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SUPERVISORY PRIORITIES 2024

#IMPACT2027

SUPERVISORY PRIORITIES

OF THE AMF

FOR 2024

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SUPERVISORY PRIORITIES

FOR 2024

I. Introduction: the supervisory framework

With regard to the supervision of professionals subject to its control¹, the thematic priorities cover three groups of activities:

- asset management;
- activities of intermediaries and market infrastructures;
- the marketing of financial products and financial investment advice, activities for which the supervisory actions implemented with the *Autorité de contrôle prudentiel et de résolution* (French banking and insurance supervisor, ACPR) as part of the ACPR-AMF Joint Unit (*Pôle commun*) are also presented.

Professionals supervised by the AMF whose activities are not covered by this document may still be subject to controls independently of the actions detailed below. Monitoring issuers' financial and non-financial information and ensuring that financial offerings and transactions (within the meaning of I. of Article L. 621-9 of the French Monetary and Financial Code) are not covered in this document.

The publication of the thematic priorities for supervision highlights certain areas of risk identified by the AMF and encourages regulated entities to review some of their practices with regard to the professional obligations in force. The aim is also to draw attention to specific areas of focus and to identify the operational problems associated with the implementation of the regulations.

These supervisory priorities are part of the AMF's ambition to be a demanding supervisor for a leading European financial marketplace, and as such they constitute one of the Authority's key actions for year 2024 (see *AMF 2024 action plan*, Action 1).

■ Supervisory tools

The AMF has at its disposal a number of supervisory tools, ranging from ongoing monitoring to specific inspections. The AMF also actively monitors the financial offerings and savings products offered to retail investors and the marketing practices of service providers, in particular through “mystery shopping” visits.

The AMF monitors all professionals under its supervision continuously based on information submitted on a regular basis (annual control and compliance reports, reporting data, declarations, etc.) or on request (additional information requested from service providers, interviews, etc.). The AMF also receives information about the activities of service providers authorised in France directly through other channels (the “*AMF Épargne Info Service*” platform, monitoring tools, whistle-blowers, exchanges of information with other regulators in France and abroad, etc.).

The supervisory activity also takes into account macro-structural risks put forward within the yearly AMF risks assessment (*Markets and Risk Outlook 2023* issued July 2023²).

These monitoring and inspection actions can be:

- individual, in response to specific alerts or as part of the periodic coverage of regulated entities, calibrated according to a risk-based approach;
- thematic, in particular to ensure implementation of new regulations.

¹ These professionals are listed in paragraph II of Article L. 621-9 of the French Monetary and Financial Code.

² <https://www.amf-france.org/en/news-publications/publications/reports-research-and-analysis/2023-markets-and-risk-outlook>

Inspections are carried out according to a procedure governed by law and by the AMF General Regulation and are conducted by the Inspection Directorate. A [Inspection charter](#) sets out the conditions of performance of inspections by the AMF and the behaviour expected of the persons questioned during an inspection. Once an inspection has been completed, the findings are presented in a report that is sent to the inspected entity. Like in 2023, about 60 inspections will be performed in year 2024. They will break down almost equally between two types of inspections which have different objectives:

- On the one hand, regular inspection of major players or those that represent particular risks or have been the subject of specific alerts;
- On the other hand, thematic inspection of a sample of market participants (generally five for each theme) in order to better understand a given activity or practice, assess implementation of the rules or explore potential risks for investors or markets. Established in 2018, these inspections are called SPOT inspections, for "*Supervision des Pratiques Opérationnelle et Thématique*" (operational and thematic supervision of practices) and are carried out in parallel on several market participants and in a shorter time than conventional inspections.

The findings of these inspections are fed back to the marketplace where relevant. Such feedback, which is intended to educate the market and raise awareness, constitutes an assessment of observed market practices at a given time. In some cases, it can lead to the update of existing policy.

Lastly, it should be noted that the AMF uses other supervisory tools such as mystery shopping visits (which are a means of concretely assessing the marketing of financial instruments in banking networks and the characteristics of the client/advisor relationship in branches and through digital channels) and various studies and communications carried out, for example, within the framework of the ACPR-AMF Joint Unit on topics relating to marketing, vulnerable persons, etc.

