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FCA publishes CP15/39: Rules and guidance on PPI complaints

On 2 October 2015, the Financial Conduct Authority (FCA) issued a [statement](#) stating that it would consult on introducing a deadline for making payment protection insurance (PPI) complaints, accompanied by a consumer communications campaign, and on new rules and guidance for handling PPI complaints in light of the Supreme Court's decision in *Plevin v Paragon Personal Finance Ltd.*

On 26 November 2015, the FCA published a consultation paper, [CP15/39](#), on these proposed new rules and guidance for PPI complaints. CP15/39 sets out the FCA's proposals for:

- a new rule that would set a deadline by which consumers would need to make their PPI complaints or else lose their right to have them assessed by firms or by the Financial Ombudsman Service;
- an FCA-led communications campaign designed to inform consumers of the deadline;
- a new fee rule on funding this consumer communications campaign;
- new rules and guidance on the handling of PPI complaints in light of the Plevin decision;
- the proposed deadline also to apply to PPI complaints falling within the scope of the proposed rules and guidance on Plevin.

The FCA is proposing that:

- the deadline rule, the communications campaign fee rule, and the rules and guidance concerning PPI complaints and Plevin, should come into force on the same date, in 2016;
- the communications campaign should begin soon after that date;
- the deadline should fall two years after that date, in 2018.

Comments are requested by 26 February 2016.

The FCA intends to issue a policy statement with finalised rules and guidance shortly before their start date. In the interim, the FCA says it will expect firms to progress to a conclusion those PPI complaints that would not be affected by the proposed rules and guidance on Plevin. It will be open to firms to explain to complainants that they cannot provide a final response for those complaints that could be affected by the proposed rules and guidance on Plevin.

The FCA has also published two related research documents, [Understanding PPI redress from a consumer perspective](#) and a [PPI research analytical report](#).

FCA publishes a call for inputs on Big Data in retail general insurance

On 24 November 2015, the FCA published a [call for inputs](#) on the use of Big Data in the retail general insurance sector. The FCA says that its focus on retail general insurance reflects how extensively data is already used in the sector and the significance of the sector for consumers.

The FCA defines Big Data in chapter 2 of the call for inputs but says that broadly it means the use of new or expanded data sets, new technologies to generate, collect and store data, and sophisticated analytical techniques.

The call for inputs will focus on three key topics:

- whether Big Data affects consumer outcomes;
- whether Big Data fosters or constrains competition;
- whether the FCA's regulatory framework affects developments in Big Data in retail general insurance.

In looking at consumer outcomes, the FCA is also interested in how Big Data might affect consumers who may not be able to access standard insurance products, including those with disabilities or in vulnerable situations.

At the end of each section of the document, the FCA highlights areas where it particularly welcome stakeholders' views and intelligence on potential benefits and risks to consumer and competition outcomes. For ease of reference, these are listed in full in annex 1.

The call for inputs will close on 8 January 2016. The FCA will be meeting with firms, consumer groups, industry bodies and other interested parties, and seeking data from firms from December 2015 to early 2016 to help inform any next steps.

The FCA will use the findings from the call for inputs to determine its next steps, including whether a market study, adjustments to policy or guidance or any other form of intervention is appropriate. The FCA will publish a feedback statement in mid-2016 detailing the findings from the call for inputs and any necessary next steps.

FCA publishes update on its activities on pensions and retirement income

On 25 November 2015, the FCA published a webpage containing an [update](#) on its activities on pensions and retirement income.

The FCA says that it is undertaking a wide range of work designed to identify emerging trends and set out its expectations on the issues that will shape the future of this market. The update:

