



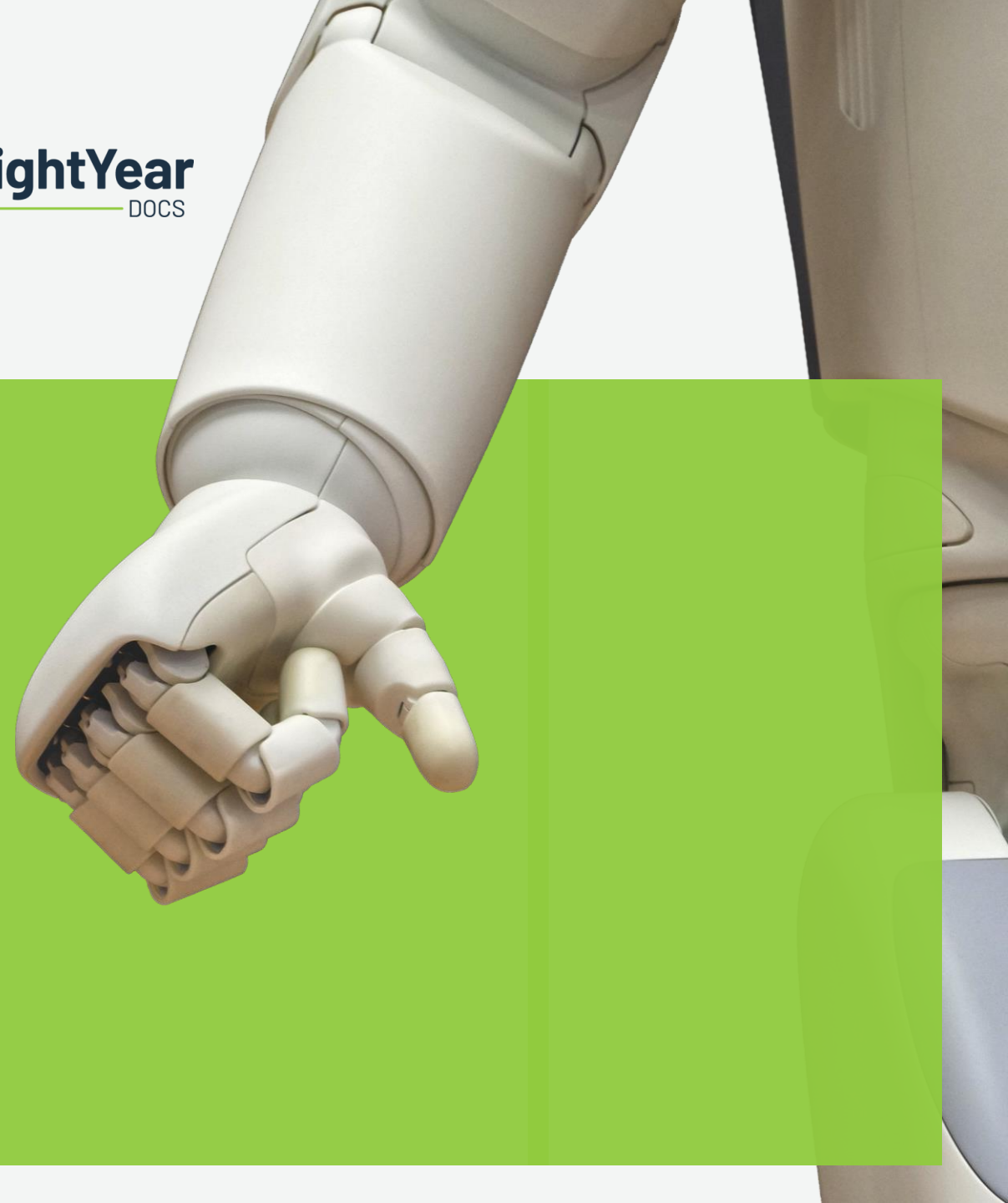
LIVE SESSION



STARTING SOON...



