

Upholding Governance and Integrity: Crafting an Effective Whistleblowing Policy for the Public Interest

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Agenda

- Why is having a whistleblowing policy important?
- Essential elements of a good whistleblowing policy and current practices of statutory boards in Singapore
- Why do whistleblowing policies often not work in practice?
- Sharing of real-life experiences



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EMBRACING CHANGE AND BUILDING TRUST IN THE DIGITAL ECONOMY

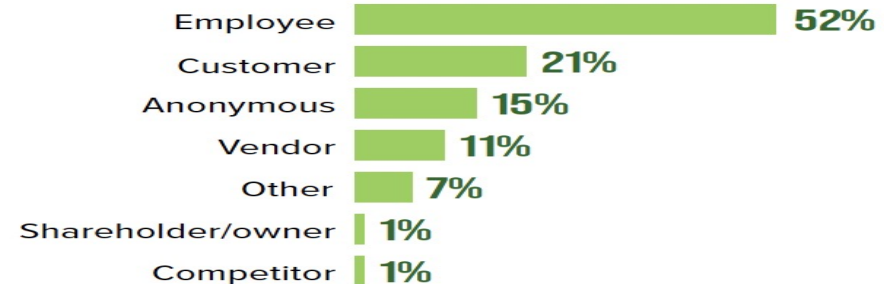
Why is having a whistleblowing policy important?

Many frauds are discovered through whistleblowing complaints

FIG. 13 HOW IS OCCUPATIONAL FRAUD INITIALLY DETECTED?



FIG. 14 WHO REPORTS OCCUPATIONAL FRAUD?



Without a policy, employees may be hesitant about blowing the whistle....

"For those who argue that employees owe strict loyalty to the company, whistleblowing seems to be an act of extreme disloyalty. It puts at risk the reputation of the firm. But this seems to be based on a narrow view of loyalty as if it demands that we do whatever the company or another individual believes to be in their best interest...Loyalty cannot imply that we should not report the unethical conduct of others... This may imply for an employee that he or she is most loyal when trying to prevent something that could lead to harm for customers, shareholders, or the general public. If there is no proper response internally, or if by the nature of the case, it is not possible to find an internal remedy, then it would seem ethically correct to blow the whistle. In fact, sometimes there can be a duty to do so. It would be obligatory for an employee to blow the whistle when the level of harm to others is serious, and the employee has clear evidence of the unethical practice that has led to this. This could, for example, be in terms of product safety or severe financial hardship for others."

Source: Michael Walsh, "Whistleblowing: betrayal or public duty?," <http://www.erc.org.au>

Whistleblowers often face significant barriers and reprisals, and need to feel safe in reporting.....

"If you have God, the law, the press and the facts on your side, you have a 50% chance of defeating the bureaucracy"

As quoted in Joanna Gualtieri, "When the whistle blows," Corporate Governance Quarterly, Spring 2005.



Essential elements of a good whistleblowing policy and current practices of statutory boards

Source: Mak Yuen Teen, A good practice guide to whistleblowing policies. Good Practice Guide, CPA Australia, 2007.

Oral Reply to Parliamentary Question on whistle-blowing policy in the Public Service

Parliamentary Sitting: 28 February 2011

Mr Viswa Sadasivan: To ask the Prime Minister (a) whether the Ministry will consider the recommendation by the Public Accounts Committee to spell out a whistle-blowing policy for statutory boards to adopt; and (b) whether there are Ministries or agencies that have such a policy or protocol in place.

Oral Reply (for the Prime Minister) by Mr Teo Chee Hean, Deputy Prime Minister, Minister in charge of the Civil Service and Minister for Defence:

The Singapore Civil Service emphasises high standards of integrity, discipline and accountability.

[REDACTED] Officers may report cases of misconduct to supervisors, his HR department, his Permanent Secretary, the head of Civil Service or indeed, to the Public Service Commission itself. Statutory Boards have their own equivalent processes which conform with these principles. To encourage responsible reporting, the officer making the report should identify himself. Officers who condone wrongdoing through wilful suppression or concealment of relevant information, in fact, may be disciplined.

Members of the public who have information on the illegal or corrupt practices can also lodge reports with the appropriate law enforcement agencies such as the Corrupt Practices Investigation Bureau.

