

Agenda Item 7(a)9)
April 26/22 EOC Meeting

Analysis of Changes Made by CISRO to the Principles of Conduct for Intermediaries.

In its 9 July, 2022 submission to CISRO, CAFII made the point that

That said, we note that the CISRO Principles' definition of intermediary includes "adjuster." Adjusters are not included, however, in the definition of "intermediary" found in the CCIR/CISRO FTC Guidance. Therefore, because adding "adjuster" to the CISRO definition of "intermediary" has the potential to cause confusion, without significant offsetting value to be gained in doing so, CAFII recommends the deletion of adjusters from the scope of the CISRO Principles' definition of "intermediary."

CISRO did not make this change.

A more important point made by CAFII was that:

In addition, CISRO's Principles of Conduct for Intermediaries uses the term "must" to describe many of the Principles. Given that the Principles will not have the same legal status and enforceability as a Regulation, we recommend that CISRO harmonize with the language used in the FTC Guidance by using the words "are expected to" or other variations on the verb "expect" -- or alternatively the verb "should" -- rather than "must."

In a significant modification by CISRO, this change was made throughout the document, with "must" dropped throughout and replaced by "are expected to"—a change made 15 times in the document.

CAFII reminded CISRO that providers of CPI cannot offer advice, and that this raised concerns with respect to section #4 on Advice, where CISRO stipulated that: "Advice must be suitable for the needs of the Customer based on the Customer's disclosed circumstances." Nevertheless, CAFII indicated that it was not that concerned with this section because CISRO's document used qualifiers that could exempt CPI from some of the advice expectations. CAFII also expressed concern that the term "complete information" was not consistent with the original CCIR/CISRO FTC Guidance, and recommended changing "complete" to "appropriate." That change was made by CISRO, and CISRO also made other changes to make this section more palatable for CPI.

Specifically, the draft including the following wording, with relevant words highlighted by CAFII for easy comparison:

If providing advice to or for a Customer, intermediaries **must seek complete** information from the Customer in order to understand and identify their unique needs.

This was changed to:

When providing advice to or for a Customer, Intermediaries are expected to seek appropriate information from the Customer in order to understand and identify their unique needs.

CAFII also made the recommendation that “complete information” should be changed to “appropriate information” in *Principle #5 Disclosure* of the document, and CISRO made that change as well.

The original wording was:

Intermediaries must provide Customers with objective, complete, relevant, and accurate information and explanations so that they can make informed decisions.

This was changed to:

Intermediaries are expected to provide Customers with objective, appropriate, relevant, timely and accurate information and explanations so that they can make informed decisions.

Finally, CAFII stated that

*As a final specific feedback point on what CAFII believes to be an inadvertent omission error, we believe that the following edit is in order in Principle #10, Oversight:
“Intermediaries are expected to have tools at their disposal such as policies and procedures, . . .”*

CISRO made the change that CAFII recommended.

Overall, CISRO was very responsive to the changes that CAFII recommended the great majority of which are reflected in the final draft of its document.