- puts into context the FCA's ongoing work;
- provides an update on the timing of the Retirement Outcomes review: the FCA had previously stated that it intended to launch this review in early 2016. Having considered developments in the market since the introduction of the pension reforms, other FCA work and wider initiatives, and the feedback it has received from stakeholders, it now anticipates that it will launch this review in the second quarter of 2016. By revising the timing of this review, the FCA will be able to sequence it effectively with other FCA work and wider initiatives, including the Financial Advice Market Review, its ongoing consultation on changes to its pension rules and guidance, its data collection exercises, and the Government's next steps on exit charges and pension transfers. It will also allow the FCA to use a longer data set for its review, providing it with a more robust picture of how the market looks following early reactions to the pension reforms. In the meantime, it will continue to monitor the market through its ongoing data collection and analysis exercises. The FCA is also updating consumer research originally undertaken as part of the Retirement Income Market Study, and continuing its engagement with stakeholders to develop its thinking; and
- gives details of the FCA's request for information to firms relating to charges for decumulation pension products: the FCA is keen to explore 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. It has therefore sent a [request for information](#) to a range of firms offering access to pension products that allow customers to take flexible incomes. Firms are asked to reply to this by 15 February 2016. This data collection exercise will help the FCA establish whether there is a significant variation between firms for similar products and services, and the extent to which the charges that consumers face may be complex and difficult to understand. The FCA will also analyse whether higher charges are concentrated among particular pension pot sizes. It intends to publish a summary of its findings in summer 2016 and feed the results of the exercise into its retirement outcomes review for further analysis.

PRA publishes PS26/15: The prudential regime, and implementation of the senior insurance managers regime, for non-Solvency II firms

On 20 November 2015, the Prudential Regulation Authority (PRA) 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 policy statement provides feedback on responses to the consultation papers [CP26/15](#) (see chapter 2) and [CP27/15](#) (see chapter 3).

The appendices set out the final rules for:

- the replacement of the current approved persons regime with the new SIMR for firms that are outside the scope of Solvency II (see appendices 1, 2 and 3);
- the prudential regime for those insurance firms that are outside the scope of the Solvency II (see appendix 4); and
- other consequential amendments to the PRA Rulebook that relate to all insurance firms (see appendices 5 and 6).

Appendices 7 to 9 contain the following supervisory statements (SS):

- SS43/15 on capital assessments for non-Solvency II insurance companies;
- an updated version of SS1/14 on mutuality and with-profits funds:
an updated version of SS9/14 on valuation risk for insurers.

LSS5/13 deleted

On 20 November 2015, the PRA updated its [webpage](#) on pension obligation risk to give the information that legacy supervisory statement (LSS) 5/13 was deleted on that date. LSS5/13 related to pension obligation risk: treatment under the individual capital adequacy standards for insurers.

PRA publishes CP42/15: Capital extractions by run-off firms within the general insurance sector

On 20 November 2015, the PRA published a consultation paper, [CP42/15](#), on capital extractions by run-off firms within the general insurance sector. The PRA is proposing amendments to its supervisory statement (SS) 4/14, published in April 2014, and also sets out its expectations 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. The SS also explains the approach the PRA takes when considering such requests.

The updates proposed to SS4/14 reflect the changes to the PRA Rulebook that will occur when the new Solvency II and non-Directive firm regimes come into force on 1 January 2016. The PRA says that the updates to this draft statement do not represent a change in PRA policy but do set expectations of how the own risk and solvency assessment (ORSA) should be used when making decisions about whether to apply for a capital extraction. In particular, the PRA expects that firms will not seek a capital extraction that would bring the level of capital below its overall solvency needs as set out in the firm's ORSA, even if this figure is above the solvency capital requirement.

Comments are requested by 20 January 2016. The PRA says that firms should consider the proposals in this draft statement if they consider applying for a capital extraction between 1 January 2016 and the publication of the final statement. Firms should read this statement alongside another PRA supervisory statement, [SS3/14](#): The PRA's approach to schemes of arrangement proposed by PRA-authorized insurers under Part 26 of the Companies Act 2006.

Autumn Statement 2015

On 25 November 2015, the Chancellor of the Exchequer, George Osborne, made his [Autumn Statement](#). One of the announcements related to the secondary market for annuities: the Government will remove the barriers to creating a secondary market for annuities, allowing individuals to sell their

annuity income stream. The Government will set out further details on this measure, including the framework for the consumer protection package, in its consultation response in December 2015.

The Taxation of Regulatory Capital Securities (Amendment) Regulations 2015: draft published

On 24 November 2015, a [draft version](#) of the Taxation of Regulatory Capital Securities (Amendment) Regulations 2015 was published on the legislation.gov.uk website, together with a [draft explanatory memorandum](#).