Extract from <https://www.psd.gov.sg/newsroom/pq-replies/whistle-blowing-policy-in-the-public-service/>

What may constitute an effective whistleblowing policy

2. Is an effective fraud reporting mechanism in place?

- Have employees been taught how to communicate concerns about known or potential wrongdoing?
- Are one or more reporting channels (e.g., a third-party hotline, dedicated email inbox, or web-based form) available to employees?
- Are whistleblower resources maintained and accessible to all employees?
- Do employees trust that they can report suspicious activity anonymously and/or confidentially (where legally permissible) and without fear of reprisal?
- Has it been made clear to employees that reports of suspicious activity will be promptly and thoroughly evaluated?
- Do reporting policies and mechanisms extend to vendors, customers, and other outside parties?
- Do reporting mechanisms include multilingual capabilities and provide access to a trained interviewer 24 hours a day, 7 days a week?

Source: Occupational Fraud 2024: A Report to the Nations, Association of Certified Fraud Examiners

Current practices in Singapore statutory boards

- Covered 47 out of 64 Singapore statutory boards (SSBs) as of 29 March 2024 (those considered more prominent)
- 17 of the 47 (36%) published their whistleblowing policy online
- Reviewed the policies of the 17 SSBs with respect to some of the key elements of a good whistleblowing policy
- Findings are preliminary

Rationale for having a policy

- The whistleblowing policy should include a statement to explain the rationale for having it, such as:
 - Compliance with internal code of conduct or ethics policy
 - Part of risk management to protect the organisation's long-term well-being and reputation
 - Legal requirements

Note:

- A whistleblowing policy should ideally not be merely a response to legal or regulatory requirements
- Eight out of 17 whistleblowing policies of SSBs did not state rationale and those which did were often quite vague

What Types of Breaches Are Covered By The Policy?

- The policy should emphasise that it is intended to cover serious concerns that could have a large potential impact on the organisation (and not as a substitute for normal feedback or grievance mechanisms) such as actions that :
 - may lead to incorrect financial reporting;
 - are unlawful;
 - are not in line with company policy or its code of conduct;
 - constitute serious improper conduct
 - etc...

What Types of Breaches Are Covered By Policies of SSBs?

- Four were narrow/unspecific (e.g., breaches in safeguarding official information and abiding by code of conduct)
- 13 were wide, with five including breaches relating to health, safety and/or environment

Example of a Comprehensive List for an SSB

4 REPORTABLE INCIDENTS

4.1 Some examples of concerns covered by this Policy include, but are not limited to, the following:

- Concerns about the Group's banking and treasury, procurement, accounting, business sensitive information, internal controls or auditing matters;
- Breach of or failure to implement or comply with the Group's policies or code of conduct;
- Impropriety, corruption, acts of fraud, theft and/ misuse of the Group's properties, assets or resources;
- Conduct which is an offence or breach of the law;
- Abuse of power or authority;
- Conflict of interest without disclosure;
- Disclosure of confidential information to outsiders;
- Intentional provision of incorrect information to public bodies;
- Fraud against stakeholders, or the making of fraudulent statements to stakeholders and regulatory authorities;
- Acts to mislead, deceive, manipulate, coerce or fraudulently influence any internal or external accountant or auditor in connection with the preparation, examination, audit or review of any financial statements and records or operations of the Group;
- Compromise of the health and safety of an individual;
- Concealing information about any malpractice or misconduct;
- Any other improper matters which may cause financial or non-financial loss to the Group, or damage to the Group's reputation.

4.2 The above list is intended to give an indication of the kind of conduct which might be considered as "wrong-doing". In cases of doubt, the whistleblower should seek to speak to his or her immediate superior or follow the procedure for reporting under this Policy.

Who Can Be A Whistleblower?

- There are different types of persons who can be whistleblowers and therefore covered by the policy

- Internal
 - Employees
 - Contract workers
- External
 - Vendors
 - Customers
 - Members of public

Note:

1. While, ideally, a whistleblowing policy should be extensive in terms of persons covered, organisations will need to ensure they are able to effectively implement such a comprehensive policy.
2. More extensive coverage would also entail wider dissemination of the policy.

Who Can Be A Whistleblower Based on Policies of SSBs?

- Most SSBs do not impose specific restrictions on who can be a whistleblower (except one which states “employees and vendors”)

Who Can Disclosure Be Made To?

- A whistleblowing policy may cover internal and/or external persons to whom disclosure may be made.

Internal (Examples)	
Line manager	Company secretary or legal counsel
Chief executive officer/ Chief financial officer	Designated ethics officer
Head of human resources	Board audit committee chairman
Head of internal audit	

Who Can Disclosure Be Made To?

