



公 司 註 冊 處  
COMPANIES REGISTRY

## Part 2

# **International AML Standards and Hong Kong Regulatory Regime for Licensed Money Lenders**

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# International Organization (1)

## Financial Action Task Force (FATF)

- Comprising 39 major economies of the world

Argentina	Australia	Austria	Belgium	Brazil	Canada
<b>China</b>	Denmark	European Commission	Finland	France	Germany
Greece	Gulf Co-operation Council	<b>Hong Kong, China</b>	Iceland	India	Ireland
Israel	Italy	Japan	Republic of Korea	Luxembourg	Malaysia
Mexico	Kingdom of the Netherlands	New Zealand	Norway	Portugal	Russian Federation
Saudi Arabia	Singapore	South Africa	Spain	Sweden	Switzerland
Turkey	United Kingdom	United States			



# International Organization (2)

## Financial Action Task Force (FATF)

- Inter-governmental organization
- Sets global standards for combating money laundering (ML) and terrorist financing (TF)
- Conducts peer reviews of member jurisdictions regularly to assess their compliance with the international AML/CFT standards under a mutual evaluation process
- HK has been a member of the FATF since 1991

## Asia/Pacific Group on Money Laundering (APG)

- Consists of 41 member jurisdictions
- Established in 1997, HK is a founding member of the APG
- Ensure that the international AML/CFT standards of the FATF are adopted and effectively implemented by individual members

# International AML/CFT Standards

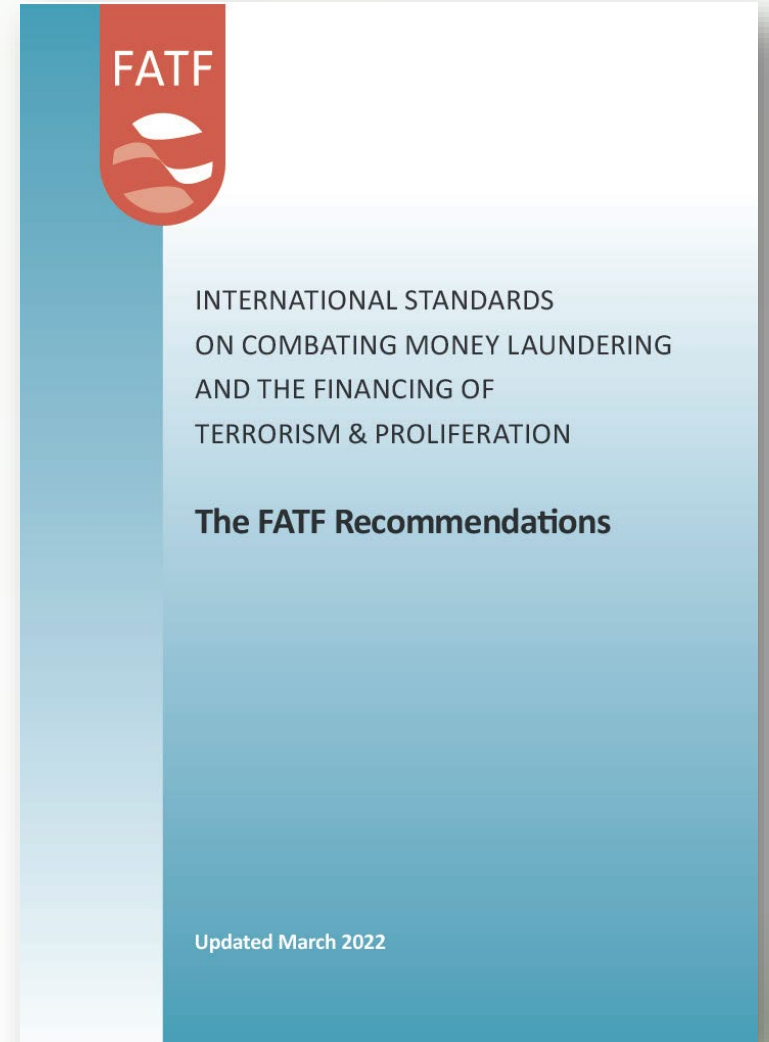
## The 40 FATF Recommendations :

### Part A — Policies and Coordination

- R.1 Assessing risks & applying a risk-based approach

### Part D — Preventive Measures

- R.10 Customer due diligence
- R.11 Record-keeping
- R.20 Reporting of suspicious transactions



