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A LIGHTHOUSE IN THE FOG?
**Impacts of the new Financial Accountability Regime
on Policy Interpretation & Coverage**

An AILA panel discussion by:

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Liability limited by a Scheme approved under professional standards legislation

>> Introduction

- Welcome
- Takeaway points up front

>> The BEAR ... where it all began

- What is the BEAR?
- When did it commence?
- To whom does it apply?
- Broadly, what it entails ...

- And what did Commissioner Hayne have to say about it?

>> The Four Obligations (BEAR)

- Accountability
- Key personnel
- Deferred remuneration
- Notification

>> **The BEAR accountability obligations: who must observe them?**

- Corporates: ADIs
- Accountable persons

>> **The accountability obligations (BEAR)**

- Honesty, integrity, and due skill, care and diligence
- Dealings with APRA
- Prevention of matters that would adversely effect prudential standing or reputation

- Ensuring the compliance of accountable persons and non-ADI subsidiaries

>> Potential impacts on D&O policies

Who will pay the premium?

- *Banking Act 1959* (Cth) section 37KA
- *Corporations Act 2001* (Cth) section 199B

>> Potential impacts on D&O policies

Who is covered by the policy?

- Who is an insured?

>> Potential impacts on D&O policies

What will the policy cover?

- Defence costs?
- Investigation and pre-investigation costs?
- *Hird v Chubb Insurance Company of Australia* [2016] VSC 174

>> Potential impacts on D&O policies

What won't the policy cover?

- Dishonesty and fraud type exclusions
- Prior known acts

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