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## Lawyers lash out on ASIC in Storm saga

TONY RAGGATT | January 24th, 2012


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**THE Australian Securities and Investments Commission is again under fire over its handling of the Storm Financial collapse, with lawyers claiming it is in bed with the Commonwealth Bank.**

When approached for comment, the Federal Government's corporate regulator did not respond to the claims but sought to reassure former investors it was taking legal action against the Commonwealth Bank and other banks and was seeking compensation on their behalf.

"ASIC ... is taking legal action ... to seek compensation for investors who have suffered losses," an ASIC statement said.

A spokeswoman said the organisation would not comment further.

The former Townsville-based financial planner collapsed in late 2008 after the sharemarket tanked and the Commonwealth Bank - the major lender to Storm and its clients - sold out investors' portfolios and closed Storm-badged funds managed by its subsidiary, Colonial First State Investments.

About 3000 investors suffered investment losses totalling about \$3 billion.

Sydney firm Levitt Robinson is leading class actions against the banks, while ASIC has also filed proceedings but stopped short of seeking compensation.

On its website, ASIC says it is taking a "staged approach" and that, in the event it is successful in obtaining relief, "intends to pursue compensation" on behalf of individual claimants who consent to it doing so.

The Federal Court has now called on investors to decide whether to remain with class actions or opt out.

Levitt principal Stewart Levitt confirmed the Federal Court notice, to which investors must respond by February 3, had prompted his latest advice to investors.

Mr Levitt said he was trying to inform people about their legal choices and warn them about how unreliable ASIC was.

"I haven't heard anyone has chosen to opt out but you can't be too careful with these things," he said.

The advice reminded investors that ASIC had failed to warn them about Storm's flawed model in 2007 and, following Storm's collapse, had stood by as investors signed "manifestly inadequate" bank resolution schemes.

The advice said ASIC had refused to plead a claim for damages on behalf of investors and refused to criticise the Commonwealth Bank for unconscionable and misleading conduct.

"The only consistency which ASIC has demonstrated is its inconsistency - other than with respect to its unflinching



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commitment to attempting to protect the interests of the CBA (Commonwealth Bank) to the extent that it can, without appearing to be too flagrant," Mr Levitt said.

One investor being represented by Levitt Robinson, who did not want to be named, said the firm seemed to be doing a good job, while another investor, who also did not want to be identified, warned that Levitt was chasing a potential \$2 million payday.

Investors had paid around \$9000 each so far to be represented by Levitt Robinson.

The class actions will go to court-ordered mediation next month and, if required, trial later this year.

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