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**Supplementary** submission to the  
**Parliamentary Joint Committee on  
Corporations and Financial Services**

- *Inquiry into issues associated with recent financial product and services provider collapses such as Storm Financial, Opes Prime and other similar collapses.*

Submitted by:

**STORM INVESTORS CONSUMER ACTION GROUP INC. (SICAG)**

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**SIGNED:**

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**Preamble**

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3 This supplementary submission has been prepared in response to developments that have  
4 occurred since SICAG (Storm Investors Consumer Action Group Inc.) sent in its initial  
5 submission last month.

6 This submission takes particular issue with statements made in the Commonwealth Bank of  
7 Australia's submission (No. 357). In summary, CBA Chief Executive Officer Mr Ralph  
8 Norris sheets home the blame for his bank's lending "shortcomings" to a handful of rogue  
9 officers in its Aitkenvale branch who were manipulated by former CBA staff who had joined  
10 Storm Financial.

11 SICAG believes this is not only a convenient way of distancing the CBA from the problem  
12 but it is disingenuous in the extreme. There can be no doubt that the Storm "shortcomings"  
13 happened in full view of CBA Head Office and in fact the officers concerned were publicly  
14 recognised and applauded for their record lending at CBA *Rewarding Success* functions  
15 hosted by Mr Norris himself.

16 This supplementary submission also draws the Committee's attention to remarks contained in  
17 Submission No.386 by Kristy Devney and Carmela Richards in which many claims made by  
18 the CBA are categorically refuted.

19  
20 **Margin lending – a case of “no care, no responsibility”**

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21  
22 SICAG takes issue with the CBA's assertion that Colonial Geared Investments (CGI) –  
23 CBA's margin lending division – operated in a separate silo to the CBA's retail lending  
24 division and that therefore the CBA was not aware that clients had borrowed funds against  
25 their homes to invest in CFS-managed funds. This is a convenient but fatuous excuse to  
26 enable the bank to justify its part in over-leveraging Storm clients.

27  
28 The bank has also claimed to have been merely a provider of a product (margin lending) that  
29 existed in an unregulated environment at that time. SICAG does not believe this cold,  
30 calculating, arm's-length stance meshes with the Banking Code of Practice of which the CBA  
31 is a signatory, nor is it consistent with the highest standards of professional dealing one  
32 would expect of a corporation such as the CBA.

33  
34 There is overwhelming evidence already presented to this committee that the CBA was  
35 working hand in hand with Storm and its advisers and knew exactly what the Storm model  
36 entailed. In fact, the CBA was an active and enthusiastic partner with Storm in the so-called  
37 “Stormification” process.

38

1 While we fully appreciate that it may now be convenient and expedient for the CBA to  
2 publicly wash its hands of any involvement in the role that their margin lending practices  
3 played in the “double jeopardy” bind in which Storm clients found themselves due to their  
4 exposure to margin loans, we regard the CBA’s Pontius Pilate-like stance as immoral, un-  
5 Australian and unconscionable.

6  
7 It is insulting and simplistic for Australia’s largest bank – the beneficiary of a taxpayer-  
8 funded deposit guarantee scheme – to merely say “we relied on Storm to do the right thing”.

9  
10 It has long been industry practice for the adviser AND the client to be notified of margin  
11 calls, not the dealer group.

12 The CBA sheets home the lion’s share of the blame for the distress caused to SICAG  
13 members by the collapse of Storm Financial to “inappropriate advice provided by Storm”,  
14 again washing its hands of any role in the debacle.

15  
16 The question of liability for the management of the Storm-related margin loans will be  
17 determined with former High Court Judge Justice Ian Callinan within the next several weeks.  
18 SICAG eagerly awaits Justice Callinan’s decision.

## 19 20 21 **CBA’s association with Storm**

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22  
23 SICAG refers to its original submission (No. 276) and to Mr Ron Jelich’s submissions (Nos.  
24 54 and 54a) wherein the May 18 2007 written agreement between Storm’s founder  
25 Emmanuel Cassimatis and Mr Craig Keary, General Manager, Colonial Geared Investments,  
26 is extensively referred to.

27  
28 The important agreement, endorsed by Mr Cassimatis on July 26, 2007, patently shows that  
29 the CBA, through its margin lending division, was complicit in offering Mr Cassimatis an  
30 exclusive special deal for Storm clients.

31  
32 The agreement clearly shows that Storm and the CBA had formed a symbiotic, mutually  
33 beneficial relationship.

