

I am a certified financial planner, having been a financial planner for almost 20 years and worked as a professional in the finance sector > 30 years. I provide advice on a wide range of areas designed to create, protect & foster financial wealth for over 200 clients. I am a small business owner and employ 2 staff. Our client base is spread over not only metropolitan but rural areas and involves providing services to farms/farming communities and small businesses. In operating my own financial planning business for the last 12 years I have deliberately operated under Licences with no institutional ownership to ensure that I have complete flexibility in my operations. My clients over time through our strong relationship approach have become part of my effective extended family. I work with my clients to prepare them for their financial future, and manage the ups and downs along the way. I have helped educate my clients on financial matters to instill good financial habits and enable them to make sound decisions throughout their lives, resulting in greater financial independence rather than merely a reliance on Government assistance particularly in later years. I love what I do & I am passionate about financial planning because each client, their circumstances and suitable solutions are different and the work that I do changes on a day to day basis.

I am firmly opposed to the “opt in” provisions & the retrospective fee disclosure statement policies and believe that they will add no value to the financial planning process, but will actually hinder the ongoing provision of advice which I have demonstrated as follows: -

### **Opt In Provisions**

- **Adds a layer of bureaucracy/administration on top of an already myriad of regulatory & industrial laws that financial planners must deal with.** Industrial relations, anti-money laundering, tax obligations, Corporations Act, etc. etc. Financial Planning is already more heavily regulated than any other profession in Australia. Every bit of advice is documented and provided to client who signs off before advice is implemented. Presently clients have a terms of agreement schedule – fees and services are agreed to. We have many clients who have been paying us fees for almost 20 years and are completely comfortable with the current structure. Clients can opt out any time they like.
- **Have seen no reasoning in the legislation or public comments by the Minister on how these measures will actually improve the quality of advice.** I support the need for effective regulation to facilitate access to financial advice for all Australians, while protecting consumers. The good financial planners are just as concerned with the poor practices of the few ‘bad apples’ in the financial planning industry as the general community. Changes proposed will however do nothing to stop a Storm (i.e. a “rogue” could still charge a large/exorbitant fee upfront and gear the clients to their eyeballs causing financial loss) or a Westpoint fiasco (financial product failure - operating an unregistered managed investment scheme and not holding a regulated license).
- **Non-productive – time will be required to be spent issuing & then in due course chasing up pieces of paper and then further administration issues.** This time is better spent on actual advice/service. Clients already receive either quarterly or 6 monthly statements showing them the cost of the advice. Each subsequent review/Statement Of Advice also shows the cost of the advice. Financial Planning is not a homogenised offering, but a tailored labour intensive process/service based on an ongoing relationship with the client. To provide further annual notices and then opt in notices every 2 years involves tailoring the notice for any of the following services that we currently provide to clients. This will need to be completed on a client by client basis and will require each client file to be examined and noting each specific service provided – time and effort required to produce relevant & compliant notices and then for opt in follow up to get paperwork response back and then lodged with the appropriate administrative service. We have costed this as being a minimum of \$125 per client (assuming this all goes smoothly, if not the cost rises). As a guide the range of financial planning services that we provide to clients include: -

1. superannuation advice incorporating industry, retail, life office, SMSF, public sector, accumulation & defined benefit schemes (pension & lump sum)
  2. superannuation contribution strategies – concessional/non-concessional, not breaching caps, etc. Follow up of notices ensuring clients claim the correct deductions
  3. Transition To Retirement Pensions/Superannuation Salary Sacrifice
  4. Salary Packaging and costing incorporating Fringe Benefits Tax
  5. life insurance – Death & TPD, Trauma, Income Protection
  6. tax planning
  7. Allocated Pensions/Annuities
  8. Education planning for children/grand children
  9. Centrelink/Social Security – Age Pensions, Disability Support, Carers, etc. Sort out problems and incorrect assessments with Centrelink.
  10. Family Tax Benefits Part A & B, Baby Bonus, etc.
  11. Aged Care Accommodation
  12. Liaison with other service providers (Accountant, Solicitors, Centrelink, Australian Taxation Office, Bankers)
  13. investment advice – shares, managed funds, fixed deposits, property, cash, etc.
  14. research on investments
  15. investment/platform providers, resolving any administration issues, follow up on documentation
  16. renewing and administering fixed interest investments
  17. updates on changes in legislation and personal impacts
  18. administering self managed superannuation funds including accounting/audit/minuting strategies, investments, pensions, contributions
  19. Home/Personal/Business Loans, Leasing, etc.
  20. Debt Reduction/Cashflow Planning
  21. Small Business Consulting/Succession Planning
  22. Rural clients – farm management deposits, succession planning, planning for funding of capital equipment, cashflow planning, etc.
  23. Marital separation and dealing with financial issues from fallout of relationships, new couples with children from previous relationships
  24. Estate Planning incorporating wills, Enduring Powers Of Attorney/Guardianship
- **Opt In has an environmental impact** – more paper = more trees cut down, more carbon WASTE
  - **Opt In will increase costs to business.** If industry costs increase job losses will be inevitable or costs to consumers will rise.