■ European supervisory convergence

One of the missions of the European Securities and Markets Authority (ESMA) is to foster supervisory convergence. The reform of the European Supervisory Authorities (ESAs), which came into force at the end of 2019, has strengthened ESMA's powers and tools in this area, in particular through the establishment of Union strategic supervisory priorities and the drafting of a supervisory handbook.

The ESMA's strategic priorities at European Union (EU) level, published on 10 October 2022 as part of its 2023-2028 multi-annual strategy, are as follows:

- fostering market efficiency and financial stability;
- enhancing the supervision of EU financial markets;
- improving retail investor protection.
- In addition to these strategic focuses, there are two thematic focuses:
- promoting sustainable finance;
- facilitating technological innovation and effective use of data.

These themes will be at the heart of ESMA's 2024 work programme, which includes the AMF's work on European supervisory convergence.

2. Priorities for asset management companies

■ Monitoring investment restrictions and related claims and compensations

Since 2021, asset managers have been required to report to the AMF any breach of investment restrictions observed in the funds they manage. The data communicated to the AMF contributes to the knowledge and monitoring of regulated market participants and products and enables the regulator to detect situations requiring its attention. The reliability of such data is therefore a key supervisory issue for the AMF, which has set out its expectations in terms of data quality on several occasions in 2022. This is why two SPOT campaigns have been launched at the end of 2022 and 2023 on yearly questionnaires on activities and controls (FRA and RAC), questionnaires on the anti-laundering processes (AMLQ), questionnaires dedicated to alternative investment funds managers (AIFM) and to money market funds (MMF reporting), and on data issued by asset managers on the AMF ROSA Extranet third-parties repository.

In addition, if the investment restrictions are breached, shareholders of the funds may be entitled to compensation, whether or not as a result of claims brought by them. This aspect of investor protection is fully in line with the AMF's IMPACT 2027 strategic orientations.

In this context, it would seem appropriate to examine the way in which asset managers organise the monitoring of ratio overruns and deals with claims in this area. In 2024, the AMF shall conduct a SPOT campaign to examine the organisation and resources dedicated to monitoring and reporting ratio overruns, the related procedures and processes used in practice, the system for handling ratio overrun claims and the related internal control system. In this context, the AMF will examine the consistency between internal records for monitoring ratios and reporting to the Authority, as well as any compensation process put in place, particularly in the event of a claim.

■ Qualifications and level of knowledge of employees

In accordance with the regulations, asset managers must ensure that the persons acting on their behalf have a minimum level of qualification and a sufficient level of knowledge. In particular, they check that portfolio managers, salespersons (natural persons responsible for providing investment advice or information on financial instruments and investment services) and Compliance and Internal Control Officers (RCCI) have a minimum level of knowledge. This verification may be carried out either through examinations organised by the asset managers themselves or by an external body that is certified by the AMF after receiving the opinion of the Financial Skills Certification Board (*Haut Conseil Certificateur de Place*, HCCP). It is therefore important to ensure that the training and examinations provided internally by asset management companies are equivalent to those established by certified bodies.

This system is anchored in the obligation of asset management companies to equip themselves with the necessary resources and organisation to ensure compliance with the principles of protection of client interests and market integrity. In order to broaden the basic knowledge base, the AMF has decided, at the suggestion of the HCCP, to create a new optional module on green and responsible finance. The exam is aimed in particular at sales professionals who wish to acquire a general knowledge of the institutional and economic framework of sustainable finance, to understand the key concepts and to acquire a framework for reading the products and methodologies used, so as to be able to identify client preferences and offer products tailored to their needs. Moreover, as the AMF's IMPACT 2027 strategic orientations points out, *"financial education also involves improving the training of professionals"*.

In 2024, the AMF shall conduct SPOT inspections of asset managers that have opted to bring their training and examination procedures in-house. The inspections will be based on the procedural framework of these procedures, the operational procedures for new employees, the content of the training provided and the internal controls in place. It will look at the involvement of the human resources department in the system and its interaction with the compliance function.

