I have been a practising financial planner and investment adviser for nearly 30 years so, for what it is worth, I now submit the following.

1) <u>Statement of Advice (SOA)</u>.

The first matter I will address is in relation to the format and content of the Statement of Advice (SOA).

Over the past year, I have been trying to design a workable SOA which satisfies the conflicting goals of legislative content, being user-friendly, all within a manageable length.
Many SOA's I have sighted over the years have flaws. Everyone's got a different idea of what should be included in an SOA. Unless there is legislative change that specifically sets out a practical format, that covers all contingencies, advisers will continue to be distracted from their principal role of delivering useful advice.

Part of the problem with the length of an SOA is the requirement to state the same information at the very beginning, every time, before proceeding to the actual advice.

For example, **Section 945B** requires the Adviser to warn the prospective client that if the Adviser is not able to conduct a comprehensive financial needs analysis, the advice given may be inappropriate.

Furthermore, **Section 947C** requires the Adviser to state the full name, address, etc. of the Licensee, a statement informing the prospective client that the Adviser has been authorised by the Licensee to provide financial product and other relevant advice on behalf of the Licensee, and details of the various product providers with whom the Licensee has made arrangements.

Finally, **Section 947C (2) (f) (ii)** requires Advisers to inform prospective clients of any tied associations that may influence the advice given. For example, many product providers also own a financial planning business through which they distribute their product, and people need to have this information to judge whether the advice is impartial and has their best interests at heart.

All of the above has to be repeated in every SOA given to a client.

My question is simple: why can't all this standardised legislative information be incorporated in the Financial Services Guide (FSG)?

By law, this has to be provided to a prospective client at the very beginning of the relationship. It is easy to have a tear-off top sheet that is signed by the client, and kept by the adviser as proof the client has indeed received an FSG. It is also much easier to have one dedicated document early in the financial panning process that can be changed when required.

For example, I might have to provide say three (3) limited SOA's to a client, because they have declined the offer of a comprehensive fact find. With each of the limited SOA's, I have to repeat the same **Section 945B** and **Section 947C** requirements. It would be so much simpler if they were contained in the FSG (which is handed out once at the very beginning). Such a practical change would reduce the length of the SOA considerably.

2) Statement of Additional Advice (SOAA) and Record of Advice (ROA).

As a natural extension of the SOA, a Statement of Additional Advice (SOAA) and a Record of Advice (ROA) also have some short-comings, particularly with respect to practical implementation.

For example, an ROA has a symbiotic relationship with an SOA and cannot exist alone, i.e., a relevant SOA must be in place before an ROA can be issued.
Current legislation states that SOA's have a maximum shelf life of 7 years (I am assuming no major change in investor circumstances for ease of understanding).
In the 6th year, assume a relevant and appropriate ROA is issued.
From year 8 onwards (note: the SOA was culled from the client file in Year 7), the ROA (though valid at the time of issue) is now no longer valid. It has no SOA to reference to.
How do you get around this dilemma? I have raised this matter in several forums and have yet to receive a sensible response.

3) Commission/Brokerage versus Fee

Every few years, this hoary chestnut is dusted off and examined with intensity by a new wave of people bent on "fixing up" the industry.

The issue <u>has been, is, and always will be</u>: full disclosure of remuneration which is more than adequately covered in the current legislation.

I have been providing investment advice since 1980 and obtained my own Dealers Licence in 1989, because I felt that a small, compact and personalised service would be appreciated by the average investor. This turned out to be correct. People quite liked being treated as individuals rather than one of many sausages in a sausage factory.
We set our business up on the basis of client referrals and as time went by, referrals from solicitors and accountants we got to know.
We decided at the time to do something "quite revolutionary" and totally unheard of: we began to rebate brokerage/commissions and charge a fee for service. Remember, this was in 1989.

After several months, we had outstanding debts of over $30,000. This was from good clients that accepted the advice given, but like anyone, when given an inch they would try and take a mile. We spent many hours ringing clients and reminding them of their unpaid invoices. This is particularly demeaning as we are not a collection agency. Furthermore, you have to justify all over again the value of your advice. No-one pays you for that lost time, so you end up subsidising clients even more. With amounts under $500, it is not worth the cost of taking the matter to court so you are obliged to write off the debt. That is no way to run a successful business.

