# Update to Québec's Proposed Loyalty Program Rules

**June 15, 2018**

In our previous bulletin *Ontario and Québec Set to Update Legal Requirements on Loyalty Programs*, we highlighted the recent legislative changes regarding loyalty/rewards programs that have been implemented in Ontario and confirmed in Québec. Ontario's rules on loyalty programs and associated regulations came into force on January 1, 2018, with a retroactive effect to October 1, 2016. The significant detail of the Ontario rules is that they prohibit rewards points from expiring due to the passage of time alone. However, the Ontario rules provide an exception permitting the expiry of rewards points due to account inactivity.

**Québec**

Québec adopted similar rules regarding loyalty programs in November 2017, but which are not yet in force. On April 18, 2018, Québec introduced draft associated regulations (the "Regulations") providing for certain exemptions from the general rule prohibiting the expiry of rewards points, as well as further specifications regarding loyalty program contracts.

Under these draft Regulations, rewards points or "exchange units" are permitted to expire where there has been inactivity from the consumer (*i.e.* no points are earned or redeemed) for a period of at least one year. In order to benefit from this exception, the loyalty program terms must specifically stipulate that points may expire due to inactivity and prior notice of inactivity must be given to the consumer between 30 and 60 days before the date of expiry of the points. This pre-expiry notice is intended to ensure that the consumer is aware that their rewards points may expire if there is continued inactivity.

In addition, the draft Regulations require merchants to include certain additional information in their rewards program terms, including the terms applicable to earning and redeeming points as well as the terms applicable to the expiry of points. As noted in our previous bulletin, the Québec rules provide that the unilateral modification of an essential element of a loyalty program contract is permitted on the condition that the consumer is notified of the amendment and provided with specific details of such amendment 60 to 90 days preceding its coming into effect. However, the draft

Regulations also stipulate that such unilateral amendments may not be made to the number of rewards points received by the consumer or the conversion factor used to convert the rewards points already earned by the consumer.

### Takeaways for Businesses

Québec's proposed exception based on account inactivity mirrors Ontario's, albeit with certain differences. Businesses offering loyalty points to consumers in Québec and Ontario will appreciate the harmonization of this exception, but must be cautious in structuring and overseeing their loyalty programs so as to comply with each province's rules. As the draft Regulations have only just been proposed, it is uncertain if they will be approved in their entirety or revised prior to their coming into force, which has yet to be confirmed. We will continue to monitor legislative developments in Québec.

By

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