34  
35 Highlights of the May 18 2007 agreement and SICAG’s comments (bold type) follow:

- 36  
37
- 38 • Storm clients were offered higher LVRs (loan-to-valuation ratios) than clients of other  
39 investment advisory firms.  
40 ○ **While this acted as an inducement to invest with Storm, it severely**  
41 **exacerbated the risk factor in the event of a market downturn.**  
42

- 1 • CGI and Storm would be required to meet monthly *“to ensure that the agreed*  
2 *approach, including observance of expectations is being maintained, and to facilitate*  
3 *any agreed changes which may be required in response to changing conditions.*  
4 *Naturally, an extraordinary meeting can be called at any time by either party.”*  
5
- 6 ○ **This demonstrates clearly the joint working partnership between**  
7 **CBA/CGI and Storm.**  
8
- 9 • In relation to the crucial matter of who would be responsible for managing the margin  
10 loan, the General Manager of the CBA’s margin lending division stated: *“In the*  
11 *unlikely event of a margin call, Colonial Geared Investments and Storm Financial*  
12 *will work in partnership to clear the margin call . . .”*  
13
- 14 ○ **CBA/CGI now claim that it was entirely Storm’s responsibility.**  
15
- 16 • Clause #8 of the agreement states: *“Despite our allocation of a global LVR of 80% to*  
17 *your clients on the basis of our expectations being met . . . nothing in this letter*  
18 *modifies or varies the obligation of any client borrower under clause 3.2 of the*  
19 *margin loan to pay us the amount owing under the margin loan if that client borrower*  
20 *is either in default or we send that client borrower a 5-day notice requiring payment*  
21 *of the amount owing.”*  
22
- 23 ○ **5-day notices were never sent to clients despite this agreement.**  
24
- 25 • Clause 10 of the agreement states that *“Storm Financial will not gear a client above*  
26 *65%. Should a client find themselves at LVR of 65% or above, then any additional*  
27 *gearing will only occur if the client’s buffer increases.”*  
28
- 29 ○ **This happened on many occasions despite this agreement.**  
30  
31

32 While the agreement carries a qualification that CGI reserves its rights under its Margin  
33 Lending Terms and Conditions, the agreement shows clearly that Storm and the CBA were  
34 working as one unit in relation to margin lending.  
35

36 NOTE: Storm clients and Storm advisers were never made aware of this agreement.  
37  
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### 39 **VAS computer valuation system**

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40  
41 Mr Norris states in his submission that the CBA’s computerised property valuation  
42 assessment system known as VAS “was misused on occasion by some staff . . .”  
43

1 SICAG forcefully stresses that this information from the CBA's VAS system was routinely  
2 forwarded to Storm on a **regular** basis, not "on occasions", as claimed by Mr Norris.

3  
4 The sole purpose of the bank's misuse of the VAS system was to increase the bank's own  
5 loan book by giving Storm the capacity to market additional investments and gear up clients  
6 even higher with margin loans. The valuations were presented to Storm as virtually pre-  
7 approved loans.

8  
9 SICAG presents this information as yet another sign of the symbiotic working relationship  
10 between CBA and Storm and as an example of how the CBA routinely and flagrantly  
11 breached banker-client confidentiality by disclosing details of bank-sourced property  
12 valuations to a third party (Storm Financial).

13  
14 SICAG's contentions in this regard have been independently supported by Carmela Richards  
15 and Kristy Devney in their submission to your Committee (Submission No.386). These two  
16 ladies were former CBA employees and held senior positions with Storm Financial, giving  
17 them a privileged perch from which to observe the interaction between Storm and CBA.

18  
19 SICAG respectfully contends that this evidence should be viewed seriously by your  
20 Committee.

### 21 22 23 **CBA submission is misleading**

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24  
25 While the CBA submission understandably attempts to distance the bank from Storm  
26 Financial, there is an overwhelming body of evidence before the Committee of the seamless  
27 nature of the relationship that existed between the two entities with all retail lending  
28 applications processed through the bank's Aitkenvale branch and all margin loan applications  
29 through Sydney.

30  
31 Storm had around 13,000 customers, of whom approximately 30% had a relationship with the  
32 CBA. Many of these mutual clients had exposure to CBA products across the full spectrum –  
33 margin lending, retail lending, savings accounts, cheque accounts, insurance products and  
34 funds management.

35  
36 There are instances where clients had had an association with the bank since the 1960s and  
37 relied entirely on the bank's brand and reputation for financial peace of mind.

38  
39 Mr Norris states in his submission that CBA staff who left the bank to work with Storm had  
40 the ability to influence CBA's lending policies. SICAG contends that simply having  
41 knowledge of the bank's systems and policies has nothing to do with the approval process.

42

1 The “creative” practices outlined by these former CBA staff are indicative of objectivity  
2 having been sacrificed on the altar of greed – gaining the business and bonus potential at any  
3 cost and ignoring lending guidelines.

4  
5 SICAG is amazed that this pattern of flagrant disregard for due diligence appears to have  
6 escaped the scrutiny of the bank’s internal audits.

7  
8 SICAG further contends that Mr Norris, despite his repeated denials, would have **definitely**  
9 been aware of the stand-out lending performance of his award-winning Aitkenvale branch. In  
10 fact, SICAG has evidence that Mr Norris hosted a number of CBA’s *Rewarding Success*  
11 functions at which the Aitkenvale branch were perennial prize-winners.

12  
13 Mr Norris states that the CBA, “based on previous experience of Storm acting appropriately  
14 in relation to margin calls”, believed Storm would continue to do “the right thing”. This is a  
15 naive statement; SICAG is aware of ample evidence before the committee that neither clients  
16 nor advisers were issued with margin calls as per previous experience.