■ Sustainable finance : voting and shareholder engagement policies

In addition to the work carried out by the AMF in recent years, in particular the monitoring and SPOT inspections carried out in 2022 on the compliance of asset managers with non-financial contractual restrictions and obligations, and in 2023 as part of the ESMA common supervisory action (CSA) on the application of the sustainable finance disclosure regulation (SFDR), the AMF will continue its supervisory work on sustainable finance in 2024, which is one of the three thematic priorities of the Impact 2027 strategic plan. From a control point of view, this plan provides for the sharing of lessons learned from SPOT inspections on the one hand, and for enforcement action on the other, particularly in cases where investors are harmed. This theme is also consistent with the *Heatmap risks* produced by ESMA in October 2023, which identifies a high risk of greenwashing in asset management.

In 2024, the AMF will launch SPOT inspections on the voting and shareholder engagement policies of asset management companies. Through its work on the commitments monitoring report (published annually in conjunction with the ACPR), the AMF has noted that some market participants are strengthening their voting and shareholder engagement policies, which are playing an increasingly important role in asset managers environmental, social and governance (ESG) strategies and communications and can represent a strong commercial focus of their ESG approach. It therefore seems important to ensure the content and effective scope of these policies. During the upcoming SPOT campaign, the AMF will analyse the governance in place for voting and engagement (in particular through the various committees) and the related human and technical resources (including the use of external service providers), the policies and procedures themselves and their implementation by the management of ESG funds, the link between the engagement policy and the issuer exclusion policy, the ex-ante and ex-post information provided to investors, and the monitoring and control systems.

■ Governance and the role of senior management

In its October 2023 *Heatmap risks*, ESMA emphasizes the issue of governance and controls within asset managers, particularly in the case of delegation and outsourcing schemes. In 2023, the AMF conducted a SPOT inspection campaign on portfolio management delegation, the findings of which will be published in the first half of 2024. Aside from the case of delegated management, good corporate governance generally helps asset managers comply with their professional obligations. Furthermore, under the regulations, the responsibility for ensuring that the asset management company complies with its professional obligations rests with its management and, where applicable, its supervisory board.

In particular, the asset management company must ensure that its management:

- is responsible for the implementation of the general investment policy for each fund it manages,
- oversees the adoption of the investment strategies for each fund,
- adopts appropriate procedures to ensure that decisions are consistent with these strategies,
- adopts the risk management policies, procedures and techniques, including the risk limitation system, for each fund it manages.

Management must also adopt and implement a remuneration policy. It must also assess the effectiveness of policies and procedures and take appropriate measures to remedy any shortcomings. It is responsible for ensuring that the asset management company has a permanent and effective compliance review function and must receive regular reports, at least annually, on compliance, risk control and periodic control, in particular indicating whether appropriate corrective action has been taken in the event of non-compliance.

It should be noted that, depending on the legal nature of the asset management company, whether or not the asset management company belongs to a group, and any other mandates held by the managers in charge, the position and scope of their prerogatives may vary.

In 2024, the AMF will carry out a SPOT inspection campaign on governance and the role of senior managers in asset management companies, examining these companies' articles of association, the duties and responsibilities assigned to the various managers, the committee structure in place, the process for establishing and approving policies and procedures, the link between the role of managers and that of internal control, and the reporting to managers.

■ Valuation of non-listed assets and real estate assets

For several years, the valuation of the so-called "real assets" (real estate and non-listed assets) has been a supervisory priority for the AMF. In particular, the valuation of real estate funds was the subject of a SPOT campaign in 2022 and the valuation of private equity funds was the subject of a SPOT campaign in 2018.

Beyond the effects of cycles that are more specific to each asset class, the impact of changes in interest rates has structural effects on the valuation of these asset classes. At the same time, the entry into force of the revised ELTIF regulation and the French Green Industry Law could create a new boom for these asset classes. Against this particular market backdrop, the AMF will continue to pay particular attention to the valuation of these "real assets", especially real estate funds.

The AMF's work is based on analyses carried out on the basis of questionnaires sent to a large number of asset managers and individual follow-up interviews with market participants.

