

ASSET MANAGEMENT &
INVESTMENT FUNDS

SFDR and Investment Funds - *what's next?*



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The next phase of disclosure requirements under the Sustainable Finance Disclosures Regulation, SFDR, is set to apply from 1 January 2022.

- 1 January 2022 is the proposed operative date of the regulatory technical standards, RTS, under SFDR, examples of requirements becoming effective then are:
 - » Light-green and dark-green product disclosure templates
 - » Principal adverse impact statement reporting template
 - » Detailed content of website statement for light-green and dark-green products

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Summary contd.

- Disclosure for light-green and dark-green funds under the EU Taxonomy Regulation against the first two environmental objectives of climate change adaptation and climate change mitigation should start on 1 January 2022
- Funds which are not light-green or dark-green must state that their underlying assets are not EU taxonomy-compliant
- Reporting templates for financial statements of light-green and dark-green products are also contained in the SFDR RTS; these are proposed to be effective on a phased-in basis
- Large entities that cannot opt-out of preparing a PAI statement must publish it on a website by 30 June 2021
- The consultation on the draft RTS under the Taxonomy Regulation on product related sustainability disclosures closes on 12 May 2021. These RTS propose to further amend the final draft SFDR RTS and update the pre-contractual and financial statement disclosure templates to include taxonomy alignment information



10 March 2021 deadline

On 10 March, AIFMs and UCITS management companies came into scope as financial market participants (**FMPs**) under what was generally called Level 1 of SFDR. AIFs and UCITS came into scope as financial products.

In practical terms, this meant publication by AIFMs and UCITS management companies on their websites of a sustainability risk policy and an updated remuneration policy integrating sustainability risks. A statement about principal adverse impacts of investment decisions had to be published on websites on a comply-or-explain basis. If a UCITS management company or AIFM opted out of publishing a PAI statement, a statement to that effect also had to go into UCITS' and AIFs' prospectuses.