17  
18 It should also be pointed out in this context that your Committee has been presented with  
19 irrefutable evidence that the CGI website was flawed and inaccurate. SICAG draws the  
20 attention of the Committee to Submission No.109 by Stephen Wilson which contains  
21 irrefutable evidence that the CGI reporting system was notoriously unreliable and failed to  
22 keep pace with events surrounding the dramatic share market collapse late last year.

23  
24 Further, SICAG has presented evidence previously that the Sydney CGI staffing levels were  
25 grossly inadequate to deal with the meltdown.

26  
27 CBA documentation clearly states that each borrower had to be interviewed by a bank officer  
28 before approval. This clearly did not occur, due to obvious geographical impracticalities but  
29 the CBA knowingly approved loans in direct breach of its own guidelines.

30  
31 During SICAG’s recent information meetings in Scarborough, Rockhampton, Mackay,  
32 Townsville and Cairns, about 1500 Storm victims who attended the meetings were asked if  
33 they had ever personally met with a bank officer when borrowing money to invest in Storm –  
34 approximately 98% said they had NEVER spoken personally with a bank officer when  
35 borrowing money to finance their Storm-related investments.

36  
37 Mr Norris says in his submission: “While some Storm clients are disappointed that Colonial  
38 First State terminated several managed indexed funds whose investors comprised Storm  
39 clients, this difficult decision was made after the value of the underlying equity funds  
40 diminished to such an extent that the small amount of remaining equity made the termination  
41 of the funds in the best interests of investors. We are satisfied that this was conducted in  
42 accordance with the funds’ deeds, industry standards and regulatory requirements.”

43  
44 SICAG firmly believes that the bank’s now well documented actions on the 8<sup>th</sup>, 9<sup>th</sup>, 10<sup>th</sup> and  
45 11<sup>th</sup> of December and their subsequent decision to close the Storm-badged fund without

1 notice was a malicious, orchestrated decision to shut down the company, with absolutely no  
2 regard for the clients.

### 5 **CBA's belated "mea culpa"**

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7 SICAG acknowledges CBA Chief Executive Officer Ralph Norris's statement in the CBA  
8 submission that the bank "*continues to work proactively with our customers, employees and*  
9 *regulators to ensure there is minimal risk of Australians being exposed to another Storm.*"

11 While Mr Norris's comment is welcome, SICAG points out that Mr Norris's belated "mea  
12 culpa" came only after months of intense pressure from the media, SICAG, Slater & Gordon,  
13 ASIC and politicians. The bank's stonewalling tactics in the face of overwhelming and  
14 damning evidence that the CBA and other lending institutions involved with Storm had acted  
15 unconscionably certainly does not demonstrate a pattern of "proactive" attention to customer  
16 service and adherence to high fiduciary standards operating within the Australian banking  
17 sector.

### 20 **Conclusion**

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22 SICAG publicly acknowledges the undying support of its long-suffering members throughout  
23 Australia, friends and supporters of SICAG, Damian Scattini and his team from Slater &  
24 Gordon, ASIC, members of your Committee investigating this matter and of course the  
25 media.

27 SICAG acknowledges and lauds the good faith the bank has lately demonstrated in relation to  
28 the Accelerated Resolution Process and strongly supports the initiative. SICAG believes  
29 Brendan French and Matt Comyn, the two CBA executives charged with cleaning up the  
30 Storm mess, are men of high quality and sincerity and look forward to working with them to  
31 effect a just settlement for our distressed members.

32 Sadly, much damage has been done that can never be repaired, no matter how generous or  
33 well intentioned the settlement scheme turns out to be. The distrust generated among our  
34 members by the actions of the once-respected banks will go with them to their graves.

36 The activities of the bank's aptly named Hardship Team (now called the Customer Assistance  
37 Unit) in the wake of the implosion of Storm Financial in December last year added  
38 significantly to the stress being experienced by Storm victims at a time when they had just  
39 experienced the extinguishment of their life savings without warning. SICAG believes the  
40 philosophy underpinning the activities of the Hardship Team at that time did not take into  
41 account the multi-dimensional nature of the Storm collapse, particularly the human aspects.

1 Having said that, SICAG welcomes the CBA's recent attitudinal change and reciprocates the  
2 good faith on which the Accelerated Resolution Process is based and indeed relies upon for  
3 its success.

4  
5 SICAG draws the Committee's attention to Submission No.386 and underscores the  
6 importance of the evidence contained therein. The two co-authors, Kristy Devney and  
7 Carmela Richards, have alleged that CBA Chief Executive Officer Ralph Norris has not been  
8 truthful in his comments about the relationship between Storm and the CBA contained in his  
9 submission to your Committee. In fact, their evidence confirms SICAG's contention that  
10 Storm and the CBA were effectively "joined at the hip" in their handling of Storm clients'  
11 affairs – to the mutual financial benefit of both parties.

12  
13  
14  
15 ends