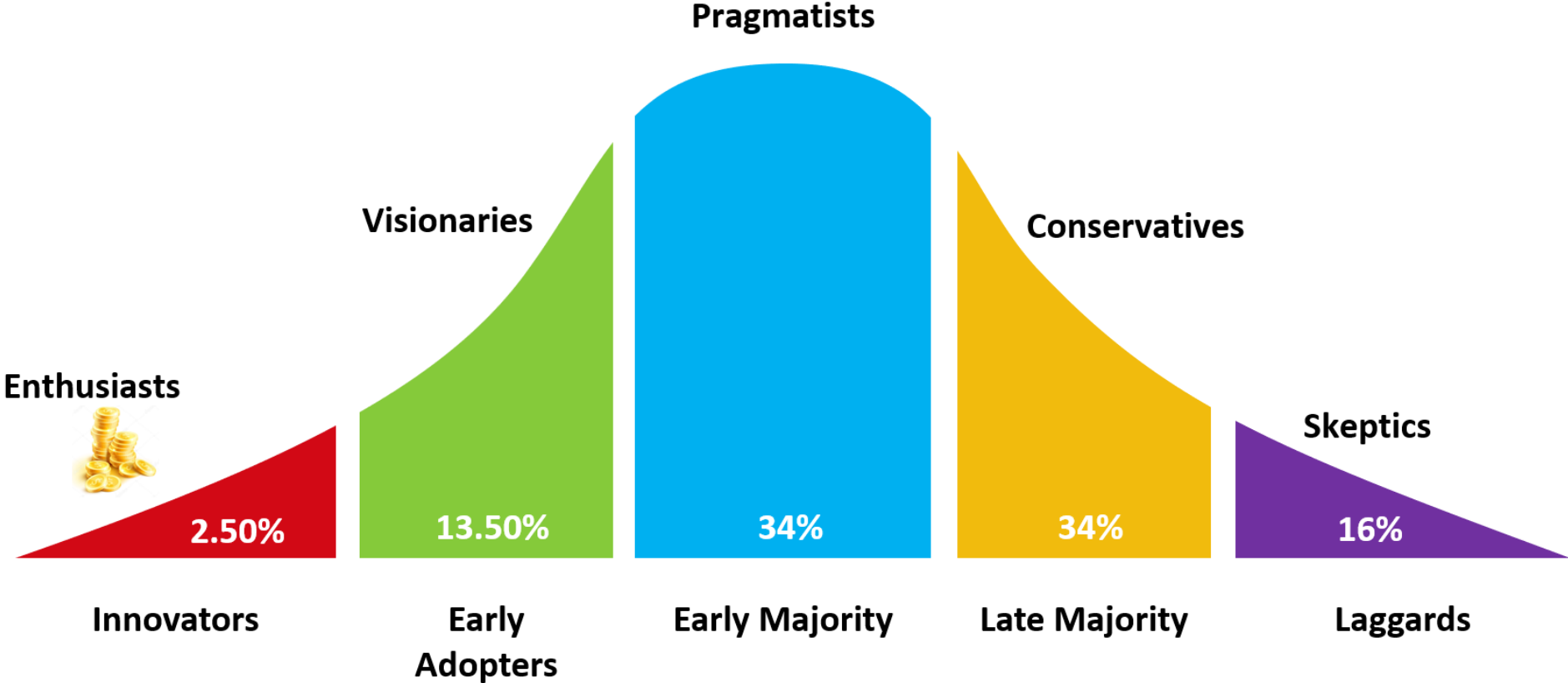
WE LOVE WHEN WE CAN CONNECT WITH YOU




Non Arms Length Income and Expenses

The history, deep dive and case studies

Where are you in the scheme of innovation?





In 2007 the government enacted laws that allowed SMSFs to borrow to acquire shares, property and well any asset. This was limited in 2010 to a single acquirable asset as the laws moved from section 67(4A) to section 67A and 67B.

During this time a number of trustees borrowed from related trusts, members and companies at very favourable rates – in most cases zero interest rates. Who needed to worry about contributions when you could lend, build concessional tax wealth in a SMSF and withdraw when you felt like it. This was a significant practice and was accelerated with ATO guidelines that there was no breach of the arm's length rules in section 109 of SISA nor a breach of the sole purpose test.



The ATO had to do something as these loans were getting big – some over \$50M

NALI Timeline

- **Section 295-550** – the old law was deficient but they crafted a holding position on it to slow things down
- **PCG 2016/5** – Looked at the issue and set down boundaries on what an arm's length borrowing was and provided a safe harbour
- **New NALI and NALE** – The very name shows that the prior law was ineffective and needed to be upgraded
- **Expense side is the big issue** – is it just penalty tax rates on income or does the asset also get sucked into the future. It appears as though once branded always branded
- **Deep Dive:** Let's see what we have got and review EM and ATO legal companions

Case Study



- Property developer finds a site and decides to acquire in the SMSF rather than his development company – is it NALI?
- Development company provides the construction at cost plus 10% build (standard for the development company) but with no deposit or progress payments. All fees payable at the end to de-risk the investment – is it NALI?
- During the development phase the developer is offered a \$400,000 premium which they accept as trustees of the fund – NALI or any other issues
- The trustee of the SMSF sells the property prior to conveyance to save stamp duties and books a \$500,000 capital gain in the pension side of the fund – NALI or any other issues

The New NALI

**SUPER
FUND**

← **What is the impact?**



"I wouldn't fancy buying any in a company I work for."

**Listing
Broker
Discount of
5% to
market**

The New NALI

SMSF

← What is the impact?



**Lawyer produces
BDBN on their
internal systems –
normal client fee -
\$2,000**

The New NALI

SMSF

← What is the impact?



**Accountant provides
SMSF administration
on firm system and
charges a 50% staff
discount**

Case Study



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Next Webinar



By now you would have seen all the dramatic headlines regarding the ATO incursion into general expenses in a SMSF where any discounted services or even free services delivered under an arrangement by, even the trustee, may see ALL income of a SMSF in a year being taxed at 45%. The ATO newly published legal companion - LCR 2021/2 is detailed and will create multiple

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 **05 Aug 2021, 12:30 PM**

LYD Strategy Solution: Trust the LYD Trusts - Discretionary, Leading Member, Family Protection, Unit and Hybrid Trusts

In this session Grant Abbott, will look at the LightYear Docs suite of Trusts with an eye to the launch of our new Hybrid Trust. The session includes a detailed review of beneficiary, income, vesting, appointor and the all important variation clauses plus a case study on how to upgrade a current deed without resettlement.

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