<u>Supplementary Document to Submission 307</u>

<u>The Loss of our Investment Portfolio – Events of October 2008 – January 2009</u>

1. <u>Margin calls – No contact from Macquarie Margin Lending</u>

On 7 October '08 we received via email, an attached letter from STORM whose opening paragraph was:

"As you will now be aware your Macquarie Margin Loan is currently in margin call; your LVR is currently at 86.57% which is higher than your margin call LVR for your portfolio at 85.10% and as a result you are officially in margin call"

The letter says: "A*s you will now be aware…..*"
This awareness was not due to any action on the part of MML.

As far as we can recall the email from STORM at 5.15pm on7 October 2008 was the first we officially knew of the margin call.

We did not ever receive a margin call from *Macquarie Margin Lending*.

On Wednesday **8/10/2008**, as advised by Storm we signed papers, to authorize Challenger to redeem 50% of our Challenger Portfolio to cash.

This <u>redemption took place on **9/10/08.**</u>

On Friday **10/10/2008** we gave a further authority to Storm (as advised by them), to instruct Challenger to switch the other 50% of our Portfolio to cash.

This remaining 50% of portfolio units were not redeemed to cash until **23/10 and 24/10/08.**

We do not know what our LVR was when the second 50% was sold down on 23/10 and 24/10

We were overseas when our units the switch to cash was done on 23/10/08 but on **Friday 17/10/08** we looked at the Macquarie Margin Lending website and were obviously very upset to see that we were in Margin Call. Unfortunately we do not recall what the LVR was and there was no facility to print the page. Because we were so concerned we called our advisor on Monday 20/10/08.

In an email dated 20/10/08 which we accessed upon our return she had stated:

"*Ignore the Macquarie website, it's irrelevant. Should you go into Margin call Territory, Macq Bank notifies Storm who do a switch to cash, as agreed to, to change your situation immediately. We've had requests to switch some clients to cash, at present you are not amongst those.*

You enjoy your holiday and let Storm and I manage your affairs here, remembering that those websites are often out of date or wrong. The only website you will need to check is Challenger, to see whether we have switched anything and your Macq CMT.
Go and enjoy"

We calculate that the delay of 13 days from the date (10/10/08) we gave authority to Storm,(as advised by Storm), to instruct Challenger to switch the other 50% of our Portfolio to cash, resulted in a further loss of almost $96K as the unit prices had fallen further since 9/10/08.

We have reviewed the **Macquarie Margin Lending – May 2006, Loan and Security Agreement – "Loan and Security Agreement between the Borrower, the Securities Owner and the Director and the Sponsor and Macquarie Bank Limited"**

Clause 5 Margin Calls

None of the clauses from 5.1 – 5.8 inclusive advise how or if the Bank would contact the borrower in the event of a margin call.

The clauses address what may be required if the loan balance exceeds the market based limit, timing for margin calls to be complied with, acceptance of additional security, redeeming securities to satisfy a margin call and finally Clause 5.8 states that *"The borrower is responsible for monitoring the total loan balance and the market based limit and is liable for any Margin Call at the time at which the relevant Margin Call arises, irrespective of when or whether or not any notice to pay a Margin Call is given by the Bank"*

It is not clear how the contact would be made and to whom – presumably as the agreement is between the bank and the borrower, and securities owner, the contact should be made to that entity.

We would like the committee to ask what was the correct process for making a Margin Call and to whom the bank should make this call.

2. The Loss of our 'Cashed Up' Investment Portfolio – Macquarie Sells Out

On 15 January 2009 we were advised by *Macquarie Margin Lenders* that it was exiting the business of margin lending having sold its margin lending portfolio to *Leveraged Equities*.

It is our understanding that our loan was not included in this sale, because it was a *'Storm badged portfolio'* with an unacceptable LVR of 96.27%, and we would have to either close out or refinance our variable and fixed margin loans before 25 June 2009. Having no other financial resources or funds that sat outside of the *'STORM basket'* upon which we could draw, we were forced to use all but 3.73% of cashed up portfolio of Challenger Investments to pay down the loan of $1,949,420.00 to *Macquarie Margin Lenders*

3. <u>STORM and Macquarie Margin Lending</u>

When dealing with our Storm Financial advisor we had the very distinct understanding that as we were a *Storm client* (and that Storm was obviously an important client of Macquarie) we were being allowed a higher Maximum LVR by Macquarie Margin Lending than might be normal.(Our Maximum LVR was 79.81 with a buffer of 5%)

Would the committee also investigate this on 28 October?