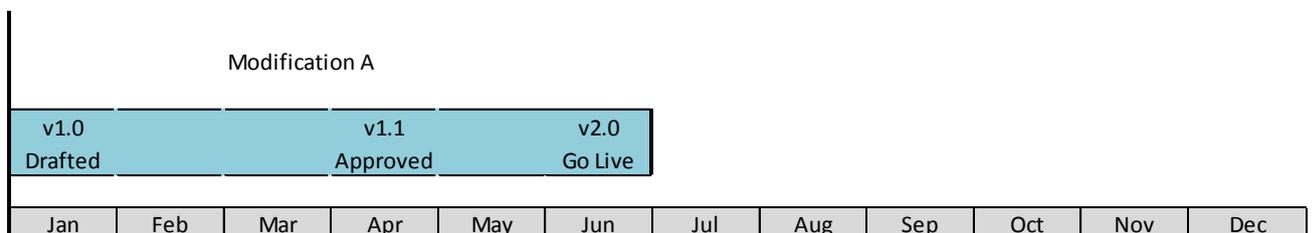


APPROACH TO AMENDING LEGAL TEXT

MEETING NAME	BSC Panel
Date of meeting	08 May 2014
Paper number	224/05
Owner/author	Adam Lattimore
Purpose of paper	For Decision
Classification	Public
Summary	A situation has occurred where legal text conflicts could be introduced due to the timing of the implementation of Modifications. While this is a very rare occurrence we ask the Panel to agree an approach should the issue arise again.

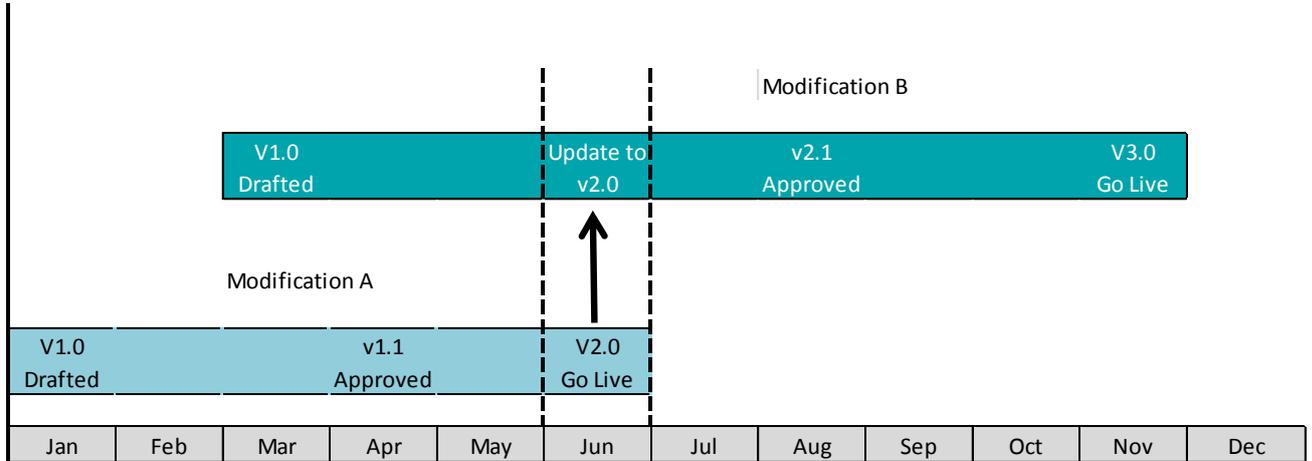
1. Background

- 1.1 When a Final Modification Report is issued to the Authority for determination, we attach a set of legal text. This legal text shows the actual text amendments which will be made to the Code should the Authority approve the change.
- 1.2 We actively manage the “baseline” of Code sections as they are updated over time, ensuring any legal text drafting is completed on the most up to date version of the Code.
- 1.3 For example, Modification A is raised in January and impacts Section Z of the Code. Any changes required for Modification A are drafted against Section Z v1.0. These changes are issued to the Authority in March, and in April approved for implementation in June. This means v2.0 of Section Z will go live in June.



