

Financial regulatory landscape is evolving to protect consumers: A post-Wells Fargo world

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Following revelations about Wells Fargo's sales practices, Canadian regulators have launched a number of reviews, which could lead to big changes in the financial regulatory landscape. Below is a snapshot of the current landscape.



Report of the Independent Directors of the Board

- Pressure to meet unrealistic sales goals led to unethical behaviour
- Escalation of problematic metrics was impeded by (i) decentralized organization structure and (ii) high degree of deference to individual business lines
- Emphasis on sales goals over quality of sales
- Prevalence of low-quality accounts blamed on individuals and local management – not on the overall sales model

Reviews by Canadian regulators

Autorité des marchés financiers (AMF) releases paper about managing the risk of conflicts of interest arising from incentives paid to sales people:

- Incentives highlighted include those based on:
 - Premium volumes or amounts invested
 - Performance thresholds
 - Specific product or product category sales targets
 - Salesperson's reputation

House of Commons Standing Committee on Finance – study of bank sales practices covers:

- Sales practices and employee incentives
- Opportunities for redress
- Codes of conduct and penalties for breaching

Investment Industry Regulatory Organization of Canada (IIROC) compensation-related conflicts review considering:

- Reliance on disclosure as a means of managing conflicts
- Adequacy of disclosure of conflicts
- Review by dealers of compensation programs to identify risks of conflicts
- Ensuring genuinely independent supervision of registrants within dealers
- Compensation bias in favour of fee-based accounts
- Control or avoidance of “double-charging” in fee-based accounts
- Incentives favouring related-party products over third-party products

Financial Consumer Agency of Canada (FCAC) and Office of the Superintendent of Financial Institutions (OSFI) reviews of bank sales practices

- FCAC review began in April 2017

Canadian Securities Administrators (CSA) propose enhancing obligations to clients, including:

- Prominent, specific and clear disclosure of conflicts of interest
- Reasonable basis for concluding that client fully understands the implications and consequences of the conflict
- Enhanced “Know Your Client” (KYC) measures, including gathering more information on investment needs and objectives, financial circumstances and risk profile, and continuously updating KYC information
- Enhanced “Know Your Product” and proficiency obligations for representatives
- New “suitability” standards
- New relationship disclosure requirements for firms that offer only proprietary products, and for restricted registration categories
- Stricter representative title and designation regulation
- Statutory fiduciary duty where representative granted discretionary authority
- Adopting a regulatory best interest standard



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