Note:

- Line management perceived as less independent
- Line management can be included as potential recipients of disclosures but policy should include persons who are likely to be seen as more independent from management
- Policy should require all complaints to be documented
- Board of directors, or a board committee such as the audit committee, should be kept informed of complaints and their investigation
- Chairman of the audit committee or another designated board member should be one of the persons to whom disclosure can be made.

Who Can Disclosure Be Made To?

External (Examples)

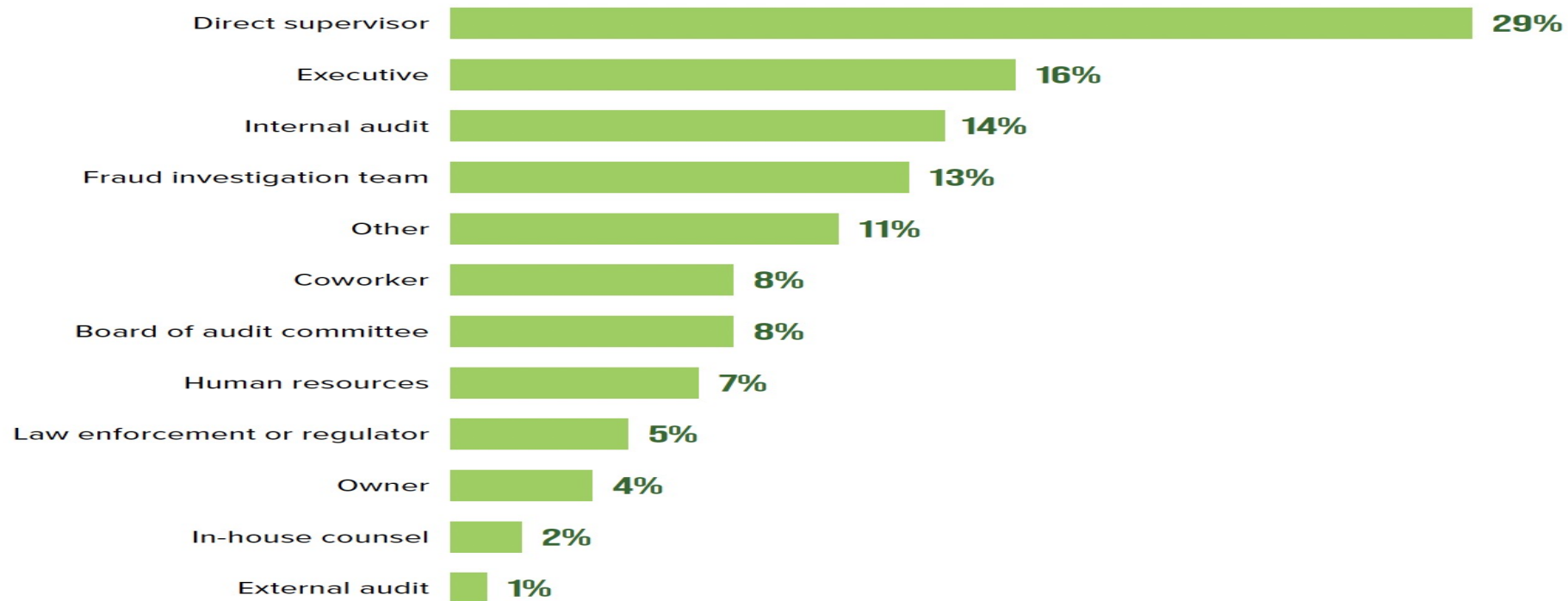
- Whistleblower service provider (e.g., ethics hotline)
- External auditor or internal auditor (outsourced)

Note:

- Some organisations in their policy encourage complainants to consider raising concerns internally first.
- It is not recommended that the whistleblowing policy prohibits or strongly discourages employees from raising concerns to external parties, such as the regulatory bodies.

Who Can Disclosure Be Made To?

FIG. 17 TO WHOM DID WHISTLEBLOWERS INITIALLY REPORT?






Source: Occupational Fraud 2024: A Report to the Nations, Association of Certified Fraud Examiners.

Who Can Disclosure Be Made To Based on Policies of SSBs?

