Public affairs update

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A round up of policy events and news

1. Top stories

The extension of the Senior Managers and Certification Regime and SIMR update

a) Senior Managers and Certification Regime (SM&CR)

In October 2015 the Treasury announced that the Senior Managers and Certification Regime (SM&CR) will be extended to all sectors of financial services with the aim of creating a "*fairer, more consistent and rigorous regime for authorised financial services firms*".

Although the insurance sector will be covered by Senior Insurance Managers Regime (SIMR) from March 2016, it now appears that this will be updated by the SM&CR in 2018. The Treasury acknowledges that SIMR "*paves the way for the application of the SM&CR to insurers"* given that SIMR incorporates many of the banking regime's principles.

There are some significant differences between SIMR and the SM&CR regimes which insurers will need to be aware of ahead of 2018:

- SIMR has no equivalent of the Certification Regime that applies to the banking sector. Under SIMR insurers will not be required to provide certification for their employees (see below for more details).
- The new criminal offence of reckless misconduct in the management of a bank does not apply to insurers.
- The SIMR conduct standards apply directly only to individuals in insurers who require pre-approval by the PRA or FCA to perform a controlled function, whereas the SM&CR conduct standards apply to almost all of a bank's staff.

As a result of the move to SM&CR in 2018 insurers these three points will apply to insurers as well as banks.

b) The Certification Regime

The Certification Regime (CR) will apply to individuals who do not carry out SIMFs (expect these to be renamed SMFs in 2018 in line with the banking regime) but are employed in positions where they could pose a risk of significant harm to their firm or any of its customers. This component of the new regime will cover the next level of management and any "material risk takers" to ensure that anyone with the ability to cause "significant harm" within a firm is fit and proper. The CR requires firms themselves to assess the fitness and propriety of individuals allocated "significant harm functions", both at the recruitment stage and on an annual basis. Unlike the SIMR/SMR, appointments for certified function holders will not be subject to prior regulatory approval.

"*This expansion of the SM&R to all financial services firms will enhance personal responsibility for senior managers as well as providing a more effective and proportionate means to raise standards of conduct of key staff more broadly, supported by robust enforcement powers for the regulators."* HM Treasury paper on Senior Managers and Certification Regime October 2015

HM Treasury on extending SM&CR: Click here

To read our briefing on SIMR visit: http://www.cii.co.uk/37798

c) Bank of England and Financial Services Bill

The Bank of England and Financial Services Bill has been introduced in the House of Lords. Among other things, the Bill introduces amendments to the Senior Managers Regime and Certification Regime (SMR and CR, SM&CR) and extends the scope to cover all authorised financial services firms for 2018 introduction. The Bill also makes reforms aimed at improving the governance and accountability of the Bank of England (BoE) and updates resolution planning and crisis management arrangements between the BoE and HM Treasury. *Click here*

d) SIMR announcements

The PRA has set out final rules for the replacement of the current approved regime with SIMR for firms that are outside the scope of Solvency II; the prudential regime for those insurance firms that are outside the scope of Solvency II; and other consequential amendments to the PRA Rulebook that relate to all insurance firms. Following consultation earlier in the year there has been one change of policy: this is to modify the period over which the asset threshold is assessed for the purpose of distinguishing large “non-Directive” firms from small ones. *Click here*

Financial Advice Market Review – Call for input published

On 12 October, HM Treasury and the Financial Conduct Authority published a joint call for input on the Financial Advice Market Review (FAMR). This follows the announcement by the Treasury back in August launching the Review. The Review aims to look at how financial advice could work better for consumers and considers where advice gaps exist, the barriers to accessing advice and the barriers to providing advice. It also puts forward proposals for closing gaps. Key suggestions include:

- Improving consumer access: for example through technological innovations and provision in accessible locations
- Improving consumer awareness of the value of advice: demonstrating the value through awareness campaigns
- Improving consumer trust: aligning company and consumer interests

Next Steps: The consultations close on 22 December, with a view to creating recommendations to be published by the March 2016 Budget. *Click here*

To read our briefing on FAMR visit: http://www.cii.co.uk/38407

Consultation: public financial guidance Alongside the FAMR (see above), the Treasury is consulting on how the public provision of free-to-client, impartial financial guidance should be structured to give consumers the information they need to make financial decisions. *Click here*