# Mutual Evaluation Report (1)

- HK's AML/CFT system has been assessed to be **compliant and effective overall**
- HK's system is particularly effective in the areas of risk identification, law enforcement, asset recovery, counter-terrorist financing and international co-operation
- HK is the **first jurisdiction in the Asia-Pacific region** to have achieved an **overall compliant** result



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# Mutual Evaluation Report (2)

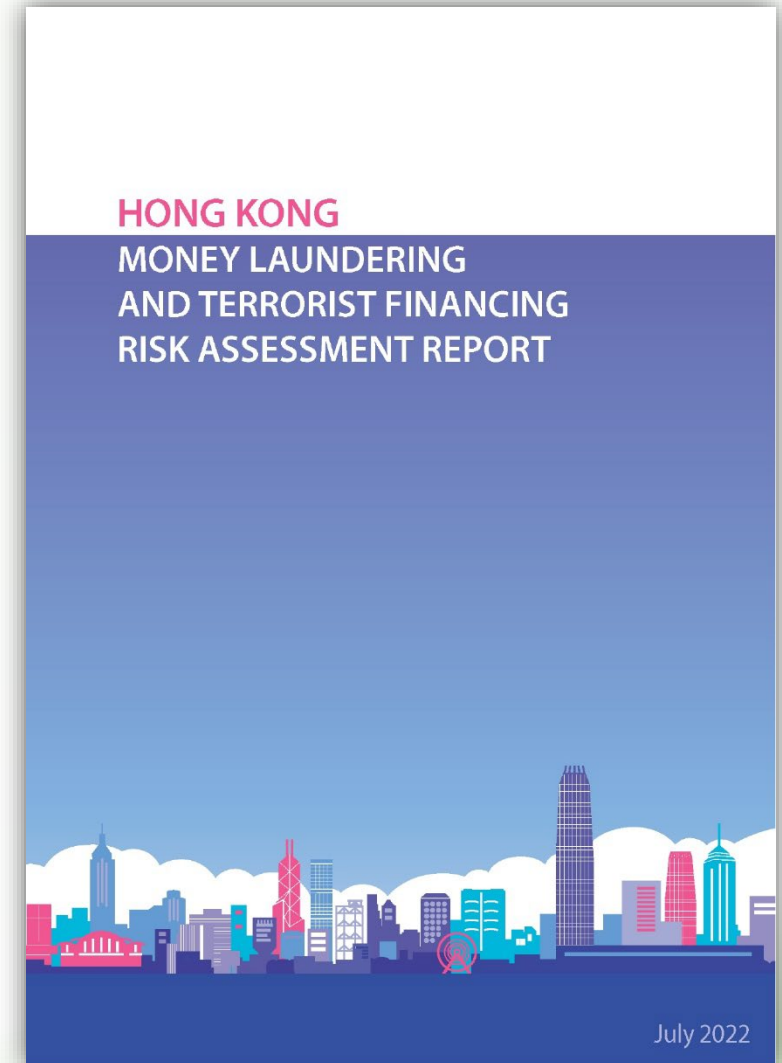
## Recommended Actions for Licensed Money Lenders:

- Deepen ML/TF risk understanding, especially in relation to cross-border financial flows, non-resident customers and politically exposed persons (PEPs) and apply mitigating measures commensurate with ML/TF risks
- Strengthen controls in relation to customer due diligence (CDD) (particularly with regard to risks exposed by non-resident customers) and enhanced CDD for foreign PEPs and targeted financial sanction
- Strengthen transaction monitoring systems and ensure adequate, appropriate and timely reporting of suspicious transactions



# Hong Kong ML/TF Risk Assessment Report (1)

- The Government periodically conducts a comprehensive risk assessment, examining ML/TF threats facing HK and its business sectors and industries, and the enhanced ways in addressing these threats by individual sectors
- The report represents the findings of HK's risk assessment completed in 2021
- Detailed discussion of developments, from the emergence of new financial services to changes in the types of ML/TF activities, and the adoption of rules and techniques to prevent related crime
- Includes HK's first assessment of proliferation financing risk

