Editorial: Banks should be made to act in clients' best interests

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One would think the notion that financial advisers should be required by law to put their clients' best interests ahead of their own would be rather uncontroversial. Yet for more than a decade efforts to create a national best-interest standard have gone nowhere. Last week, after five years of negotiations, all but two of the country's provincial financial regulators walked away from the idea.

That's a shame. At a time of low interest rates and increased capital requirements, Canadian banks nevertheless continue to see skyrocketing profits, boosted in part by a troubling combination of exploitative sales practices and inadequate consumer protection.

In March, three TD Bank Group employees told CBC News about the "incredible pressure" they and their colleagues are under to meet sales goals variously described as "aggressive," "unrealistic" and "insane." "When I come into work," said one, "I have to put my ethics aside and not do what's right for the customer."

In the days following those revelations, hundreds of employees from all the major banks came forward with similar allegations. Sales quotas are so high, they said, that the only way to meet them is to aggressively upsell, or worse, surreptitiously extend customers' credit limits or charge them for other new products without their consent. (All the banks deny these allegations.)

While some of these tactics are illegal, many others are not. In Canada, financial "advisors" are salespeople who have no legal obligation to act in a client's interest. That's opposed to the relatively small group of "advisers"– see the difference? – who *do* have a legal fiduciary duty. That is, "advisers" with an "e" are trustworthy; "advisors" with an "o" not so much. If you're confused, presumably that's the point.

Yet despite the evident inadequacy of the current rules, most of the provincial regulators charged with protecting both clients and the economy from bad-acting banks and investment firms seem content with the status quo. According to a statement released last week by the recalcitrant securities commissions, the problem with a best-interest standard is that it would give clients a false sense of security.

In other words, banks will be banks – and it's unfair to the public to pretend otherwise. There's no better protection, they seem to be saying, than *caveat emptor*.

The evidence, however, says otherwise. As Ottawa's and Ontario's financial regulators have repeatedly argued in a compelling series of reports, a best-interest standard would do much to dissuade banks from unethical sales practices and therefore insulate investors. Evidently, Australia and the United Kingdom agree. Both countries recently adopted fiduciary-duty laws, and the European Union is expected soon to join them.

The Ontario Securities Commission and its New Brunswick counterpart now say they intend to go it alone on pursuing such protections. That would be a welcome step, but no substitute for a national standard. Everyone in the country deserves to be protected from unethical financial practices.

That's now up to Ottawa – and the feds have a golden opportunity. The Trudeau government is currently in the process of reviewing the federal legislation governing financial institutions, and is looking to replace the provincial regulators with a single national body.

The notion that banks should be allowed to pursue their self-interest unchecked, that the only protection consumers deserve is their own skepticism, is not just nasty; as the 2008 financial meltdown showed, it's also dangerous. A national best-interest standard would be in the best interests of clients, yes, but also of the country.