3. Priorities relating to intermediaries and market infrastructures

■ Quality of MiFIR, EMIR, SFTR, and CSDR reporting data

The Union's strategic supervisory priority on data quality, adopted by ESMA at the end of 2020, which has led to numerous coordinated actions at European level over the last three years, will not be renewed in 2024. The AMF - like its European counterparts - will nevertheless actively pursue its supervisory activities in this area, including on-site inspections. The AMF also fully supports ESMA's stated ambition (<https://www.AEMF.europa.eu/press-news/AEMF-news/AEMF-put-cyber-risk-new-union-strategic-supervisory-priority>) to make market participants more accountable in this area and to step up the use of data from regulatory reporting (MiFIR, EMIR, SFTR and CSDR) for supervisory purposes. The quality of regulatory reporting is a prerequisite for its use, so the efforts undertaken in 2023 will be continued in 2024 as an AMF supervisory priority. In particular, the AMF will be paying close attention to the implementation of the reporting changes brought about by EMIR Refit. Moreover, the AMF will continue to work on improving the quality of reporting, both independently and through its participation in the data quality exercises organised by ESMA. The AMF will pay close attention to ensuring that reporting control systems are in place to enable compliance teams and business units to verify the quality of reporting.

The work undertaken in 2023 on post-trade transparency requirements for bond instruments will continue, in particular to ensure that the recommendations arising from the SPOT inspection on this theme are properly implemented.

■ **Algorithmic trading activities**

In 2024, the AMF shall continue to analyse the self-evaluations required of market intermediaries in relation to their algorithmic trading activities in order to compare the different practices of institutions and to require any corrective measures. These actions may be carried out in cooperation with other European supervisory authorities in the case of French branches of European institutions.

ESMA will also coordinate action at European level on pre-trade controls, leading the AMF to study these systems in particular.

■ **Involvement of the compliance function in cross-functional processes relating to employee conduct**

As part of its traditional supervisory missions, the AMF regularly examines the compliance procedures in place at ISPs, mainly through permanent control plans and their implementation. More rarely, these investigations focus on the involvement of the Investment Services Compliance Officer (RCSI) in a number of cross-functional initiatives, in coordination with the human resources departments of the investment services providers. For example, the AMF must be informed of disciplinary measures taken against certain employees. It notes that practices vary in this area.

In this context, in 2024, the AMF shall use SPOT inspections to analyse the role of the compliance function in a number of cross-functional processes, including: disciplinary measures taken by investment service providers against their employees, the accountability of employees whose behaviour has led to a sanction by a trading platform, the preparation of remuneration schemes for the employees concerned, the annual contribution to the setting of targets and remuneration levels, the system for monitoring personal transactions, the training courses attended and planned for the year, the contribution to the definition of job descriptions for employees requiring special qualifications, etc.

■ **Market abuses prevention and detection systems**

Several inspections carried out in 2023 in this area revealed a number of recurring shortcomings in the tools and systems used by ISPs, including poorly calibrated tools that result in alerts that are either irrelevant to the ISP's business or are not acted upon, outsourcing of the system that is insufficiently documented and monitored, and inadequate controls, in particular on personal transactions.

These findings will lead the AMF to continue its traditional supervision of the market abuse prevention and detection system in 2024. The focus will be on the supervisory tools in place and the existence and quality of suspicious transaction reports to the regulator. Another aspect of the inspections will cover the relationship between market abuse and personal transactions in financial instruments.

These issues will continue to be addressed in the supervision of market participants to ensure that the systems put in place meet regulatory requirements and allow for effective monitoring of market abuses.

■ Governance and control of outsourced activities

This issue, which is regularly addressed in on-site inspections and by supervisory teams, is a sensitive area and one that poses risks in terms of the governance and control of outsourced activities. In 2024, the AMF will make this theme the focus of some of its supervisory controls and inspections, in particular on the obligations of investment service providers:

- keeping a register of outsourced services, distinguishing critical services,
- the contractualisation of outsourcing agreements with a clear division of responsibilities between the parties,
- the supervision and evaluation of these activities.

Particular attention will also be paid to intra-group outsourcing arrangements, as there is no provision for any significant easing of the regulatory burden in this configuration.

More specifically, the AMF shall ensure that the consequences of Brexit have been duly considered by the investment service providers concerned and the groups to which they belong.

Targeted attention has been paid at the time of authorisation to the substance and independence of the entities that have chosen to establish themselves in France in the context of Brexit: however, the supervision of certain institutions has shown that they need to be enhanced. While outsourcing can be an efficient way of doing business, it needs to be carefully managed, particularly in the case of control functions or functions that are key to the business (e.g. algorithmic trading). This point of attention also concerns entities which, in a post-Brexit context, choose France as a gateway to provide investment services in the Union.

