

**In the Matter of Staff's Recommendation
To Suspend the Registration
of Karine Brizard
Opportunity to be heard by the Director under
Section 31 of the *Securities Act* (Ontario)**

Decision

1. For the reasons outlined below, my decision is that the registration of Karine Brizard (**Brizard**) be suspended.

Background

2. By letter dated August 27, 2017, staff (**Staff**) of the Ontario Securities Commission (**Commission**) advised Brizard that it had recommended to the Director that her application to be registered as a mutual fund dealing representative with CIBC Securities Inc. (**CIBC**) be granted subject to terms and conditions. The terms and conditions require: (1) close supervision on Brizard's registration including monthly supervision reports on her sales activities and dealings with clients, and (ii) Brizard must successfully complete the Conduct and Practices Handbook Course (**CPH course**) within six months from the date of her registration. Staff provided two bases for imposing these terms and conditions, primarily solvency and proficiency concerns. Brizard did not comply with these terms and conditions because she did not complete the CPH course within the required timeframe. Staff is recommending that Brizard's registration be suspended.

3. Pursuant to section 31 of the *Securities Act* (Ontario) (**Act**), Brizard is entitled to an opportunity to be heard (**OTBH**) before a Director decides whether to accept Staff's recommendation to suspend registration. The OTBH occurred on June 18, 2018. Staff was represented by Marlene Costa, Legal Counsel in the Compliance and Registrant Regulation Branch of the Commission. Brizard appeared on her own behalf with her branch manager, Marie-Lise Bermingham.

Brief outline of relevant facts

4. The facts of this case are straightforward. Brizard was registered as a mutual fund dealing representative sponsored by CIBC on August 4, 2015. On September 16, 2016, a financial disclosure change was submitted by Brizard through a Form 33-109F5 *Change of Registration Information* (**Form F5**), disclosing a consumer proposal that Brizard had entered into in September 2016. A bankruptcy and insolvency records search was conducted by Staff, which revealed that Brizard had not disclosed a bankruptcy from September 1999 (**1999 bankruptcy**). Staff advised CIBC of Brizard's failure to disclose previous financial information.

5. CIBC terminated Brizard's registration on September 29, 2016 and submitted an application for reactivation of her registration (**Reactivation Application**) through a Form 33-109F4 *Registration of Individuals and Review of Permitted Individuals* (**Form F4**) on November 4, 2016, where the Form F4 was revised to include financial disclosure of the 1999 bankruptcy.

6. Staff had two concerns with the Reactivation Application. The first concern related to Brizard's insolvency and ongoing consumer proposal, and the second concern related to Brizard's non-disclosure of financial information in her Form F4 and subsequent Form F5 filings. The non-disclosure relates to the 1999 bankruptcy that was not reported to the Commission on a timely basis, as required by section 4.1 of National Instrument 33-109 *Registration Information* (**NI 33-109**).

7. Staff conducted a voluntary interview with Brizard on March 9, 2017. Based on the information provided in the voluntary interview, included in Brizard's Reactivation Application and gathered by Staff independently, Staff recommended that Brizard be subject to terms and conditions as follows: (i) close supervision on Brizard's registration including monthly supervision reports on her sales activities and dealings with clients, and (ii) successful completion of the CPH course within six months from the date of Brizard's registration. Close supervision terms and conditions were proposed for an indeterminate period of time until Brizard could provide Staff with an improved update to her financial condition. The CPH course was proposed to address Staff's proficiency concerns, including:

- a. Brizard had been registered, with various firms, for the last 8 years and failed to disclose her bankruptcy on multiple occasions;
- b. Brizard was given an opportunity and reminded by CIBC's compliance staff email to disclose any changes or updates to her registration information, but still failed to disclose her 1999 bankruptcy; and
- c. Brizard's answers in the voluntary interview suggested that Brizard did not clearly understand the regulatory requirements that are owed under Ontario securities law on an ongoing basis.

8. Brizard consented to the above noted terms and conditions on August 25, 2017 and signed the schedule attached to Staff's letter, which detailed the specific terms and conditions on registration. Her branch manager also subsequently signed the schedule on August 29, 2017, as did CIBC's Chief Compliance Officer (CCO), Jaime Fonseca, on September 5, 2017.

9. The Reactivation Application was granted and the terms and conditions were imposed on September 5, 2017. As a result, the deadline for Brizard to complete the CPH course was March 5, 2018. Brizard failed one attempt prior to the deadline on February 14, 2018. Brizard requested an extension to re-write the CPH course exam and two extensions were granted. Brizard failed these two additional attempts after the deadline, on March 13, 2018 and April 3, 2018, respectively.

10. Brizard provided evidence of passing another course, the Registered Financial and Retirement Advisor Course Part I, in June 2015. However, this evidence is not considered relevant to this proceeding as it is not the course outlined in the terms and conditions of her registration.