These draft amending regulations ensure that Solvency II compliant instruments issued by insurers and other financial institutions in the form of debt are subject to income tax under the loan relationships rules. The regulations also take account of changes to the treatment of corporate debt and derivative contracts in Part 5 of the Corporation Tax Act 2009 made by the Finance (No 2) Act 2015. The Regulations will come into force on 1 January 2016.

HM Revenue & Customs published a [consultation](#) on the proposed amendments on 16 July 2015. [Draft regulations](#), together with a [draft explanatory memorandum](#) were also published on that date.

PRA and FCA publish CP41/15 and CP15/37: Occasional consultation paper

On 11 November 2015, the PRA and the FCA published a joint consultation paper, [PRA CP41/15 and FCA CP15/37](#), which proposes miscellaneous and minor amendments to PRA rules and supervisory statements, however chapter 4 relates to both the PRA and the FCA.

The consultation paper is made up of:

- chapter 1 and appendix 1: amendments to PRA Rulebook Parts relevant to the Society of Lloyd's;
- chapter 2 and appendix 2: amendments to PRA supervisory statement (SS)13/13 on market risk;
- chapter 3 and appendix 3: amendments to PRA SS12/13 on counterparty credit risk;
- chapter 4 and appendices 4 to 10: consequential amendments to the senior managers regime and the senior insurance managers regime (SIMR). The FCA is consulting jointly with the PRA on the changes to the SIMR in relation to the proposals for Swiss general insurers, see also this FCA [webpage](#). The FCA says that the PRA initially excluded Swiss general insurers from the application section of its rules for the SIMR, as it was awaiting completion of the EU's negotiation on an update to the Swiss Treaty Agreement (No.91/370/EEC). However, this update has not been made yet and so the PRA is consulting on some interim rules, to ensure that a suitable regime is in place for these firms from 7 March 2016. Therefore, the PRA proposes bringing Swiss general insurers within most of the scope of the SIMR and governance rules for large non-Directive firms. The FCA is consulting jointly with the PRA on this change. Proposed changes to the FCA rules are consequential to those of the PRA. The proposed amendments are intended to come into effect on 7 March 2016;
- chapter 5 and appendix 11: PRA amendments to definitions related to credit unions.

Comments on chapter 1 are requested by 25 November 2015, on chapters 2 and 3 by 11 February 2016 and on chapters 4 and 5 by 11 January 2016.

PRA publishes note on outsourcing functions to the cloud

On 12 November 2015, the FCA published a guidance consultation for firms seeking to outsource functions to the cloud. On 12 November 2015, the PRA published a [note](#) which says that it is working closely with the FCA on matters relating to the cloud and other types of outsourcing.

The PRA reminds dual-regulated firms seeking to outsource to the cloud, or any similar arrangements, of the Fundamental Rules and requirements as set out in the relevant parts of the PRA Rulebook,

under which they are obliged to notify the regulators of anything they would expect reasonable notice. With this in mind, dual-regulated firms considering outsourcing critical or important functions to a third-party IT provider, including to the cloud, should liaise with their usual supervisory contact at the earliest opportunity.

The PRA also say that dual-regulated firms may also wish to refer to PRA publications such as its Supervisory Statement, [SS19/13](#), on resolution planning (updated in January 2015) and its consultation paper, [CP38/15](#), on ensuring operational continuity in resolution (published in October 2015).

INTERNATIONAL

IDD adopted by the European Parliament

On 24 November 2015, the European Parliament [announced](#) that it has voted to [adopt](#) the proposed Insurance Distribution Directive (IDD) which will amend and replace the Insurance Mediation Directive.

The new rules still need to be officially endorsed by the Member States, which will have 24 months to put them into effect. The IDD will come into force on the twentieth day following that of its publication in the Official Journal of the European Union.

IAIS consults on proposed updated assessment methodology for G-SIIs

In July 2013, the International Association of Insurance Supervisors (IAIS) developed an initial assessment methodology (the 2013 methodology) to identify global systemically important insurers (G-SIIs), that is, any insurers whose distress or disorderly failure, because of size, complexity and interconnectedness, would cause significant disruption to the global financial system and economic activity. In November 2014, the Financial Stability Board said that by November 2015, the IAIS would further develop the G-SII assessment methodology.