Spending Review & Autumn Statement 2015

The Chancellor George Osborne made his Spending Review and Autumn Statement speech on November 25. The Spending Review covers the period 205-2020 and sets departmental spending over that time. The economic forecasts of the Office for Budget Responsibility were better than expected and coupled with some tax rises, this meant that the predicted cuts to departmental budgets were not as severe as feared. There were a number of announcements of interest to our sector:

- *Apprenticeship levy*: From April 2017 all firms in the UK will be subject to a compulsory apprenticeship levy. This will equate to 0.5% of a firm's paybill - though every employer will receive a £15k allowance against the levy. In practice this means that the levy will only be paid on a paybill of over £3 million.

  To find out more read our Apprenticeship levy briefing: *http://www.cii.co.uk/38646*

- *Compensation regulations – minor motor accidents*: The government intends to introduce measures to end the right to cash compensation for minor whiplash injuries, and will consult on the details in the New Year. It is estimated this will remove over £1 billion from the cost of providing motor insurance and the government expects the insurance industry to pass an average saving of £40 to £50 per motor insurance policy on to consumers.

- *Mortgages and Housing*: From 1 April 2016 people purchasing additional properties such as buy to let properties and second homes will pay an extra 3% in stamp duty.
- *Flood defences*: Flood defence maintenance funding will also be protected.
- *Climate change*: There will be a 50% increase in funding over the next five years for developing countries to tackle and adapt to climate change.
- *Social care*: Local Authorities will be given the flexibility to raise council tax in their area by up to 2% to fund adult social care. Money raised can only be spent on social care.

Click here

2. General insurance

FCA call for inputs on big data in retail general insurance

The FCA has published a call for inputs on the use of big data in the retail general insurance sector. Under the regulator's definition, "big data" refers to the use of new or expanded data sets, new technologies to generate, collect and store data and sophisticated analytical techniques. The FCA is looking to understand the increasing use of data by insurance firms and how this might change in the future. Three key topics have been identified:

- does the use of big data affect consumer outcomes?
- does the use of big data foster or constrain competition?
- does the FCA's regulatory framework affect developments in big data in retail general insurance?

The FCA has chosen private motor and home & contents insurance to frame its analysis. The findings of the research will help the FCA decide whether a market study is required. The deadline for responses is 8 January 2016. The FCA expects to publish its findings and next steps in a feedback statement in mid-2016. *Click here*

Read our paper Big Data: A conversation to find our more on insurance and Big Data: http://www.cii.co.uk/37620

FCA consults on increasing transparency and engagement at renewal in general insurance markets

The FCA is consulting on increasing transparency and engagement at renewal in general insurance markets (CP15/41). The consultation paper sets out proposals to introduce new rules and guidance for insurers and intermediaries on steps they should take when renewing retail general insurance policies. The proposals address concerns about levels of consumer engagement and their treatment by firms at renewal, and the lack of competition that results from this. The FCA is proposing:

- new rules that require firms to disclose last year's premium prominently on renewal notices;
- new rules that require additional disclosure when customers have renewed the same product four times or more;
- guidance on how firms can improve their processes around renewals; and
- guidance about records that firms maintain to demonstrate compliance, including a record of premiums.

The deadline for comments is 4 March 2016. Finalised rules and guidance are expected by the middle of 2016 with implementation following on 1 January 2017. *Click here*

FCA Occasional Paper: Encouraging consumers to act at renewal

The FCA has published an occasional paper, linked to the above consultation, covering the results of field trials testing the potential for improved renewal notices to encourage consumers to switch or negotiate their home or motor insurance policy at renewal. *Click here*

PRA policy statement on SIMR for non-Solvency II firms

Following earlier consultations, the PRA has published a policy statement (PS26/15) on the prudential regime and implementation of the senior insurance managers regime (SIMR) for non-Solvency II firms.

The appendices of the policy statement set out the final rules for:

- the replacement of the current approved persons regime (APR) with the new SIMR for firms that are outside the scope of Solvency II (the rules in the appendix complement the rules attached to policy statement PS21/15;
- the prudential regime for those insurance firms that are outside the scope of the Solvency II; and
- other consequential amendments to the PRA Rulebook that relate to all insurance firms.