4. Priorities relating to investment services providers and the marketing of financial instruments

■ Sustainability preferences of the client

Delegated Regulation (EU) 2021/1253, which has been in force for investment service providers since 2 August 2022, contains additional rules that have had a major impact on the suitability obligations of ISPs, with significant implications for information systems, procedures, staff training, etc.

In line with ESMA's *Heatmap risks* for 2023 and the AMF's 2023-2027 strategic orientations, a series of SPOT inspections will focus on how sustainability preferences are considered in the investment process, from the know-your-client questionnaire to the statement of suitability of the advice to the investor's profile.

The AMF calls on investment services providers to take action on the issue of suitability in general, since the standard audits that are regularly conducted reveal persistent structural shortcomings.

■ **Innovative digital offers, cross-border offers, offers on complex instruments**

In view of the growth of innovative digital offerings and/or services involving complex financial instruments aimed at retail investors, the AMF will continue to ensure that investment service providers have sufficiently robust arrangements in place to supervise these offerings and to provide adequate information to their clients. This focus will be all the more important when these offers are accompanied by the provision of cross-border services.

■ **Investment advice delivered on an automated basis to retail clients**

The AMF shall continue to pay particular attention to digital marketing channels in 2024. In view of the development of new offers, a series of SPOT inspections will focus on automated investment advice to retail client clients. In particular, the AMF will analyse the management rules incorporated into the algorithms, the methods of human intervention in the process, traceability and the associated controls. Particular attention will be paid to the lack of standardisation in the advice provided, which could be the result of insufficiently granular design of the technical specifications.

■ **Supervision activities within the “commercialisation ecosystem”: investment services providers (ISP) and their tied-agents**

2023 was a year characterised by strong supervisory actions on the scope of the tied-agents of French and European investment services providers. The findings and conclusions of these inspections confirm the AMF's regulatory requirements for this important link in the marketing chain, which acts on behalf of and under the full supervision of investment service providers. The AMF will continue to monitor the various market participants in the distribution chain (“commercialisation ecosystem”).

■ **Costs and charges in the discretionary portfolio management**

The theme of costs and charges shall be examined, primarily in the scope of the discretionary portfolio management (asset management under mandate), with the aim of ensuring compliance with the obligations arising from MiFID2, in particular those concerning the presentation of *ex-ante* and *ex-post* charges, retrocessions and the inclusion of charges in investment changes. This theme is also in line with ESMA's *risk heatmap*, which will be drawn up in October 2023.

■ **Supervision of financial investment advisers**

As in previous years, the marketing of atypical, risky or prohibited products by French financial investment advisers (“*conseillers en investissement financier*”, CIF) in France will continue to be the focus of the AMF's attention. The AMF shall also be able to carry out inspections of CIFs that are members of platforms involving several intermediaries and therefore likely to incur significant costs for clients, who are not necessarily aware of them in practice. The use of platforms listing “off-the-shelf” products may also raise questions about due diligence and knowledge of the products advised by CIFs.

The AMF's inspections will focus on:

- the due diligence carried out by the CIFs on the legal and economic characteristics of the products;
- whether or not they are authorised to be marketed in France;
- the identification and understanding of the target market and the collection of information on the knowledge and experience of the clients;
- their financial situation and their objectives (in particular with regard to sustainability preferences);
- the regulatory and commercial information provided to clients, in particular as regards product risks and costs and charges, in particular as regards the remuneration received by CIFs from promoters, which may place CIFs in a situation of conflict of interest;
- the suitability of the advice given to the client profile and the explanation of this suitability in the suitability statements.

In year 2024, the AMF will also continue to implement the information exchange framework with CIF industry groups, which was launched in 2020.

As announced in year 2023, the AMF shall continue to monitor CIF industry groups, in particular to check the membership process, the quality of inspections of their members and their training system.

Lastly, the AMF will continue to organise themed webinars for CIFs every six months.

5. Other themes

■ Supervision of “simple, transparent and standardised” (STS) securitisations

The AMF will also be involved in peer reviews, also initiated and coordinated by ESMA, which will address compliance with the requirements for “simple, transparent and standardised” securitisations in 2024. For the record, the peer reviews in 2023 covered the following topics:

- asset management obligations of depositaries;
- the provision of market data by trading platforms;
- annual review of clearing houses (with a focus on concentration risks) (mandatory exercise), etc.