On 25 November 2015, the IAIS published a [consultation paper](#) on proposed updates to its 2013 methodology. These changes in relation to revisions and improvements and indicators (see section IV), a new five-phase assessment process (see section V), annual G-SII data collection and data instructions (see section VI), entry and exit from the G-SII list (see section VII) and improved transparency (see section VIII).

Comments are requested by 25 January 2016. The IAIS intends to apply the new methodology in 2016.

IAIS consultation on analytical framework for non-traditional non-insurance activities and products

On 25 November 2015, the IAIS published a [consultation paper](#) on an analytical framework for non-traditional non-insurance (NTNI) activities and products.

In July 2013, the IAIS published a framework of policy measures for global, systemically important insurers (G-SIIs), which included a classification table of typical insurance products and activities. The notion of NTNI activities and products, and the classification of a list of insurance products, features and activities from across all jurisdictions, forms an integral aspect of those policy measures. In 2015, the IAIS decided to further clarify the concept of NTNI, analyse the characteristics, features, and risk profiles of a wide range of activities and products across jurisdictions and identify the transmission channels through which they could contribute to systemic risk.

The consultation paper seeks feedback from stakeholders on the proposed analytical framework, including the principles by which insurance products and features from across jurisdictions should be classified, and the preliminary conclusions from the analysis. It aims to provide further clarification on the concepts of NT and explain how their characteristics drive their systemic relevance and to provide

guidance on how to identify NTNI products and activities by matching the NTNI principles with the specific characteristics that they seek to capture.

Comments are requested by 25 January 2016. The IAIS intends to finalise its assessment of comments reviewed and its review of the conclusions by the end of the first quarter of 2016.

This consultation is the first step of a three-step process to clarify the NTNI concept and its consistent application across IAIS projects and across jurisdictions. Step two will assess and the classify the list of NTNI products and activities identified in the consultation. Step three will identify any gaps in or necessary modifications to the framework and to the NTNI principles. All three steps are intended to be completed by the end of the first quarter of 2016.

IFSB and IAIS publish joint paper on issues on regulation and supervision of the microtakaful sector

On 18 November 2015, the Islamic Financial Services Board (IFSB) and IAIS [announced](#) the publication of a [joint paper](#) on issues in regulation and supervision of microtakaful (Islamic microinsurance).

The main objective of the paper is to highlight and identify regulatory issues prevailing in the microtakaful sector and outline the role this sector can play in enhancing financial inclusion. In particular, the issues paper:

- identifies current practices and models for offering microtakaful products, and the challenges and potential issues in offering them to target customers;
- reviews the current regulatory framework for the microtakaful sector in various jurisdictions and suggest initiatives to strengthen it and thus enhance financial inclusion through the takaful sector;
- provides guidance to the regulatory and supervisory authorities in implementing an enabling environment for the development and growth of the microtakaful sector.

The IFSB and the IAIS published a consultation on the paper in June 2015, and in October 2015, they published a final draft of the paper joint and a [tracked changes version](#) showing the changes made to the consultation paper.

PRIIPs Regulation: Joint Committee of the ESAs consults on key information documents

On 11 November 2015, the Joint Committee of the European Supervisory Authorities (ESAs) (that is, the European Banking Authority, the European Securities and Markets Authority and the European Insurance and Occupational Pensions Authority) published a [consultation paper](#) on draft regulatory technical standards (RTS) which the Joint Committee is mandated to develop under Article 8 (5) of the Regulation on key information documents (KIDs) for packaged retail and insurance-based investment products (PRIIPs) (PRIIPs Regulation).

The consultation paper sets out details on the proposed requirements to be included in the preparation of the KID, these include:

- a common mandatory template for each KID, including the texts and layouts to be used;
- a summary risk indicator of seven simple classes for the risk and reward section of the KID;
- a methodology to assign each PRIIP to one of the seven classes contained in the summary risk indicator, and for the inclusion of additional warnings and narrative explanations for certain PRIIPs;
- details on performance scenarios and a format for their presentation, including possible performance for different time periods and at least three scenarios;
- costs presentation, including the figures that must be calculated and the format to be used for these, in both cash and percentage terms;

- specific layouts and contents for the KID for products offering multiple options that cannot be effectively covered in three pages;
- the revision and republication of the KID, to be done at least annually; and
- the KID must be provided sufficiently early for a retail investor to be able to take its contents into account when making an investment decision.