There has been only one change of policy as a result of the consultation responses, being to modify the period over which the asset threshold is assessed for the purpose of distinguishing large non-Directive firms (NDFs) from small NDFs. This will provide firms with more time to prepare for any change between small and large NDF status, and thereby reduce costs. *Click here*

Solvency II implementation – speech by Sam Woods (PRA)

Sam Woods, Executive Director of Insurance Supervision, PRA, has given a speech, "*Solvency II: Approaching the try line*" to the Association of British Insurers relating to the implementation of Solvency II. In his speech, Mr Woods makes the following points of interest:

- the PRA is intending to communicate its decisions on matching adjustment applications to individual firms in early November 2015 and to notify those firms that have gained internal model approval in early December 2015. Mr Woods states that internal model approval is not an end in itself. For some firms, an internal model might not be the right answer and that the standard formula is perfectly appropriate for the large majority of firms, and for others a partial internal model might be the right answer. For those who do gain model approval in December 2015, they should make sure their models remain fit for purpose on an ongoing basis and will need to assure the PRA that this is the case;
- the PRA is of the view that firms should not assume any change to the level of volatility adjustment when calculating their capital requirements. Mr Woods mentions different approaches favoured by some in Europe, but considers that the prudential arguments support the PRA's position; and
- while Mr Woods expects that firms will choose to hold some kind of buffer above their solvency capital requirement, he cautions market participants against the idea that the PRA has a single ratio in mind which it has set as an intervention point across the insurance sector. Mr Woods explains it would be illegal and would frustrate the intention of legislators to deliver a 1-in-200 level of solvency across Europe, and would not take into account the different risks different firms run. *Click here*

PRA consults on capital extractions by run-off firms in the general insurance sector

The PRA has published a consultation paper (CP42/15) on capital extractions by run-off firms within the general insurance sector. The paper sets out the regulator's expectation regarding the factors that senior management of general insurance firms in run-off should take into account when considering making a request to the PRA to extract capital from the firm during the course of a run-off in a supervisory statement. The deadline for comments is 20 January 2016. *Click here*

PRA policy priorities for insurance prudential regulation and supervision – speech by Chris Moulder (PRA)

Chris Moulder, director of general insurance, PRA, has given a speech on the PRA's policy priorities for insurance prudential regulation and supervision. Mr Moulder addressed how Solvency II will shape the PRA's future supervisory approach. He also covered the risks and consequences of soft markets for insurers and reinsurers and areas of supervisory interest for the PRA. *Click here*

3. Financial Advice

FCA notice on improper delegation of authorised activities

The FCA has issued a notice for financial adviser firms and their advisers setting out recent FCA findings that some financial adviser firms have been delegating the entire regulated activity of providing advice to an unregulated third party. The authorised financial adviser firms did not contact customers or review the recommendations given by the unregulated third parties to see if they were suitable. The FCA referred some of the firms and associated individuals to its enforcement division, since they may have breached the FCA's requirements in relation to the advice provided to the customers. The notice states that firms need to be aware that improper delegation of authorised activities carries risks of poor consumer outcomes and that delegation will not assist firms in avoiding liability or regulatory sanctions. *Click here*

Money Advice Service launch financial capability strategy

The Money Advice Service, in conjunction with the UK Financial Capability Board, has published a 10 year Financial Capability Strategy which aims to improve people's ability to manage money well day to day, prepare for and manage life events, and deal with financial difficulties. Its focus will be on developing people's financial skills and knowledge as well as their attitudes and motivation. Based on extensive research among 5,000 people and consultation with key organisations and institutions, the Financial Capability Strategy covers the problems the nation faces and the approach required to resolve them.

The strategy focuses on every key life stage and challenge: children and young people, young adults, working age people, savings, retirement planning, older people, and people in financial difficulties. Specific actions for the devolved nations will be delivered in Scotland, Wales and Northern Ireland. The strategy is built around two key concepts :

- collective impact and cross-sector co-ordination rather than isolated interventions
- testing and learning to determine what works in order to deliver evidence-based interventions : resources will be steered towards activities on the basis of what is proven to work.