■ Supervision and follow-up of digital asset service providers (“prestataires de services sur actifs numériques”, or PSAN) authorised under the “loi PACTE” regime (compulsory recording or optional agreement)

Since the entry into force of the PACTE law, the AMF, with the agreement of the ACPR, has granted around one hundred “simple” registrations, based solely on verifying the competence and good repute of the directors and significant shareholders, on the one hand, and the compliance of their AML/CFT and asset-freezing systems, on the other

Although this legal framework gives the AMF limited powers, it closely monitors all developments affecting the sector as a whole or specific market participants, in cooperation with its foreign counterparts in the case of international market participants. The AMF exercises its prerogatives to ensure that registered digital asset service providers comply over time with the requirements set at the time of their registration and, if necessary, to take the measures provided for in the French Monetary and Financial Code, which may lead to a formal notice to rectify the situation within three months or even the initiation of deregistration proceedings.

In 2024, the AMF may grant the first “enhanced” registrations and new optional authorisations, gradually strengthening the regulatory framework for the sector. It will make full use of its enhanced supervisory powers over these market participants.

6. Summary table

Thematic supervisory priorities for 2023 and 2024

	2023	2024
ASSET MANAGEMENT	<ul style="list-style-type: none"> ▪ Cyber security (SPOT) ▪ Investment management delegation (SPOT) ■ ▪ Sustainable finance: SFDR (SPOT) ■ ▪ Quality of data reported to the AMF (SPOT) ▪ Compliance with professional obligations by depositaries 	<ul style="list-style-type: none"> ▪ Monitoring ratios, compensations and claims (SPOT) ▪ Employees qualifications and knowledge (SPOT) ▪ Sustainable finance: voting and shareholder engagement policies (SPOT) ▪ Governance and the role of management (SPOT) ▪ Valuation of non-listed assets and real estate assets
INTERMEDIARIES AND MARKET INFRASTRUCTURES	<ul style="list-style-type: none"> ▪ Quality of <i>reporting</i> data (MiFIR, EMIR, SFTR) ■ ▪ Cross-border activities ▪ Provision of market data by trading venues ■ 	<ul style="list-style-type: none"> ▪ Quality of reporting data (MiFIR, EMIR, SFTR, CSDR) ▪ Algorithmic trading activities ■ ▪ Involvement of compliance in cross-functional processes relating to employee conduct (SPOT) ▪ Market abuse prevention and detection system ▪ Governance and control of outsourced activities
MARKETING	<ul style="list-style-type: none"> ▪ Monitoring of marketing in banking networks ▪ Marketing methods employed by ISPs <i>through</i> tied agents ▪ ESG-related marketing materials of CIUs (SPOT) ▪ Claims handling (SPOT) ▪ Supervision of financial investment advisers ▪ Digitalised marketing ▪ Subscriptions of real estate investment companies with split ownership rights (SPOT) ▪ Activities of the AMF-ACPR Joint Unit: ▪ Four years after the MIFID and IDD directives, there is a consolidated view of the results of AMF and ACPR controls ▪ Marketing of financial products to vulnerable elderly persons: review of the change in practices 	<ul style="list-style-type: none"> ▪ Client sustainability preferences (SPOT) ■ ▪ Innovative digital offerings, cross-border financial services and/or financial services involving complex instruments ▪ Automated investment advice to retail clients (SPOT) ▪ Supervision of participants in the distribution ecosystem (ISPs / tied-agents) ▪ Costs and charges related to discretionary portfolio management ▪ Supervision of financial investment advisers
OTHER THEMES		<ul style="list-style-type: none"> ▪ Supervision of "simple, transparent and standardised" securitisation transactions ■ ▪ Supervision of digital asset service providers authorised under the registration regime, the enhanced registration regime or the optional authorisation (PACTE law)

Legend:

(SPOT) Themes covered in SPOT inspections.

■ Subject dealt with as part of a European supervisory action: Union strategic supervisory priority (USSP), joint supervisory action (CSA) or peer review.

Note: abstracts of SPOT inspections are available on the AMF website at the following address: <https://www.amf-france.org/en/news-publications/publications/spot-inspection-campaigns>



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