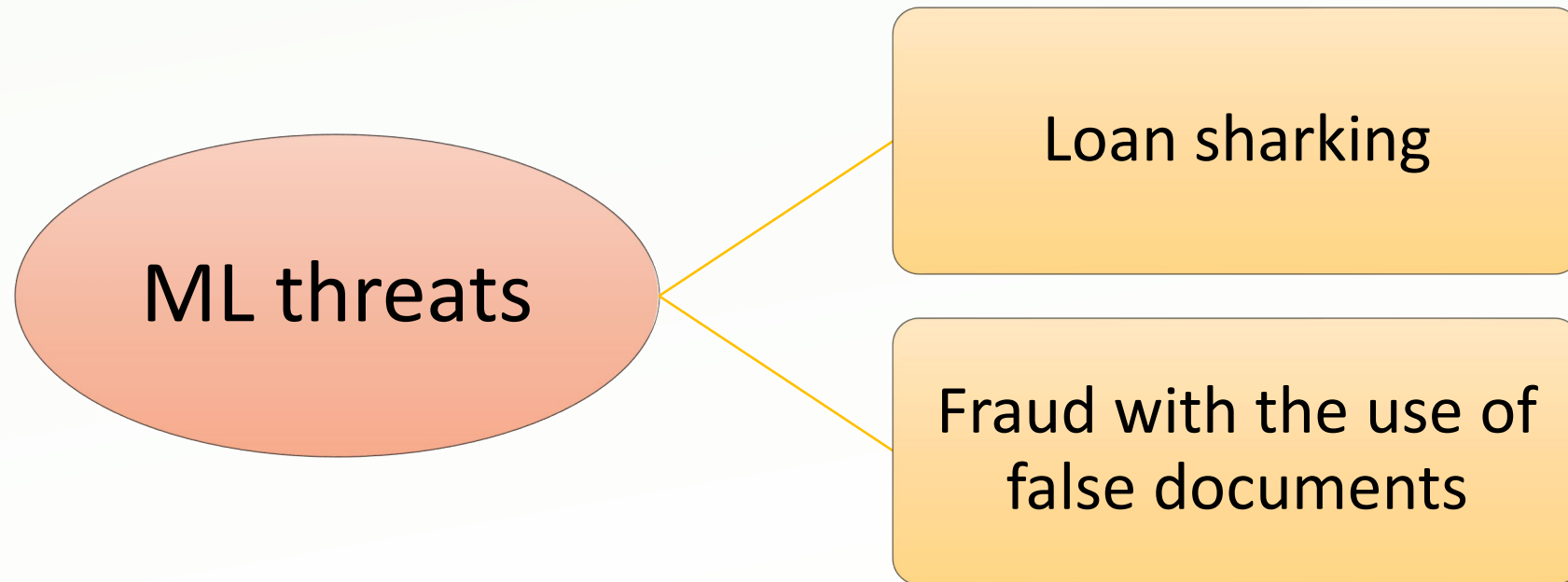


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# Hong Kong ML/TF Risk Assessment Report (2)

## Chapter 5: Sectoral Risk Assessment – Financial Institutions (5.8: Money Lenders)



**Overall ML risk — Medium-low**



# Legislation and Guideline

## Guideline on Compliance of AML/CTF Requirements for Licensed Money Lenders (AML Guideline)

- Customer due diligence (CDD) measures
- Record keeping

## Other Legislation

- Legislation relating to financial sanctions, terrorist financing and proliferation financing of weapons of mass destruction
- Reporting suspicious transactions to the Joint Financial Intelligence Unit (JFIU)



# Customer Due Diligence (1)

## **CDD Measures** *[paragraph 5.2 of the AML Guideline]*

Identifying the customer and verifying the customer's identity

Identifying and taking reasonable measures to verify the beneficial owner's identity

Obtaining information on the purpose and intended nature of business relationship established with the licensee

If a person purports to act on behalf of the customer: identifying the person and taking reasonable measures to verify the person's identity & verifying the person's authority to act on behalf of the customer



# Customer Due Diligence (2)

**Licensees must apply CDD *[paragraph 5.4 of the AML Guideline]* :**

- Before establishing a business relationship with the customer
- Before carrying out for the customer an occasional transaction that involves an amount equal to or exceeding an aggregate value of HK120,000
- When the licensee suspects that the customer or the customer's account is involved in ML/TF
- When the licensee doubts the veracity or adequacy of any information previously obtained for the purpose of identifying the customer or verifying the customer's identity