- **FOFA/Opt In favours large institutions (Banks, Building Societies, Insurance Companies, etc.) over smaller non-institutionally aligned practitioners.** This goes against all principles of fairness, equity, etc. Large institutions – financial planning is just another revenue stream for them. If a client of a large institution doesn't opt in – large institution still keeps the \$\$\$\$ -but no advice/service, this goes back to the old tied agency arrangements of the 1980's. This has been further amplified through the recent sales/purchases of various financial planning groups as groups look to get scale or become more vertically integrated. Recent sales/purchases along these lines are as follows: -
  1. Count (listed ASX company) sold to Commonwealth Bank. Count listed as one of the prime reasons for the sale was the implementation of FOFA & Opt In.
  2. DKN purchased by IOOF
  3. Snowball/Shadforth merger
  4. AMP takeover of Axa
  5. Netwealth purchase of Paragem Dealer/Licencee Services Business

The financial planning landscape is already tilted heavily in favour of large institutions over smaller non-institutionally aligned practitioners. Ejobs Recruitment Manager Trevor Plummet has recently stated publicly that the Top 5 institutionally owned groups already control 90% or more of financial planners. Opt In will only further entrench this process. The Opt-In policy is clearly damaging to independent (non-institutionally aligned) adviser businesses, will have little or no impact on bank or fund advisers, and is already leading to the net aggregation of product and advice. Put another way the Opt-In policy discourages ongoing adviser relationships, but encourages transactional advice, which means it could encourage transactional product pushing advice by product groups

- **Inequity between larger super funds & smaller non-institutionally aligned advisers in respect of intra-fund (scaled) advice.** Recent draft MySuper legislation states that the cost of intra-fund (scaled) advice will be treated as an administrative cost and will be charged to every member of a super fund every single year even if that member does not access such advice. As a small practitioner we are still required to complete a myriad of paperwork and make full disclosures and charge an appropriate fee for scaled advice and are again disadvantaged by such separate legislation, which again favours larger institutions
- **What happens if clients don't opt in – whose responsibility are they then?** The product provider, the previous adviser, the Licencee? Not only are the clients at risk if there is a change in their or market/tax circumstances, but there are also opportunity costs (losses) as well.
- **\$11 Cost quoted by Rice Warner is illogical.** I am a self employed practitioner who operates under a Licence that is non-institutionally aligned. We do not have a bucket of money to pay for IT enhancements and for Rice Warner to suggest that the cost of implementing opt in/annual notices is only \$11 is way off the mark and purports to the biased nature of this "research". As depicted above each client's file must be examined to ascertain the service/advice provided and then notice issued from this process. This process takes up valuable staff resources.

- **Opt In breaches the Government's Own Best Practice Regulations. (OBR)**. Critical changes were placed into the draft legislation at the last minute with no consultation and zero consideration for the harsh impacts on financial planners and their clients in respect of the retrospective nature of the notices to be issued. Treasury have confirmed that "Regulatory Impact Statements were prepared for the various other (FoFA) reforms (including Opt-In) but were not assessed as adequate for the decision-making stage". The Government has thus been issued with a 'non-compliance' notice by the Office of Best Practice Regulation (OBPR) in respect of FoFA 2011. Whilst the government has stated that they have consulted a wide range of interest groups over an extended period of time, it is clear that they have intended to ram this poor piece of legislation that fails even their standards through parliament.