- Many SSBs only specify reporting to the audit committee.
- Six SSBs indicate to email to the organisation, an outsourced whistleblowing provider, or an independent or investigation officer with no further details (did not mention board committee)
- One SSB provides for multiple disclosure options

An SSB with Comprehensive Disclosure Options

Who to Report To

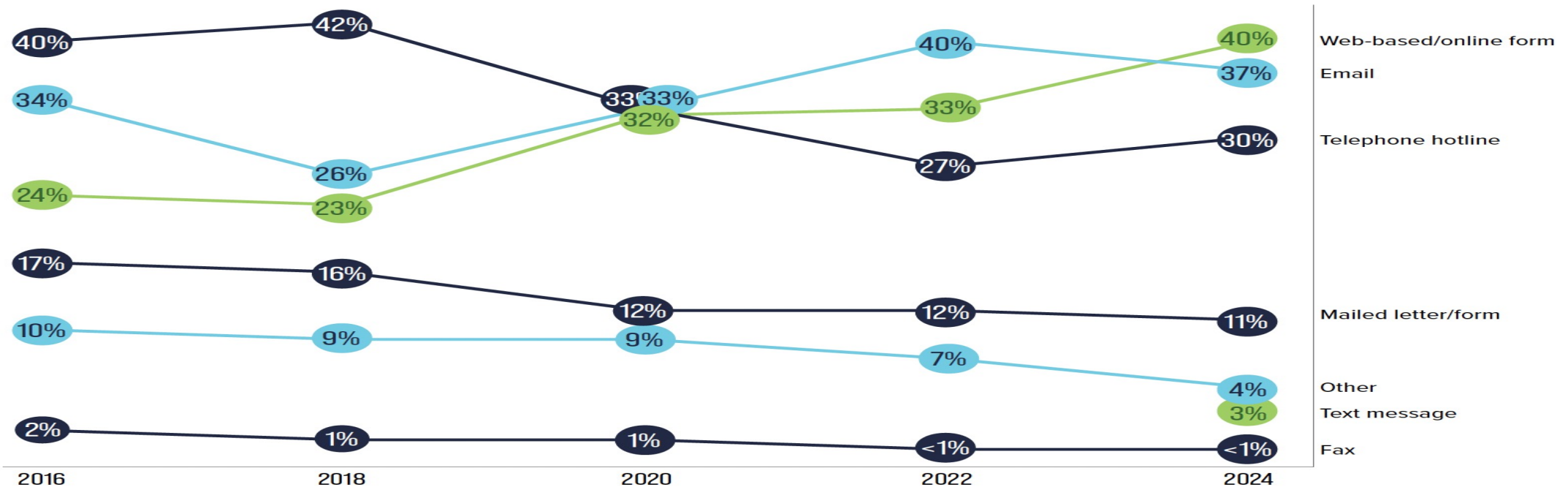
- 8.1  Risk Management and Internal Audit 
With address, telephone number and email provided)
- 8.2 Alternatively, the concern could be raised through the independent whistleblowing hotline and e-mail address, for which details could be found in Appendix I.
- 8.3 If none of the channels above are suitable, the whistleblower can address his/her concerns to the  Audit and Risk Committee Chairman. Contact details have been included in Appendix I.
- 8.4 Concerns or information are preferably raised or provided in writing or e-mail. Ideally, the Group recommends the whistleblower to be detailed in setting out the background and history of events and the reasons for the concern. The whistleblower can refer to the 'Report of Whistleblowing Case' form (Appendix II) for the details to be reported.
- 8.5 If the whistleblower is not comfortable about writing in, he or she can telephone or meet the appropriate officer in confidence at a time and location to be determined together.

How Can Disclosure Be Made?

- Methods of submission should also be specified, such as:
 - Internal mail
 - Complaint box
 - Telephone
 - Email or
 - Website
- Contact details of person to whom disclosure can be made should be clearly spelt out

How Can Disclosure Be Made?

FIG. 16 WHAT FORMAL REPORTING MECHANISMS DID WHISTLEBLOWERS USE?



Source: Occupational Fraud 2024: A Report to the Nations, Association of Certified Fraud Examiners.

How Can Disclosure Be Made Based on Policies of SSBs?

- Two only provide for online form (one for external parties)
- Three provide email address and/or postal
- 12 provide multiple options, with at least three out of the following four options: online form, email, hotline, postal

How Are Anonymous Disclosures Dealt With?

- Policy may encourage employees to disclose their name to facilitate appropriate follow-up questions and investigation
- **Policy should not disregard anonymous disclosure**
- Policy should state that concerns expressed anonymously will be investigated but consideration will be given to:
 - the seriousness of the issue raised;
 - the credibility of the concern; and
 - the likelihood of confirming the allegation from other sources.