**Where the licensee is unable to complete the CDD process, it must not establish a business relationship or carry out any occasional transaction with that customer and should assess whether this failure provides grounds for knowledge or suspicion of ML/TF and filing an STR with the JFIU.**



# Enhanced Customer Due Diligence (1)

**High-risk situations for which EDD apply include:** *[paragraph 5.25 of the AML Guideline]*

Customer not physically present for identification purposes

Customer or its beneficial owner being a politically exposed person

Corporate customer which has issued bearer shares

Customer from or transaction connected with a jurisdiction that does not adopt or insufficiently adopts the FATF Recommendations

Any situation specified by the Registrar in a notice given to the licensee



# Enhanced Customer Due Diligence (2)

**If a customer has not been physically present for identification purposes, at least one of the following measures must be carried out:**

- Further verifying the customer's identity on the basis of documents, data or information not previously used for the purpose of verification of the customer's identity
- Taking supplementary measures to verify information relating to the customer that has been obtained by the licensee
- Ensuring that the first payment made into the customer's account is received from an account in the customer's name with an authorized institution or a bank operating in an equivalent jurisdiction that has measures in place to ensure compliance with requirements similar to those imposed under Schedule 2 to the Anti-Money Laundering and Counter-Terrorist Financing Ordinance (Cap. 615) and is supervised for compliance with those requirements by a banking regulator in that jurisdiction

*[paragraph 5.27 of the AML Guideline]*



# Enhanced Customer Due Diligence (3)

**If the customer or the beneficial owner is found to be a PEP, all of the following EDD measures must be applied:**

- Obtaining approval from the senior management
- Taking reasonable measures to establish the customer's or the beneficial owner's source of wealth and the source of the funds
- Applying enhanced monitoring in accordance with the assessed risk

*[paragraph 5.34 of the AML Guideline]*



# Recording-keeping

## Recording-keeping Requirements *[paragraph 9.3 of the AML Guideline]*

	Each Customer	Each transaction
For how long should records be kept?	Throughout the continuance of the business relationship with the customer and for a period of <b>at least 5 years</b> after the end of the business relationship	<b>At least 5 years</b> after the completion of a transaction regardless of whether the business relationship ends during the period
What records should be kept?	<ul style="list-style-type: none"><li>• The documents and a record of the data and information obtained in the course of identifying and verifying the customer or the beneficial owner of the customer</li><li>• The documents and a record of the data and information on the purpose and intended nature of the business relationship</li><li>• The files relating to the customer's business relationship and business correspondence with the customer and any beneficial owner of the customer</li></ul>	The original or a copy of the documents, and a record of the data and information obtained in connection with the transaction





# Revisions of the AML Guideline

## Independent Audit Function

*[paragraphs 3.9-3.11 of the AML Guideline]*

- Should have a direct line of communication to the senior management and have sufficient expertise and resources
- Regularly review the AML/CTF systems to ensure effectiveness
- Frequency and extent of the review should be commensurate with the nature, size and complexity of the licensee's businesses and the ML/TF risks arising from those businesses

## Tipping-off

*[paragraph 6.9 of the AML Guideline]*

- Making enquiries to customers, when conducted properly and in good faith, will not constitute tipping-off
- If the licensee reasonably believes that performing the CDD process will tip off the customer, it may stop pursuing the process. The licensee should document the basis of its assessment and **file an STR to the JFIU**



# Financial Sanctions and Terrorist Financing

- **Relevant Regulations of the United Nations Sanctions Ordinance (Cap. 537):** It is an offence for any person to make available or deal with economic assets of individuals or entities designated by the United Nations Security Council; or those acting on behalf of, or at the direction of, or owned or controlled by such individuals or entities
- **The United Nations (Anti-Terrorism Measures) Ordinance (Cap. 575) (“UNATMO”):** Prohibits the provision or collection of property and making any property or financial (or related) services available to terrorists or terrorist associates
- **Licensees are reminded not to have any business relationship with any sanctioned individuals or entities, or any terrorist or terrorist associate as defined under the UNATMO**
- Chapter 8 of the AML Guideline

