

## NY DOL Issues Unfavorable Final Payroll Card Rule

September 7, 2016

Dear NBPCA Members:

Today, the New York Department of Labor ("NY DOL") issued a **Final Rule** regulating the use of payroll cards in the State of New York. A copy of the Final Rule can be found in the [September 7th edition of the New York State Register at page 8](#).

The NY DOL's Final Rule includes **no substantive changes**

from the [Second Revised Proposal](#), which was published in the June 15, 2016 edition of the NY Register. However, there is one significant change in the commentary. Namely, in Comment 3, the NY DOL provides that *"consents given without the requisite notices will remain valid so long as such notices are provided to employees before the effective date of this rule and employees are expressly notified of their right to withdraw consent to direct deposit or payroll debit card through such notices."*

The NBPCA is extremely disappointed that the NY DOL chose to ignore the significant concerns raised by the NBPCA and the payroll card industry as well as employers across the State of New York.

If you have been following this issue from the beginning, you will note that the NY DOL has issued three proposed rules before releasing today's Final Rule. The NY DOL's proposed rulemakings were released in the following sequence:

- May 27, 2015 (the "[Original Proposal](#)," see page 16);
- October 28, 2015 (the "[First Revised Proposal](#)," see page 6); and
- June 15, 2016 ("[Second Revised Proposal](#)," see page 16).

In response to the NY DOL's proposed rulemakings, NBPCA submitted three separate comment letters to the NY DOL on the following dates: (a) [July 31, 2015](#); (b) [November 25, 2015](#); and (c) [July 15, 2016](#). Although the NY DOL's Final Rule has been published, this rulemaking will remain a priority issue with NBPCA. Further, NBPCA will continue to work with members of the Payroll Card Working Group and other industry stakeholders before the Final Rule goes into effect throughout the implementation process.

Accordingly, NBPCA has scheduled a Payroll Card Working Group conference call on **September 9, 2016 at 4:00 pm ET** to review the Final Rule, solicit feedback from Payroll Card Working Group members, and discuss possible next steps. All NBPCA members are welcome to attend the Payroll Card Working Group conference call. Please send an email to [GR@NBPCA.ORG](mailto:GR@NBPCA.ORG) if you are interested in attending and not already a member of the Payroll Card Working Group.

Finally, if you have any questions about the Final Rule, please feel free to contact [Eli Rosenberg](#), [Brian Tate](#) or [Brad Fauss](#).

Sincerely,

The NBPCA Staff