Overall progress will be monitored by a Financial Capability Survey and ongoing evaluation of specific interventions. *Click here*

Asset Management Market Study

The FCA has published the terms of reference of its Asset Management Market Study. The three areas we are looking at are:

- how asset managers compete to deliver value, whether asset managers are willing and able to control costs and quality along the value chain
- what effect investment consultants have on competition for institutional asset management

- potential barriers to innovation and technological advances *Click here*

Policy statement: Implementation of the Transparency Directive Amending Directive

The FCA has published a policy statement (PS15/26) *Implementation of the Transparency Directive Amending Directive (2013/50/EU) and other Disclosure Rule and Transparency Rule changes.* The report covers the main issues arising from a consultation earlier this year and sets out the final rules. The rules came into force on 26th November. *Click here*

4. Pensions

House of Commons report on pension freedom guidance and advice

The House of Commons Work and Pensions Committee has published its first report of session 2015-2016. It is entitled "Pension freedom guidance and advice." The report:

- concludes that there is a shortage of information about the use being made of pension freedom and recommends that this is addressed urgently;
- recommends greater anti-scam publicity and stricter reporting requirements for pension providers;
- recommends stronger signposting by pension providers to increase take-up of the free government advice service, Pension Wise; and
- states that the Committee will monitor progress closely to ensure that the public can make informed decisions. *Click here*

Workplace pensions: Update of analysis on Automatic Enrolment

The Department for Work and Pensions has published analysis of the impact of automatic enrolment on pension saving, the number of workers affected and the characteristics of these workers. Main findings include:

- 9 million workers are estimated to be newly saving or saving more as a result of Automatic Enrolment by 2018.
- £14 – 16 billion extra saving per year in a workplace pension as a result of Automatic Enrolment by 2019/20.
- Women, part-time workers, disabled people and those from an ethnic minority are less likely to be eligible; this is due to underlying labour market factors (such as earnings, working patterns and participation rates).
- Workers are more likely to be ineligible due to earnings criteria rather than the age criteria. *Click here*

FCA update on pensions and retirement income

The FCA has published an update on the various strands of work relating to the pension reforms. This includes:

- *Ongoing data collection*: the last update was in September and covered a number of topics including use of pension 'freedoms', drawdown rates and annuity sales.
- *Consulting on rules and guidance*: The FCA's CP15/30
- *Request for information – decumulation charges*: exploring the level of charges faced by different consumers in decumulation pension products, and the circumstances in which consumers are required by firms to take advice for those products;
- *Retirement outcomes review*: this follows the retirement income market study. The FCA anticipates that this review will be launched in Q2 2016 (later than originally stated) in order to sequence this with other FCA work and wider initiatives. *Click here*

5. Mortgages

Methods for analysing mortgage markets

The FCA has put out an Occasional Paper presenting three methods to analyse affordability in the mortgage market. The research covered by the paper formed part of the recent Mortgage Market Review. *Click here*

Jonathan Davidson speech on changes in mortgage regulation

Jonathan Davidson, the FCA's Director of Supervision - Retail and Authorisations, has given a speech on mortgage regulation. In it he covered: the Senior Managers Regime; the Mortgage Credit Directive; the Responsible Lending Review; the Mortgage market study; the impact of technology; macroeconomics; and demographics. *Click here*

6. Banking

John Griffith-Jones – Trust in banking

John Griffith-Jones, FCA chairman, has made a speech on what firms need to concentrate on when trying to restore trust. The three priorities he outlined are: the link of trust to business purpose; behaviour and or conduct and having an adequate system of control to detect and prevent. *Click here*

Failure of HBOS – review published

The PRA and FCA have published the review into the failure of HBOS Group. This report seeks to explain why HBOS failed, the role that HBOS Board and senior management played in the failure and the FSA's supervision of HBOS. *Click here*

7. From the regulators (general)

The rapidity of change: Tracey McDermott, Acting Chief Executive (Financial Conduct Authority)

Speaking to the City Banquet at the Mansion House, Tracey McDermott (acting chief executive, FCA) set out the challenges facing financial regulators. She talked about the need to make sure there is a landscape that ensures clean markets and protects consumers through fostering competition and innovation. She also underlined that a sustainable approach to regulation, which breaks the regulate, deregulate, repeat cycle is critical to that. *Click here*