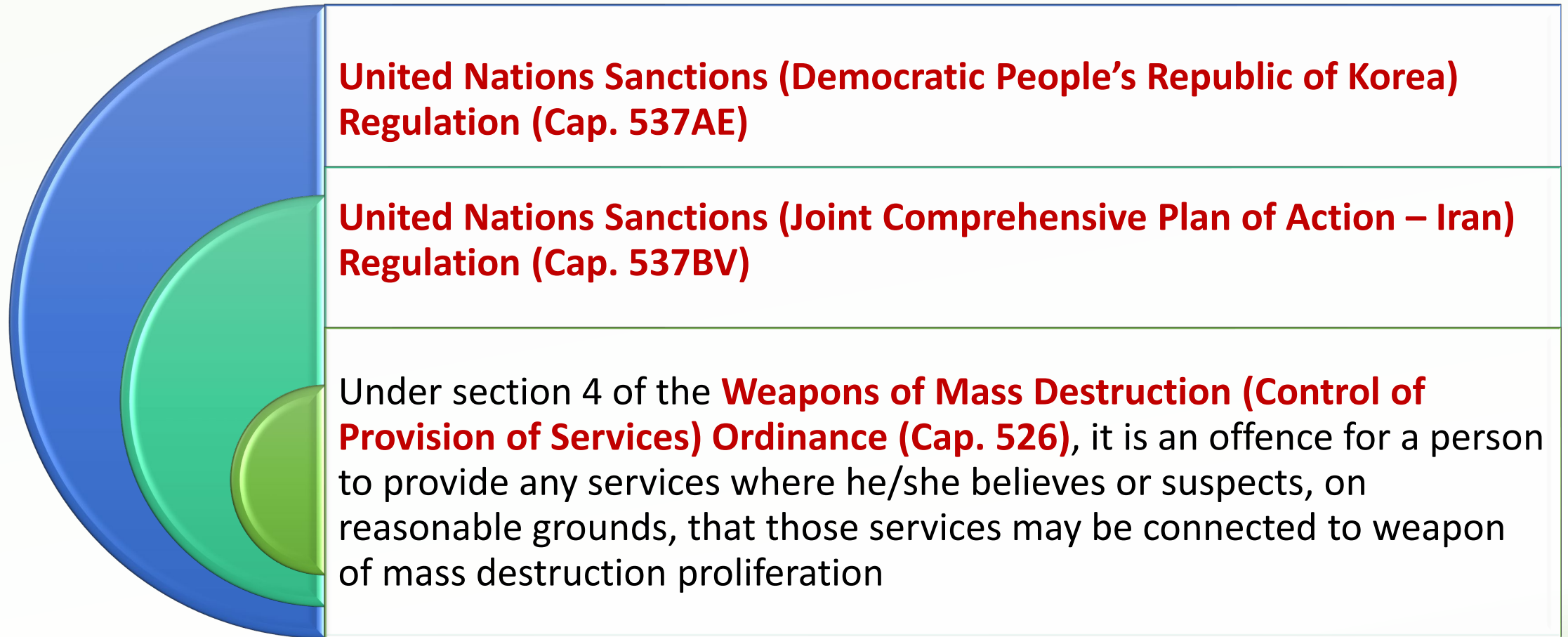


# Persons or Entities subject to Sanctions and Terrorists or Terrorist Associates

- Licensees should ensure that they should have an appropriate system to conduct name checks against the relevant list(s) for screening purposes and that the list(s) is/are up-to-date
- Comprehensive ongoing screening of a licensee's complete customer base is a fundamental internal control to prevent terrorist financing and sanction violations
- Lists of sanctioned persons and entities and list of names of persons designated as terrorists or terrorist associates specified under the UNATMO are available at the website of the Companies Registry: [www.cr.gov.hk](http://www.cr.gov.hk)



# Counter-Financing of Proliferation of Weapons of Mass Destruction (PF)



# Reporting Suspicious Transactions

**Drug Trafficking (Recovery of Proceeds) Ordinance (Cap. 405)**

**Organized and Serious Crimes Ordinance (Cap. 455)**

**United Nations (Anti-Terrorism Measures) Ordinance (Cap. 575)**

- In cases of suspicions of money laundering, TF, PF or sanctions violations, report should be made to the **Joint Financial Intelligence Unit (JFIU)**
- Chapter 7 of the AML Guideline



# Thank you !

[www.cr.gov.hk](http://www.cr.gov.hk)



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