The Joint Committee published a general discussion paper in November 2014, and a technical discussion Paper in June 2015. Section 5 of the consultation paper contains provisional feedback on these two discussion papers.

Comments are requested by 29 January 2016. The Joint Committee will hold a public hearing on the consultation in Frankfurt on 9 December 2015. The RTS and accompanying impact assessment will be submitted for endorsement by the European Commission by 31 March 2016. Feedback on the consultation will also be published at this time.

The European Commission has also published a [report](#) (plus [executive summary](#)) on the consumer testing study that it has carried out relating to the possible new format and content for the PRIIPs KID.

FSB proposes creation of task-force on climate-related risks

On 9 November 2015, the Financial Stability Board published a [note](#) containing a proposal submitted to the G20 for the creation of an industry-led disclosure task force on climate-related risks.

The proposal is in response to a request by the G20 in April 2015 to review how the financial sector can take account of climate-related issues. The FSB says that the task force could be modelled on the successful example of the FSB's enhanced disclosure task force in order to develop voluntary, consistent climate-related disclosures that would be useful to lenders, insurers, investors and other stakeholders in understanding material financial risks. The note sets out a proposed way forward for such a task force, including some options for scope and objectives of the work the task force should address.

SOLVENCY II

PRA publishes CP43/15: Solvency II: external audit of the public disclosure requirement

On 20 November 2015, the PRA published a consultation paper, [CP43/15](#), setting out its proposal for a policy to require the external audit of elements of Pillar 3 disclosure under Solvency II and seeking feedback on the proposal, draft rules and draft supervisory statement.

Under Pillar 3, firms in scope of Solvency II are required to disclose publicly a solvency and financial condition report (SFCR). The proposed policy would require external audit of quantitative and qualitative information included in the "Valuation for solvency purposes" and "Capital management" sections of the SFCR of insurers prepared at the solo, group and sub group level.

Where Solvency II requires the production of a SFCR, the PRA proposes to require the relevant elements to be externally audited, subject to two exemptions:

- the solvency capital requirement would be exempt if calculated using an approved full or partial internal model;
- where Solvency II requires information in the SFCR to be produced using sectoral rules, that information would not be subject to external audit.

Appendix 1 to the consultation paper contains the PRA's proposals for a new External Audit Part for the PRA Rulebook and appendix 2 contains a proposed supervisory statement on the external audit of the public disclosure requirement. The consultation paper is relevant to firms in scope of Solvency II including the Society of Lloyd's (insurers), auditors and those individuals or firms who are likely to use

the SFCR. For insurers not in scope of Solvency II (nondirective firms) PRA Rule 9.6 of the Interim Prudential Sourcebook for Insurers (IPRUINS) will continue to apply. The PRA plans to consult in the first quarter of 2016 on rules for non-directive firms.

Comments are requested by 19 February 2016.

Solvency II Delegated regulation: corrigendum published in the Official Journal

On 25 November 2015, a [corrigendum](#) to the text of the [Solvency II Delegated Regulation \(EU\) 2015/35](#) was published in the Official Journal of the European Union.

The corrigendum corrects several minor typographical errors in the English language version of the Delegated Regulation.

European Commission adopts equivalence decisions for Bermuda and Japan

On 26 November 2015, the European Commission, in its Daily News, [announced](#), that it had adopted two equivalence decisions under Solvency II. These two decisions concern [Bermuda](#) and [Japan](#) and take the form of delegated acts.

Both decisions will enter into force on the twentieth day following that of their publication in the Official Journal of the European Union.

EIOPA call for evidence on the treatment of infrastructure corporates

On 19 November 2015, the European Insurance and Occupational Pensions Authority (EIOPA) published a [call for evidence](#) on the treatment of infrastructure corporates under the Solvency II Directive.

In October 2015, the European Commission issued a [call for advice](#) to EIOPA for further technical advice on the identification and calibration of infrastructure risk categories in Commission Delegated Regulation ((EU) 2015/35) supplementing the Solvency II Directive. EIOPA has been asked to further consider the evidence relating to the treatment of infrastructure corporates. The call for evidence is EIOPA's first step in responding to the Commission's call for advice.

