Senate Standing Committee on Economics

ANSWERS TO QUESTIONS ON NOTICE

Treasury Portfolio

Additional Estimates – 25–26 February 2009

Question: aet 72

Topic: Selling of Shares

Hansard Page: E134 (25 February 2009)

Senator WILLIAMS asked:

Senator WILLIAMS—When the banks or CGI just sold out the shares, did they contact the investors first or did they just go and sell them and then phone up the investor: ‘We’ve sold your shares; you’re now in this position’?

Mr D’Aloisio—But, Senator, there is a legal question and a commercial question. The legal question under typical margin lending agreements may well give the lender the right to sell at any time. It may.

Senator WILLIAMS—Yes.

Mr D’Aloisio—They do not all do that. Some do. I do not have the—

Senator WILLIAMS—I believe a lot have just got a letter saying, ‘We’ve sold your shares.’

Mr D’Aloisio—The commercial approach and the client-customer relationship approach would normally tell you that banks would call before they would act. Again, it is something to take on notice for us to have a look at. But, from a legal point of view, because margin lending is not regulated, it is a contractual matter and, yes, a lender theoretically could have the legal power to do that, to just sell the assets and not tell you, because it is seeking to cover its position on the margin loan. It is very unusual in my experience—very unusual.

Answer:

ASIC is investigating how Storm client's margin loans and portfolios were managed following the market downturn in late 2008. These investigations are still continuing and, as a result, ASIC cannot comment further at this time.