Moving towards a sustainable model of regulation – speech by Tracey McDermott

In a speech to the Association of British Insurers, Tracey McDermott explained how insurers and regulators can meet their shared goals of a competitive landscape, high standards in the industry and a profitable, sustainable business. Ms McDermott set out that these goals and ultimately, a sustainable model of regulation, can be achieved through focusing on three critical components:

- a competitive innovative market that finds solutions to consumer needs with support from an adapting and engaged regulator;
- reaffirming trust and confidence in the financial services industry by ensuring products are priced fairly and transparently, with consumers able to make real choices based on value; and
- supporting sustainable economic growth by launching the UK debt market forum chaired by the FCA which will look for practical measures to enhance primary debt markets in the UK. *Click here*

Governance and the role of boards – speech by Andrew Bailey (PRA)

Andrew Bailey, deputy governor, prudential regulation and chief executive officer, PRA, has given a speech at the Westminster Business Forum on the role of governance and boards in the prudential supervision of deposit takers, insurance firms and major investment firms. The PRA's expectations of boards include:

- to exercise good judgement in overseeing the running of the firm and to do so on a forward-looking basis;

- that judgement is improved by good constructive challenge from non-executive directors (NEDs) and that a firm's culture should promote discussion, debate and honest challenge; and
- to allow supervisors such as the PRA to trust that NEDs, under the leadership of the chair, will challenge the executive in all aspects of the firm's strategy.

In addition, Mr Bailey reiterated that he expects board members to have a certain understanding of complex financial issues, noting that it is the job of the executive to be able to explain in simple and transparent terms complex matters to NEDs. *Click here*

FCA Better Communications Initiative

The FCA has announced plans to remove a number of ineffective communication requirements from its Handbook. In June 2015, the FCA published a discussion paper on Smarter Consumer Communications, in which it called on firms to think about how they can improve their communications to help consumers make more effective decisions about their finances. At this time, the FCA also set out its intention to consult to remove a number of existing disclosures as part of its commitment to create a sustainable regulatory framework.

Christopher Woolard, director of strategy and competition at the FCA, said: "*We would like to see firms changing the way they interact with their customers. We have been encouraged to see a number of firms are already doing this. (This) announcement reflects our commitment to sustainable regulation and addresses disclosures that are not working for consumers, giving firms the freedom to communicate with their customers in a more flexible and open way.*"

The FCA is proposing to amend the following rules and guidance:

- The Consumer-Friendly Principles and Practices of Financial Management
- Short report
- The Initial Disclosure Document/Combined Initial Disclosure Document
- Services and Costs Disclosure Document.

The consultation will close on 18 December 2015. In addition, the FCA is now reviewing the feedback received on the Smarter Consumer Communications discussion paper and will consider whether further changes can be made to improve customer outcomes.

FCA regulatory 'sandbox'

The FCA has published a paper on plans for a "regulatory sandbox" which would encourage firms to experiment with new, innovative financial products, services or business models without incurring all the normal regulatory consequences. The FCA intends to open the sandbox unit for testing proposals in spring 2016. *Click here*

Innovative Finance ISA

The Government has proposed to allow loan-based crowd funding investments, known as peer-to-peer (P2P) loans, to be included in ISAs from April 2016. They will form a new component which will be known as the Innovative Finance ISA. At the same time, advice to invest in P2P loans will become a regulated activity. The FCA has published a discussion paper to explain its initial thinking on the changes needed to rules and guidance to reflect these developments. These include introducing guidance on the disclosures firms should make to prospective investors and, rules for firms that recommend P2P loan investments to their clients. *Click here*

Financial ombudsman consults on plans and budget for the year ahead

The Financial Ombudsman Service is consulting on its plans and budget for the next financial year (2016/2017). The plans and budget set out how next year (2016/2017) the ombudsman is planning to:

- answer 1.7 million front-line consumer problems and enquiries
- continue to resolve a record number of complaints (270,000) involving payment protection insurance (PPI);
- tackle 76,000 banking complaints, 30,000 insurance cases and 15,000 investment complaints – similar levels to the previous year.