Submissions

Mandate of the Commission

11. The mandate of the Commission includes protecting investors from unfair, improper or fraudulent practices. It is well established that registration is a privilege and not a right. Section 28 of the Act provides that the Director may suspend the registration of an individual if it appears to the Director that the individual is not suitable for registration or has failed to comply with Ontario securities law, or the registration is otherwise objectionable. The factors to be considered by the Director in determining suitability for registration are found in subsection 27(2) of the Act and include proficiency, solvency and integrity, and such other factors as the Director considers relevant. Staff submits that Brizard failed to comply with Ontario securities law, specifically the terms and conditions imposed on her registration by failing on three occasions to successfully complete the CPH course within the required time frame. Also, Staff submits that Brizard is not suitable for registration because she does not possess the required

proficiency and solvency for registration, and that her ongoing registration is otherwise objectionable because it would be unfair to other registrants who have worked to expend the time and resources necessary to meet their obligations and comply with Ontario securities law. These obligations include proficiency and solvency requirements, as well as filing requirements, as part of registrants' ongoing registration obligations.

Registrant obligations and suitability for registration

12. The Director will only register an applicant if, among other things, that applicant appears to be suitable for registration and the registration is not otherwise objectionable. Following registration, individuals must maintain high standards of fitness and business conduct to remain registered. Staff use three fundamental criteria to assess whether an individual is or remains suitable for registration: proficiency, integrity and solvency. This suitability assessment will be based on information required to be provided in registration-related forms such as the Form F4 and Form F5. The truthfulness and accuracy of the responses to the questions in these forms provide the information for Staff to make their assessment. The Director will also evaluate the overall financial condition of an individual registrant; an individual that is insolvent or has a history of bankruptcy may not be suitable for registration.

13. The facts were clear on this point and acknowledged by Brizard. She did not file the required disclosure on a timely basis. In fact, the information that was required to be disclosed was independently discovered by Staff, and the requisite disclosures were not provided until this was brought to CIBC's and Brizard's attention.

14. In particular, Brizard has been registered with CIBC since August 2015 and with Scotia Securities Inc. (**Scotia**) and BMO Investments Inc. (**BMO**) before that time. Staff submitted, and Brizard agreed, that she did not disclose the 1999 bankruptcy as required either in her initial application for registration with Scotia or in any other applications following that time, including her application for registration with CIBC, and she did not disclose the 1999 bankruptcy as required by the policies and procedures of CIBC.

Reasons for decision

15. My decision is that the registration of Brizard should be suspended as she did not comply with the terms and conditions of her registration. She was provided two extensions to complete the CPH course, but failed to successfully complete this course. Brizard may re-apply to be registered once she has completed the CPH course.

16. I agree with Staff that Brizard's ongoing registration would be objectionable in this case because it would be unfair to other individual registrants that comply with the terms and conditions of their registration, and the ongoing requirements of registration.

17. It was clear to me that Brizard did not make the required disclosures on a timely basis and, because these disclosures were independently discovered by Staff, the requisite disclosures were not provided until Staff brought this matter to CIBC's and Brizard's attention. Also, Brizard did not comply with the policies and procedures of CIBC, the registered firm that sponsors her registration. Brizard stated that she misunderstood the questions in the application; however failure to make required regulatory filings on multiple occasions is a matter of serious concern. As a result, I find that Brizard failed to comply with Ontario securities law.

18. Staff referred me to the decision *Re Cornerstone Asset Management L.P.* (2015), 38 OSCB 9535 which states, at paragraph 4, that the elements of the test for suspension of registration under section 28 of the Act were present in that case because the registered firm (**Cornerstone**) was unsuitable for registration in that it lacked the requisite solvency for registration; Cornerstone failed to comply with Ontario securities law by failing to deliver financial information within the required timeframe (among other things); and Cornerstone's ongoing registration would be objectionable because it would be unfair to other registered firms who have worked to expend the time and resources necessary to meet their solvency obligations and filing requirements to comply with Staff's requests.

19. Brizard was forthright in the OTBH regarding her failure to disclose the financial information, took responsibility for her failure to comply with Ontario securities law, and appeared genuinely remorseful. However, Brizard clearly failed to meet her ongoing registration obligations by failing to disclose her 1999 bankruptcy and this information is material to her solvency and suitability for registration.

20. It is important for registrants to know that the Commission takes ongoing registration requirements seriously. As stated in the recent Commission decision *Re Dhillon* (2018), 41 OSCB 3053, at paragraph 33, "[r]egistrants have a very important function in the capital markets and investors place their trust in registrants who advise them." Registrants are responsible for dealing with clients and their investments. In order to assess their ongoing fitness for registration, registrants must disclose financial information that may impact their suitability as a registrant, including the requirement to disclose financial information such as bankruptcy and insolvency and consumer credit proposals. Registrants must update their registration information on a timely basis, and failure to do so will result in regulatory consequences, up to and including suspension or termination of registration.

21. My decision is that the registration of Brizard is suspended. I agree with Staff's recommendations, including its analysis that the facts demonstrate the elements of the test for suspension under section 28 of the Act. Finally, Brizard acknowledged and accepted the suspension recommendation made by Staff.



Pat Chaukos, CPA, CA, JD

Deputy Director, Compliance and Registrant Regulation Branch
Ontario Securities Commission

Dated: July 18, 2018