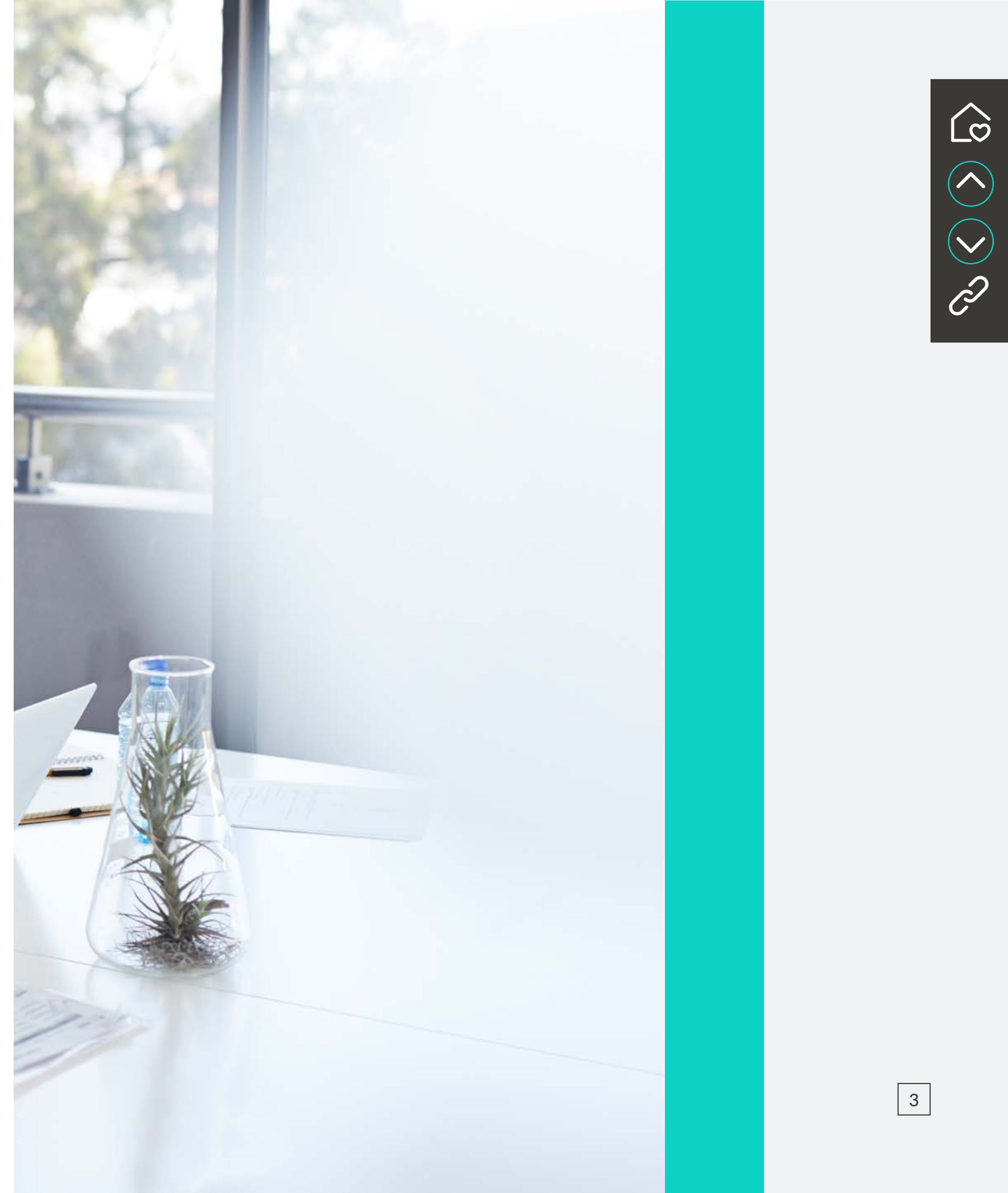
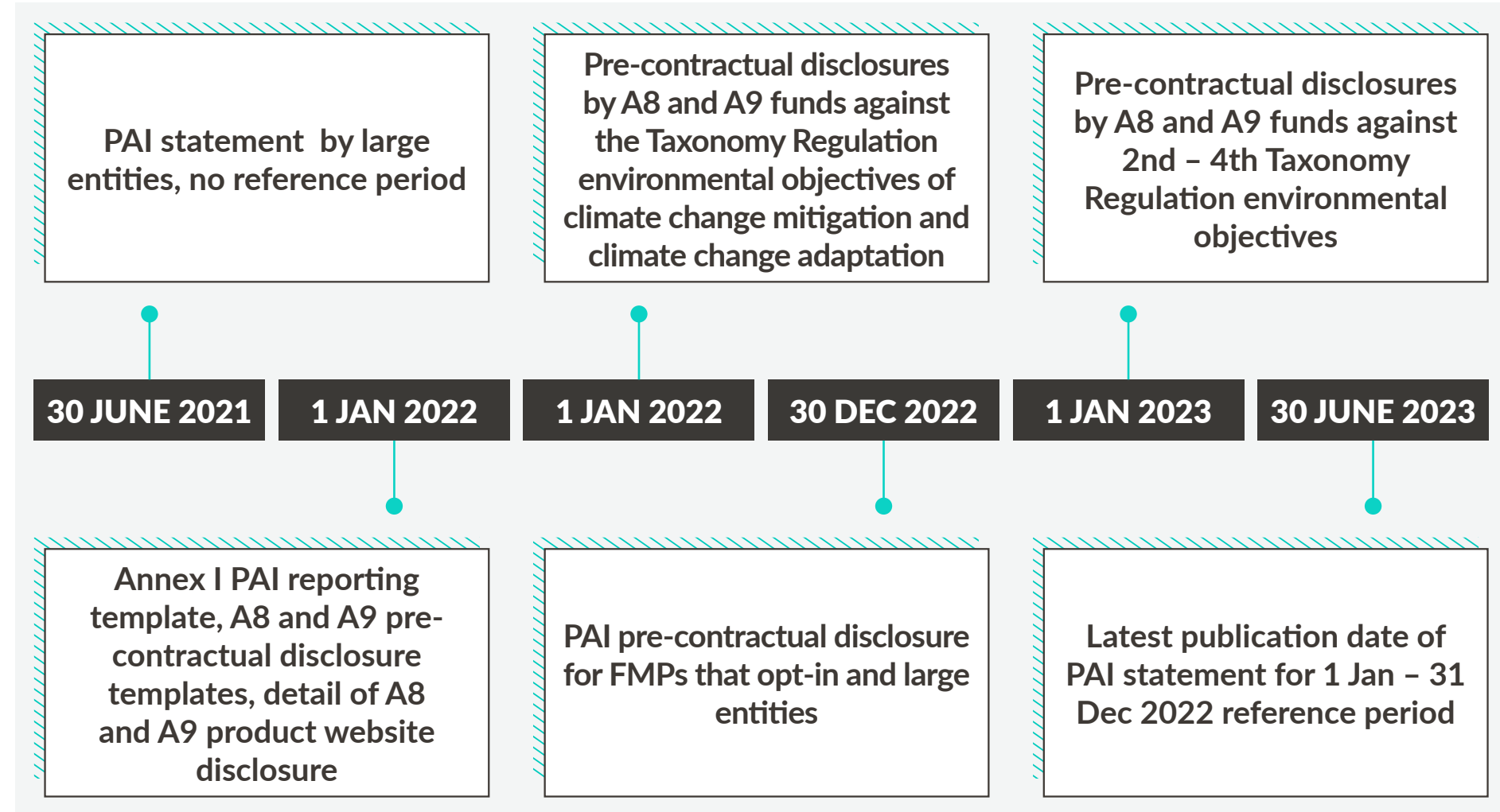
At the UCITS and AIF product level, descriptions had to be made in the prospectus stating the manner in which sustainability risks were integrated into investment decisions and the results of the assessment of the likely impacts of sustainability risks on the returns of the fund. So-called light-green and dark-green funds had to make more disclosure requirements in prospectuses and on websites. The type and extent of those disclosures depended on the SFDR product classification.