The proposals to manage and fund this workload include:

- freezing the case fee paid by businesses (only after the 25th case) at £550 for the fourth year running
- operating income will be held at £223.2m
- funding three-quarters of the workload through the group-account charging arrangement that covers the eight largest businesses responsible for the most complaints. *Click here*

8. Europe & international

IDD adopted by European Parliament

The European Parliament has voted to adopt the proposed Insurance Distribution Directive (IDD) and published the text of the proposed Directive and its amendments. The Council of the EU has undertaken to adopt the Directive without further amendments. The IDD will be published in the Official Journal of the EU and will come into force 20 days after the publication. Member States will then have 24 months to transpose the IDD from the date it enters into force. *Click here*

The IDD will update the 2002 Insurance Mediation Directive (IMD), which sets out the current framework for regulating EU insurance brokers, agents and other intermediaries. The existing law is being updated to take into account developments in insurance markets since its implementation. The new IDD applies to the wider regulation of insurance 'distributors' including: all sellers of insurance products, including insurance undertakings that sell directly to customers; any person whose activities consist of assisting in the administration and performance of insurance contracts; and ancillary insurance intermediaries. *Click here to visit the Commission's IDD page*

MiFID-2 timetable

What is MiFID-2?

The directive is the core of EU regulation for all investments, securities, derivatives and other instruments trading and transaction, including retail investments and high frequency trading investments and financial instruments, and has provisions covering transparency, organisational and market structure, transaction and trade reporting, and specific conduct of business.

Timetable

Originally national regulators, such as the FCA, had until 3 January 2017 to fully adopt the EU legislation into their rules and enforce them with the market. However, following an announcement by the European Parliament on 27 November, it appears that implementation will be delayed by a year, meaning the directive will come into force in 2018. *Click here*

The minutes of the 22 October meeting of the FCA's MiFID-2 implementation group have been published: *click here*

FCA speeches on MiFID-2 implementation

David Geale (Director of Policy) and David Lawton (Director of Markets Policy and International) have given speeches at an FCA conference on MiFID-2. David Geale outlined the work of the regulator over the next twelve months. This includes consulting on and making rules to implement MiFID II, creating significant changes in some areas of our retail investment framework and refocusing attention on the importance of others. He sees success in the retail

market, as firms having in place robust conduct and organisational standards that reflect the interests of consumers. *Click here*
David Lawton covered the timetable for the next few years (see above), the FCA's engagement plan, and some of the topical issues from the latest draft regulatory technical standards. *Click here*

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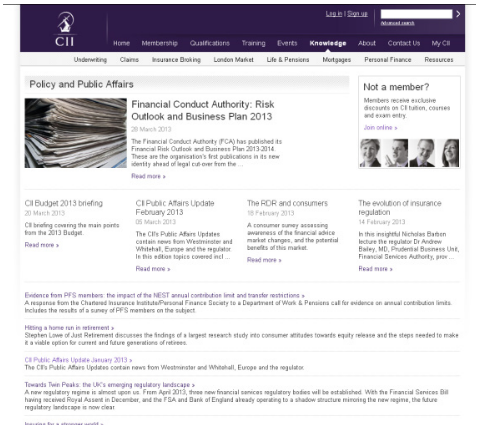

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Latest publications include:

Skills Survey 2015
The CII Skills Survey provides the most complete set of annual data on skills within the UK insurance market. The 2015 survey results show a rise in skills shortages, worries over accessing good quality talent and a sector taking action through increasing training and diversifying recruitment. *http://www.cii.co.uk/38608*

The Paris climate change conference: what does it mean for insurance?
Ahead of this year's world summit on climate change in Paris, we consider the potential impact on the insurance industry. *http://www.cii.co.uk/38782*

SIMR, conduct rules, approved persons
An updated briefing covering the forthcoming Senior Insurance Managers Regime (SIMR), changes to conduct rules and the reformed approved persons regime. *www.cii.co.uk/37798*

One near-miss too many? Drones and other airspace users
In our latest Thinkpiece, Captain Andy Brown of the British Airline Pilots Association offers a view on the implications of drones on other airspace users. *www.cii.co.uk/38351*

Pensions tax relief: time for a TEE-brake
Gemma Tetlow of the IFS takes a look at the tax treatment of pension saving, in particular the differences between Exempt, Exempt, Taxed (EET) and TEE (Tax-Exempt-Exempt). *www.cii.co.uk/38441*

This update has been produced by the CII Group's Policy and Public Affairs team.

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