

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

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Authors: [Lawrence E. Ritchie](#), [Laura Fric](#), Kashif Zaman

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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