You run the risk of ending up in the unenviable position of many accounting and legal practices today. They have to regularly increase their fees to help cover the interest charged on the bank overdraft they are forced to take out in order to keep their business afloat, until clients eventually get around to paying their fees. This is not smart business and I am afraid that many financial planners who resort to fee-only advice, will eventually find themselves in a similar black hole.

We are a small business and do not have millions in the bank to cover such

unnecessary costs, so we had to re-think our approach.
We decided to adopt a hybrid system. We would arrive at a figure for our services, after discussion with the client. Where possible, we would invoice the client for a fee that was tax deductible (very limited scope here) and rebate the equivalent from any brokerage earned. The client paid a fully disclosed amount, and was happy to have some of that made up of a tax deductible fee.

As for trail commission, i.e., a percentage of funds under advice (0.15-0.6 of 1%) , it has mutually served us and our clients very well. In many cases, I would rebate any up-front brokerage, charge a small fee and explain that I would make up this largesse by taking trail over time. I explained that what amounted to a small amount of ongoing fees from individuals, if summed over a large number of clients, it would provide a decent cash flow to help cover our running costs, e.g., postage, stationary, etc., for which we would otherwise have to charge. Furthermore, it helped keep our doors open so we were always available when clients call. The fact that fund managers paid this trail brokerage reliably every fortnight/month meant that instead of worrying when the next dollar would come in the door, we were able to deal practically, efficiently and equally with every client matter that walked through the door (in many cases, without brokerage being involved). Finally, we were never under the enormous pressure of having to make decent money today (anyway you can) in order to meet next month's rent. This has to be one of the major dilemmas associated with fee-paying practices and studiously ignored in the current debate.

If you are exclusively charging a fee for service, you can't tell me there is not the temptation of over-servicing clients in order to generate fees to meet the rent or other regular costs. I know some advisers are reviewing client portfolios monthly, under the guise of frequent portfolio re-balancing. What a joke! Studies have shown that the benefits do not outweigh the cost and such frequent re-balancing suggests the portfolio is now a trading portfolio, rather than an investment one. I thought we were investment advisers, not trading advisers......????

It is ludicrous to suggest that such frequent changes implemented by advisers will give an edge to a portfolio performance, when these same advisers cannot get it right in relation to re-weighting at major highs and lows. All that is happening is investors are being regularly gouged by extra fees for advisers to sit at their computers and deliver no real long-term benefit. Investors are paying fees for essentially standing still or going slightly backwards. Seems to me we have lost the plot somewhat.....

The way our trail business is structured, we do not have the constant pressure of earning brokerage or fees every time a client visits, as would be the case with a fee-only operation.

Trail brokerage was never enough to deliver "super" profits to us, but merely helped offset some of the costs of running the business so it would be remain accessible to all clients, irrespective of their financial standing, i.e., accessibility to all.

So maintaining the brokerage/commission system allows us to rebate when necessary and provides for us, a certainty of background cash-flow which by its very existence, protects the client from the pressure of inappropriate advice. To say that brokerage leads to inappropriate advice is to say that all fees charged are fair, which is complete nonsense. Full disclosure - there is no other way.

4) <u>Deductibility of Financial Planner Fees.</u>

Assuming we are all forced to go down the path of charging "fee for service", it is important to understand that not every fee a financial planner charges is tax deductible. Many advisers are ignorant of this basic tax reality.

For example, under current tax legislation, a fee charged for an initial consultation is a capital cost and therefore not tax deductible. The preparation of a comprehensive financial plan (anywhere between $2,000-$5,000) is another capital cost, and thus not tax deductible. A fee charged to a client for advice on his public-offer super fund is paid by the client but not tax deductible. Why? Because it is the super fund itself that is the taxpayer, not the client.

My point here is that in order to support any move to a fee-for-service regime, special legislation should be introduced such that **<u>any fee</u>** charged by a financial planner should be immediately tax deductible. Otherwise, there is no practical incentive to change.

That just about concludes my observations and suggestions for improvements in the provision of financial advice.

Regrettably, I find that many people on the fringes of our industry (who are quick to tell advisers what is best), have never thought deeply enough about the practical consequences of their "brilliant" recommendations. They rarely assume responsibility or accountability for such recommendations and move on to other greener intellectual pastures, leaving the usual mess in their wake. Having never experienced life at the coal-face of actually providing investment advice, their ability to deliver practical solutions is questionable.

You really have to understand each step of the financial planning process to have any hope of change for the better.

Respectfully yours,

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