates, or develop their own templates using the requirements outlined in the rule.” Once the
NY DOL has assessed the public comment to the proposed Templates, the NY DOL plans to post updated Templates “prior to the effective date of the rule, along with translations into additional languages.”

A cursory review of the Templates has initially revealed some inconsistencies between the requirements of the Final Rule and the language contained in the proposed Templates, including the absence of certain required language and typos.

In response to the public release of the Templates, the NBPCA has scheduled a Payroll Card Working Group call on **January 23, 2017 at 2:00 pm ET** to review the model Templates, solicit feedback from NBPCA members, and discuss possible next steps. A follow-up conference call has also been scheduled for **February 2, 2017 at 11:00 am ET**. All NBPCA members are welcome to attend the Payroll Card Working Group calls. Please send an email to **GR@NBPCA.ORG** if you are interested in attending the calls and not already a member of the Payroll Card Working Group.

If you have any questions about the Templates or the Final Rule, please feel free to contact **Eli Rosenberg**, **Brian Tate** or **Brad Fauss**.