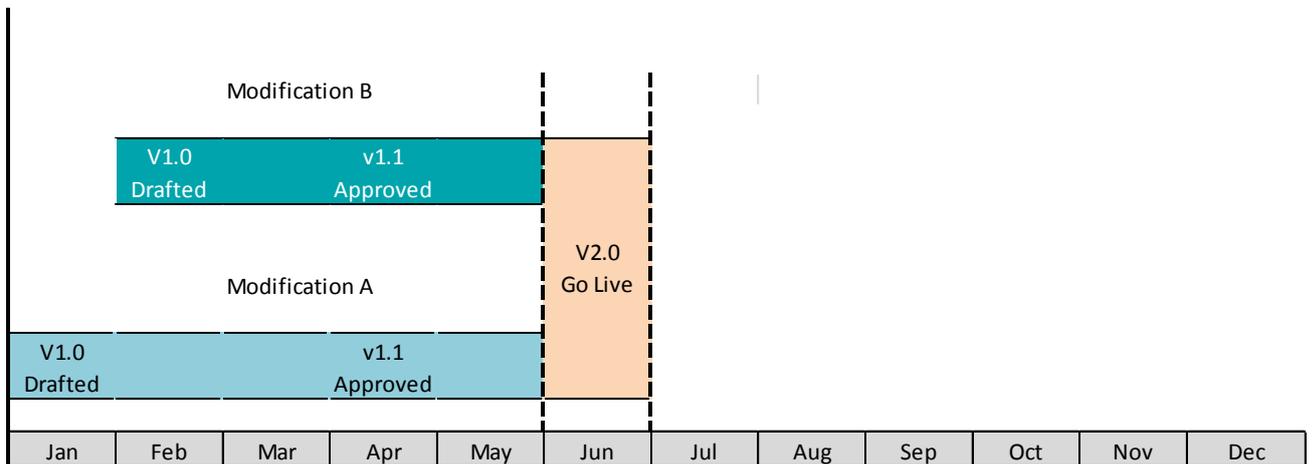
- 1.4 Into this scenario we introduce Modification B, which is raised in March and also impacts Section Z of the Code. Modification B must be drafted against the current live baseline which, since there has been no approval of Modification A, is still Section Z v1.0.
- 1.5 Following the implementation of Modification A in June, the legal text being drafted for Modification B is “re-baselined” against v2.0 to ensure any changes from Modification A are incorporated.
- 1.6 In August Modification B is issued to the Authority and approved for implementation in November, meaning Section Z v3.0 goes live in November.

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1.7 Where multiple Modifications are due to go live at the same time, and impact the same sections of documents, we provide the Authority with multiple versions of legal text. This provides contingency where changes may or may not be approved. For example, if Modification A and B were both to be implemented in June impacting the same section, we would present the Authority with three sets of legal text, one for each scenario:

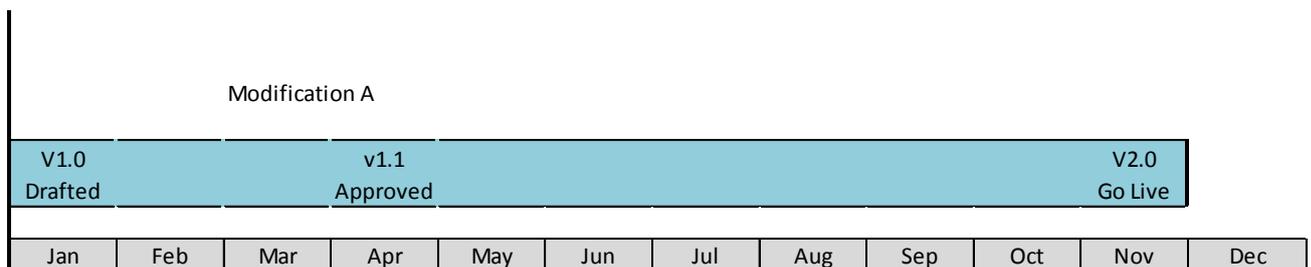
1. Only Modification A approved;
2. Only Modification B approved; and
3. Both Modifications A and B approved (an amalgamated set of text).