Anonymous Disclosures Based on Policies of SSBs

- 16 out of 17 state that disclosure of identity is encouraged but not mandatory
- One stated that identity **MUST** be disclosed
- Another prominent SSB which does not have a publicly available whistleblowing policy requires those who file complaints to disclose their identity and to attach documents

What Happens After Report Has Been Made?

- The policy should state:
 - that all complaints will be acknowledged in writing to the whistleblower within a certain reasonable period after the complaint is received, if the identity of the whistleblower is disclosed
 - that an investigation will be conducted and the organisation undertakes to keep the whistleblower informed of the progress and outcome of the investigations

How Is Confidentiality Of Whistleblower's Identity Ensured?

- Policy should state that the whistleblower's identity will be protected
- The organisation should ensure that it has proper procedures in place to ensure that it is able to fulfill its undertaking to protect the whistleblower's identity
- The policy may spell out the treatment of files and who will have access to them

What Protection/Action Can The Whistleblower Expect?

- The policy should:
 - include a statement providing assurance of protection from reprisals or victimisation for whistleblowing in good faith
 - provide the necessary protection, as best as possible, to employees who may face civil liability if their complaints turn out to be wrong, even though they have reported concerns in good faith and with reasonable belief
 - state that those found to have taken reprisal actions or victimised the whistleblower will face disciplinary action, including the possibility of dismissal
 - state that malicious allegations may result in disciplinary action

Note:

- In communicating the policy, it should be emphasised that complaints made in good faith and with reasonable belief will not result in disciplinary actions, even if investigations subsequently find them to be untrue

Who Will Protect/ Ensure Protection of Whistleblower?

- The policy may specify:
 - the appointment of a representative of the organisation to ensure the welfare of the whistleblower and who will update the latter on the status of the investigation
 - who the whistleblower can approach if he feels that he has suffered a detriment

Who Is Responsible for Follow-Up and Investigation ?

- The policy should:
 - state that an investigation would ensue after a report has been made
 - provide information of any other persons who will be informed of the disclosure in order to follow up
 - undertake to keep the whistleblower informed of the progress and, subject to legal constraints, the outcome of the investigation
 - include the caveat that blowing the whistle does not lessen the guilt/ criminal liability of a whistleblower who is involved in wrongdoing although this may be taken into account

Who Is Responsible for Follow-Up and Investigation ?

Note:

- In deciding who will be informed of the disclosure, the organisation should bear in mind the need to maintain confidentiality and to protect the identity of the whistleblower
- The board of directors, or equivalent governing body of the organisation, should be involved in deciding who should conduct the investigation.

How Is The Policy Communicated and Implemented?

- The whistleblowing policy should be widely disseminated to relevant persons covered by the policy, such as:
 - postings on notice boards
 - including the policy in the employee handbook, or
 - putting it on the internet
- Briefings should be held with employees:
 - to communicate top management's commitment to the policy and
 - to explain how they can use the policy



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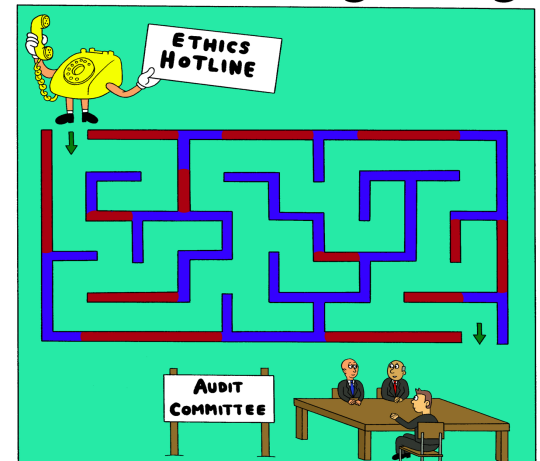
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Why do whistleblowing policies often not work in practice?

Why do whistleblowing policies often not work in practice?

- Poor organisational culture/tone at the top
- Inadequate policy
- Lack of awareness/understanding of policy
- Lack of trust - e.g., in people responsible for implementing policy, methods of submission, etc.
- Fear
- Lack of response
- Lack of follow up
- Inappropriate escalation/investigation procedures
- Lack of reward/recognition

Whistleblowing Policy





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Thank you!

Q&A

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