Existing Irish UCITS and AIFs had to file updated prospectuses and supplements with the Central Bank of Ireland (the **CBI**) by 10 March 2021 in accordance with a fast-track submission process established by the CBI specifically for SFDR prospectus updates.



Looking ahead

The next phase of disclosure requirements under SFDR depends on the draft SFDR regulatory technical standards (SFDR RTS) becoming effective, as proposed, on 1 January 2022. Assuming this will happen, below is a high level illustration of key dates ahead. As you will read below, there are proposals for phased-in reporting of the principal adverse impact (PAI) statement in Annex I to the SFDR RTS and financial statement disclosures.



SFDR Regulatory Technical Standards

The European Supervisory Authorities (ESAs) released their final report containing final form SFDR RTS on 2 February 2021. The SFDR RTS delegated act is not in force until the European legislative process completes. This means that, while it is unlikely that the content of the SFDR RTS released on 2 February will change, we should wait until the delegated act is published to be sure about that.

Additional disclosure detail in the SFDR RTS include:

- Light-green and dark-green product disclosure templates
- Principal adverse impact statement reporting template
- Detailed content of website statement for light-green and dark-green products

Taxonomy disclosures

The EU Taxonomy Regulation amends SFDR, adding to the disclosures to be made by light-green and dark-green funds. On 1 January 2022, pre-contractual disclosures

must be made by light-green and dark-green funds against the first two environmental objectives of climate change mitigation and climate change adaptation. Disclosures against the other four environmental objectives must be made by 1 January 2023. These are sustainable use and protection of water and marine resources, the transition to a circular economy, pollution prevention and control, protection and restoration of biodiversity and ecosystems.

The ESAs released a consultation on disclosures under the Taxonomy Regulation on 17 March 2021. The consultation includes draft RTS under the Taxonomy Regulation (TR RTS) in a form consolidating the almost-finalised SFDR RTS and the disclosure requirements under the Taxonomy Regulation.

The TR RTS also contains new pre-contractual and financial statement disclosure templates for light-green and dark-green funds. These build on, and will replace, the SFDR RTS, adding the taxonomy disclosure requirements.

Funds which are not light-green or dark-green will need to state in the prospectus and financial statements that the underlying investments do not take into account the

EU Taxonomy criteria for environmentally sustainable economic activities.

Principal adverse impact statement

Some FMPs will have opted-in to making a PAI statement from 10 March 2021. Large FMPs, defined under SFDR, cannot opt-out of the PAI statement disclosures and must start reporting from 30 June 2021. The additional detail for the entity level PAI statement in the SFDR RTS will not be effective by then, so large FMPs and FMPs opting-in to the PAI statement will comply with Level 1 SFDR requirements until the SFDR RTS become effective, proposed to be on 1 January 2022. The additional detail specified in the SFDR RTS must be reported from that date.

Where a FMP publishes the PAI statement in accordance with the SFDR RTS on or after 1 January 2022 for the first time, there is no need to disclose information relating to a previous reference period. The first time a PAI statement would be published in respect of a reference period, would be by 30 June 2023 relating to a reference period of 2022.



Financial statement disclosures

Fund financial statements must comply with SFDR Level 1 disclosure requirements from 1 January 2022, irrespective of reference periods. The SFDR RTS has a lot of detailed requirements to be addressed in financial statements, as well as the financial statement disclosure templates.

The ESAs recommend that the European Commission specifies that these detailed requirements are applied on a phased-in basis. If that happens, financial statements published in 2022 in relation to reference periods starting before 1 January 2022 would apply the high level and principle based requirements in Level 1 SFDR. The SFDR RTS requirements would only apply to periodic reports published in or after 2022 in relation to reference periods starting from 1 January 2022.

So, for example, a fund with a year end of 31 December would include the SFDR RTS details in its financial statement for the year 1 January 2022 – 31 December 2022 which is to be published by the end of April 2023.

Other initiatives

It is worth remembering that we are still waiting on the European legislation to be published amending the UCITS Directive and AIFMD to take into account sustainability risks and sustainability factors as explained in our briefing from [August 2020](#). These requirements will not apply until a year after the legislation is published.

The Non-Financial Reporting Directive (**NFRD**) is being amended. The NFRD requires certain large companies to report on social, employee and environmental matters, human rights and bribery and corruption. The European Commission proposal for a Sustainability Reporting Directive was published on 21 April 2021 for consideration by the European Parliament and the Council. Part of the objective is that the amendments will align with and facilitate the SFDR and Taxonomy disclosure requirements.

There are proposals too for a European single access point, ESAP, for corporate financial and non-financial information.

ESMA has written to the European Commission outlining proposals for a common definition of ESG ratings and a framework for regulating ESG ratings providers.

How we can help

Contact any member of the Asset Management & Investment Funds [team](#) to help you plan the next steps for SFDR and Taxonomy disclosure requirements.



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Resources



UCITS & AIFMD Revisions: Draft Sustainability Directive and Regulation
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