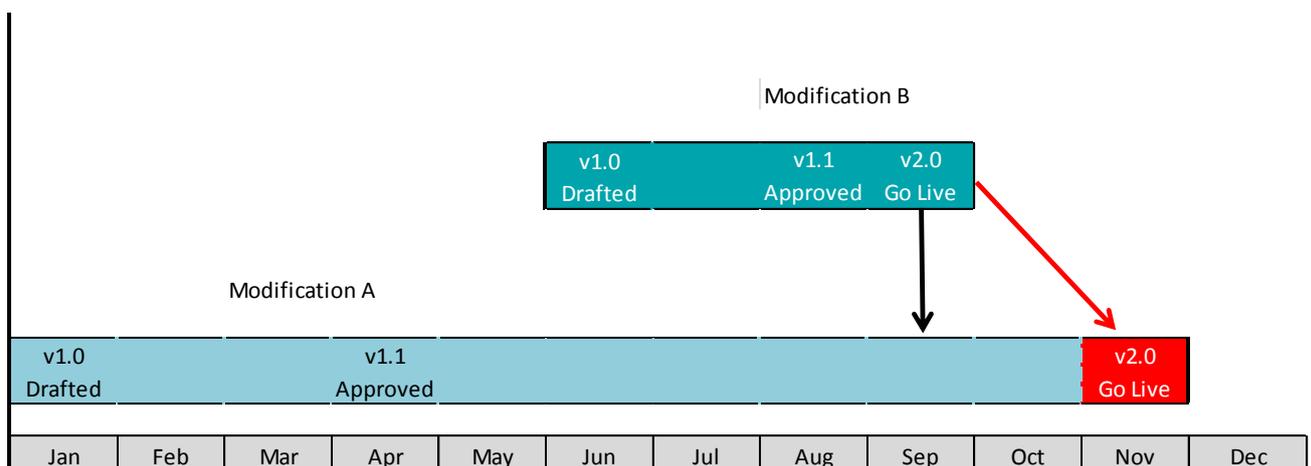
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2. What's the issue?

- 2.1 We ensure that all eventualities of legal text conflict are efficiently dealt with when progressing active Modifications. However, we have recently experienced a scenario of conflicting legal text on Modifications pending implementation which is outside our power to proactively resolve.
- 2.2 The issue arises where changes are raised after approval, but before implementation, of another Modification impacting the same Code section.
- 2.3 For example, Modification A is raised in January and approved in April for implementation in November. Modification A has been drafted against Section Z v1.0 and will introduce a paragraph 3.4 into the section.



- 2.4 Subsequent to the approval of Modification A, Modification B is raised in June. Modification B also impacts Section Z and will also introduce a paragraph 3.4. Modification B is approved in August for implementation in September.
- 2.5 Modification B is due to go live before Modification A, therefore Modification B cannot be drafted on Section Z v2.0 as it would introduce requirements into the Code in September rather than November as previously approved. Instead it must be drafted on Section Z v1.0 since that is the current baseline. This creates an issue as it means the Section Z v2.0 which Modification A is drafted on is now out of date.



- 2.6 This is not a problem where there is no impact on the same sections of text. However, in this scenario, unless something is done, implementing Modification A after Modification B will overwrite the text of Modification B. In effect this means that come November only Modification A section 3.4 will exist since that is the text the Authority will determine is implemented.

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3. Solution

- 3.1 Since the legal text for Modification A has already been issued to the Authority there is little we can currently do to resolve this situation. However, we believe this issue can be overcome quite simply in one of two ways:
1. We raise a Fast Track Self Governance Modification to resolve any such conflict when it arises; or
 2. We resolve any conflicts that may arise, issue updated legal text to the Authority and inform the Panel of any actions we have taken.
- 3.2 We would recommend the second option as:
- Any changes under this scenario would not be making amendments to approved versions of the Code, and would only reflect the text recommended by the Panel to the Authority, therefore it does not seem appropriate to raise a Modification; and
 - It minimises the effort of producing paperwork and provides for greater flexibility and speed.
- 3.3 This situation has occurred for the first time with the progression of P291 and P295; it is therefore not a frequent occurrence. However it is likely that the implementation of EMR text in the summer may cause similar issues for Modifications approved for the winter.
- 3.4 We welcome the Panel's view on this situation.

4. Recommendations

- 4.1 We invite you to:
- a) **AGREE** that in the case of legal text conflicts as described in this document, we would resolve any conflicts that may arise, issue updated legal text to the Authority and inform the Panel of any actions we have taken

For more information, please contact:

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