

Dear Dora,

Thank you for the opportunity to provide a response to this consultation. We are generally supportive of the guidance that you have drafted as we believe that it supports the current urgency processes contained within the BSC which are flexible and pragmatic.

For your consideration we have provided some thoughts below on the drafting which we believe will add the additional clarity to the guidance that you seek. In order to make our comments easier to digest we have broken them down by the section headings you have used in the draft guidance document (appendix 1 to the consultation).

Who decides a modification proposal is urgent and/or determines its timetable?

We recommend that the Authority should determine if a Modification Proposal is to be treated as Urgent for any modification raised to any of the Industry codes. This is because it would:

- Support the work already undertaken by the Code Governance Review that Industry codes should, where possible/practical, maintain consistency in rules and regulations;
- Improve the transparency of urgency decisions; and
- Reduce the stated risk that such provisions will be overused (since the power to grant urgency would lie with the Authority).

Addressing inconsistencies and increasing transparency not only removes a potential barrier to new entrants (arguably helping to increase market liquidity), but it also ensures simplicity of arrangements for exiting parties.

We also note that in both the open letter and this section of the guidance that you feel there is a potential that the granting of urgent status may lead to insufficient analysis of a Modification and that urgency might not be granted where *"the modification is complex and therefore requires careful and detailed consideration"*.

It is imperative that any urgent timetable determined by the Authority (or relevant body) provide sufficient time and process to fully evaluate and assess a Modification Proposal. The granting of urgency should be used to create a more flexible timetable (i.e. defined consultation period, ad hoc Panel meetings, quicker Authority decision etc) than the standard timetable as documented in the relevant Code. We do not believe that it should be used to circumvent the need for proper analysis and assessment.

The complexity of a change should not stop its consideration for being treated as urgent, but the timetable and process agreed upon to progress the proposal should always be appropriate and robust.

What criteria would the Authority use to determine urgency?

The guidance provided suggests 4 criteria. Criteria 1 – "Be linked to an imminent date related event" and criteria 4 – "...to comply with an imminent legal requirement which could not have reasonably been foreseen by the proposer." appear to cover the same issue, and it is not immediately apparent why you need both sets of criteria. However, since this is only a guidance document it is only a minor query.

If a modification proposal was declared "urgent" can the status be changed to "non-urgent"?

We can understand why it might be desirable to place an urgent Modification back into slightly less stringent timescales. However, it is not clear what a "normal" timetable would be in this situation.

In practice, if an updated timetable for a Modification Proposal were required, the BSC Panel and the Authority would agree to it before the proposal continued its progression. In order to help the clarity of the guidance it would be useful if it was made clear that if the urgent timetable agreed by the Authority (or relevant body) is subsequently revoked, the proposals will progress through the change process in accordance with a new timetable as agreed by the Authority and the relevant Code Panel.

Yours sincerely
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