The call for evidence describes the evidence that EIOPA is aware of based on its previous call for advice on infrastructure and sets out the specific areas where EIOPA would be interested to know if additional evidence or data is available.

Comments are requested by 10 December 2015. Based on the feedback received, EIOPA will prepare draft advice for the Commission. Depending on the nature of those proposals EIOPA may issue a consultation paper in the first half of 2016.

PRA publishes Solvency II directors' update November 2015

On 6 November 2015, the PRA published a [Solvency II directors' update](#) from Andrew Bulley, PRA Director of Life Insurance, and Chris Moulder, PRA Director of General Insurance.

The letter contains information on:

- equity release mortgages;
- risk margin methodologies, see also annex 1 to the letter;
- calculation of the transitional deduction for technical provisions;
- reinsurance counterparty credit risk;
- Solvency II waivers and modifications;;
- Solvency II national specific templates;
- the PRA's timetable of activity November to December 2015;
- details of PRA Solvency II web updates since the last directors' update.

Commission Implementing Regulations published in the Official Journal

On 12 November 2015, the following seven Commission Implementing Regulations laying down implementing technical standards (ITS) required under the Solvency II Directive were published in the Official Journal of the European Union:

- [Commission Implementing Regulation \(EU\) 2015/2011](#) laying down ITS with regard to the lists of regional governments and local authorities, exposures to whom are to be treated as exposures to the central government: this relates to Article 109(a)(2)(a) of Solvency II;
- [Commission Implementing Regulation \(EU\) 2015/2012](#) laying down ITS with regard to the procedures for decisions to set, calculate and remove capital add-ons: this relates to Article 37(8) of Solvency II;
- [Commission Implementing Regulation \(EU\) 2015/2013](#) laying down ITS with regard to standard deviations in relation to health risk equalisation systems: this relates to Article 109a(4) of Solvency II;
- [Commission Implementing Regulation \(EU\) 2015/2014](#) laying down ITS with regard to the procedures and templates for the submission of information to the group supervisor and for the exchange of information between supervisory authorities: this relates to Article 249(4) of Solvency II;
- [Commission Implementing Regulation \(EU\) 2015/2015](#) laying down ITS on the procedures for assessing external credit assessments: this relates to Article 44 (4a) of Solvency II;
- [Commission Implementing Regulation \(EU\) 2015/2016](#) laying down the ITS with regard to the equity index for the symmetric adjustment of the standard equity capital charge: this relates to Article 109a(2)(b) of Solvency II;
- [Commission Implementing Regulation \(EU\) 2015/2017](#) laying down ITS with regard to the adjusted factors to calculate the capital requirement for currency risk for currencies pegged to the euro: this relates to Article 109a(2)(c) of Solvency II.

The Implementing Regulations will enter into force on the twentieth day following that of their publication in the Official Journal.

EIOPA publishes final report on draft ITS on equity transitional measures

On 6 November 2015, EIOPA published its [final report](#) on the draft implementing technical standard (ITS) setting up procedures for the application of the transitional measure for the calculation of the Solvency II equity risk sub-module.

The draft ITS have been produced under Article 308(b)(13) of the Solvency II Directive, which requires EIOPA to submit the draft ITS to the European Commission by the end of June 2015. However, in anticipation of an amendment to the Solvency II Delegated Regulation, the Commission asked EIOPA to postpone the delivery of the draft ITS until completion of the modified Delegated Regulation. The amended Delegated Regulation was adopted by the Commission on 30 September 2015, and will, when it enters into force, extend the application of the transitional measure for equity investments to all equities, including unlisted equities, and introduce a simplification for the application of the transitional for equity held in collective investment undertakings or investments packaged as funds.

The draft ITS will now be submitted to the Commission, who will forward the draft ITS on to the European Parliament and the Council of the European Union. Within three months of receipt of the draft ITS, the Commission must decide whether to endorse it in part or with amendments. The Commission may extend the period by one month. If the Commission decides not to endorse the draft ITS, or to endorse it in part or with amendments, it is required to send it back to EIOPA explaining why it does not intend to endorse the draft, or the reasons for its amendments, as the case may be.

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