### **Examples of Value Of Ongoing Relationships With Financial Planners Which Would Be Placed At Risk Through the Introduction Of Opt In Provisions.**

I have listed below the ongoing value we have provided to clients and the different situations. This is only a small snapshot of issues that we face on an ongoing basis.

- **Recent example – Large Financial Institution “badged” administered product** - client has held product for 8 years. Involves loan product – each year client is offered ability by Large Financial Institution to prepay interest for tax deductible purposes. We made arrangements for client and confirmed with Large Financial Institution staff to again have client prepay interest 12 months in advance prior to 30<sup>th</sup> June and sent paperwork off to them on 20/6/2011. On 27/6/2011 received a call from Large Financial Institution stating that a decision had been made that they were not offering this option to “badged” clients this year (even though they were still offering this option to all other existing standard “non badged” Large Financial Institution clients). I was only able to resolve this issue through forceful negotiation. If this was an orphaned or ‘Non-Opt In’ Client they would have nowhere to go and suffer a financial loss as a result of the institutions actions.
- **In the last month – involved in providing advice to a new client (a brother of an existing long term client)**. This involves dealing with long term medical and mental health issues, hostel accommodation, tax, estate planning, disability support pension & public sector defined benefit super issues. This will require ongoing careful management. Again orphaned or ‘Non-Opt In’ in future could cause significant financial burden to the client and his family if not managed properly.
- **During GFC - Mid 2008** I identified that Australia was completely out of step with rest of world. Interest rates were falling rapidly world wide, whereby rates were being ratcheted up by RBA here (1 year Bank Fixed Term Deposit rates >7.0%). I confirmed with my licensee my thoughts that Fixed Interest Mortgage Trusts were potentially moving to be higher risk investments than previously considered either through liquidity issues (as funds assets in the main tied up in commercial loans), or risk of their interest rates paid to investors falling through loan delinquency. We contacted in excess of 100 clients that held these investments and provided Statements Of Advice and documentation recommending that they switch out of these mortgage funds and place monies into Bank Fixed Term Deposit's/Cash Management Accounts. This involved new paperwork being issued for all these clients, SOA's, product disclosure statements being provided, etc. over a 3 week period. Subsequent to this we then contacted a further 60 clients who were in a Hedge Fund (as had concerns again about liquidity with these investments in early October 2008 and recommended they again redeemed these monies and place into Bank Fixed Term Deposit/CMA accounts). At that time research and licensee had no concerns with these styles of funds. Actual Hedge Fund also said it had no investment or liquidity issues and was open for business (deposits & withdrawals). We told clients that it took 2 months to obtain monies due to redemption rules of the Hedge Fund – we were redeeming funds as a safety measure as wanted to “get in front of the curve” so to speak – the hedge fund generally made up only 3% - 5% of client's portfolios. We filed all

- redemptions before the end of October with the Hedge Fund, but only got ½ of clients out in time, as on 23/12/2008 Hedge Fund said that they were freezing their funds and even redemption requests that they had accepted and were in the cue would be frozen as well.
- The monies have subsequently been “drip fed” to clients over the past 2 years, with final withdrawal paid by end of August 2011. **Government policy unfortunately caused this – the introduction of bank guarantee guaranteeing all Banks, Building Societies, Credit Unions in October 2008 led to a subsequent “flight to safety”**. Australian wide clients wished to withdraw monies and place into Banks/Building Societies & Credit Unions. This caused a run on non-guaranteed investments (mortgage trusts, property funds, hedge funds, etc.) leading these funds to be frozen to both deposits & withdrawals and leading to clients having their funds “drip fed” back to them as the fund’s ability to liquidate assets was limited. 2.5 - 3 years on people still haven’t got all their monies back. Not only that returns have decreased on these style of funds and clients have missed out on the opportunity to make monies else ways (opportunity costs), as well as potential losses in tax revenue and/or increased Centrelink payments (extra cost to Government). Needless to say that the pro-active action taken by me on behalf of my clients has left them being exceedingly happy and with the ability to get at virtually all of their monies if required. **Please note that all of these actions were undertaken by us under our existing ongoing client fee basis and that the clients did not incur any extra costs, in fact they were and all are still today substantially better off financially as a result of our actions. I could only shudder to think what would have happened to orphaned or Non-Opt In clients should this position occur again**