

**Baker
McKenzie.**

**Regional Webinar Series:
Recovery & Renewal: EMEA Tax Issues**

Tax Policy Post COVID-19

August 4th 2020



Speakers



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Agenda

1 TODAY'S TOPIC

2 PAST ECONOMIC
SLOWDOWN EVENTS

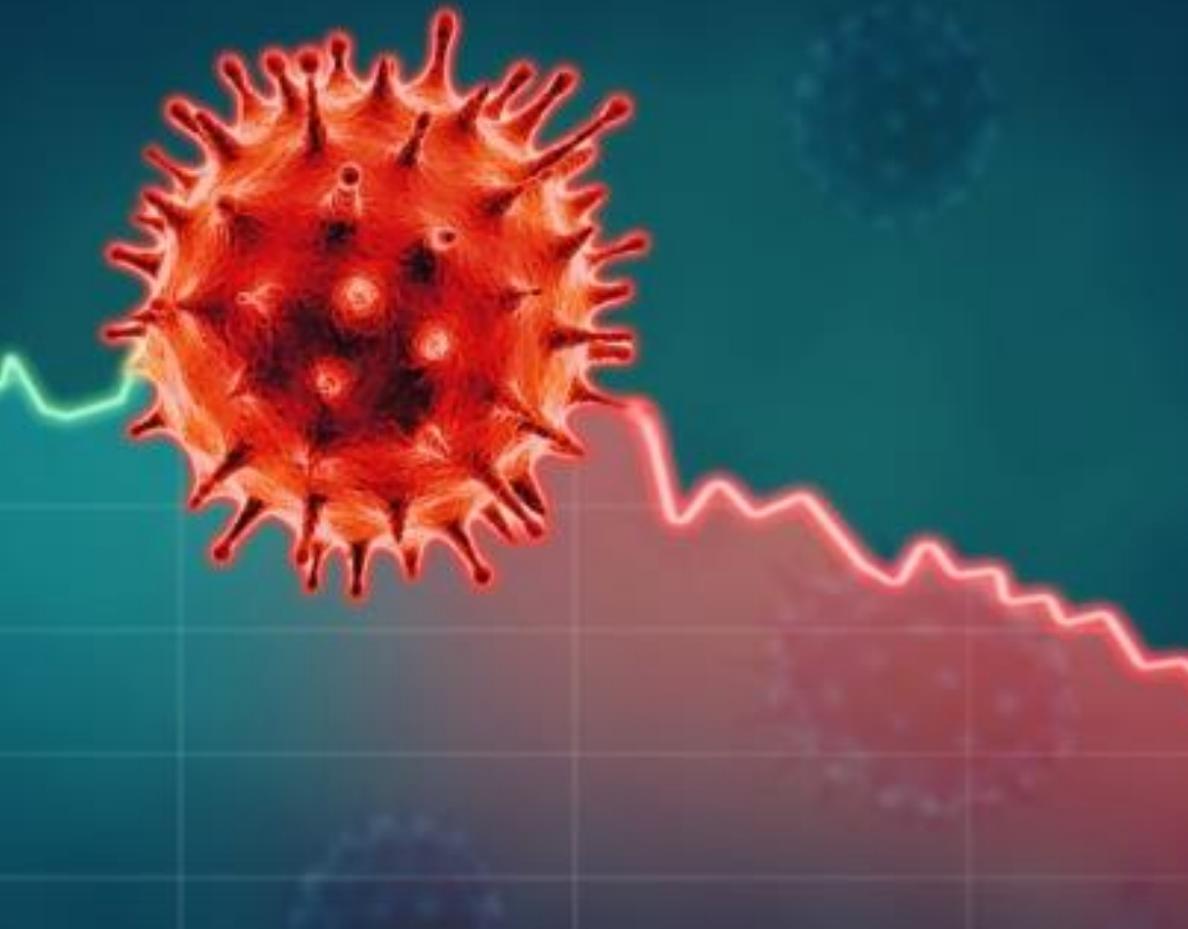
3 THE GREAT RECESSION AND
PUBLIC DEBT

4 RECOVERY MECHANISMS
USED AFTER THE
GREAT RECESSION

5 TAX POLICIES IN POST
COVID-19 REALITY –
POSSIBLE SOLUTIONS

6 CONCLUSION

7 QUESTIONS



TODAY'S TOPIC

Tax Policy Post
COVID-19

Major 20th and 21st Century Events that Caused Economic Slowdown



Industries Most Impacted by Shutdown



Hospitality

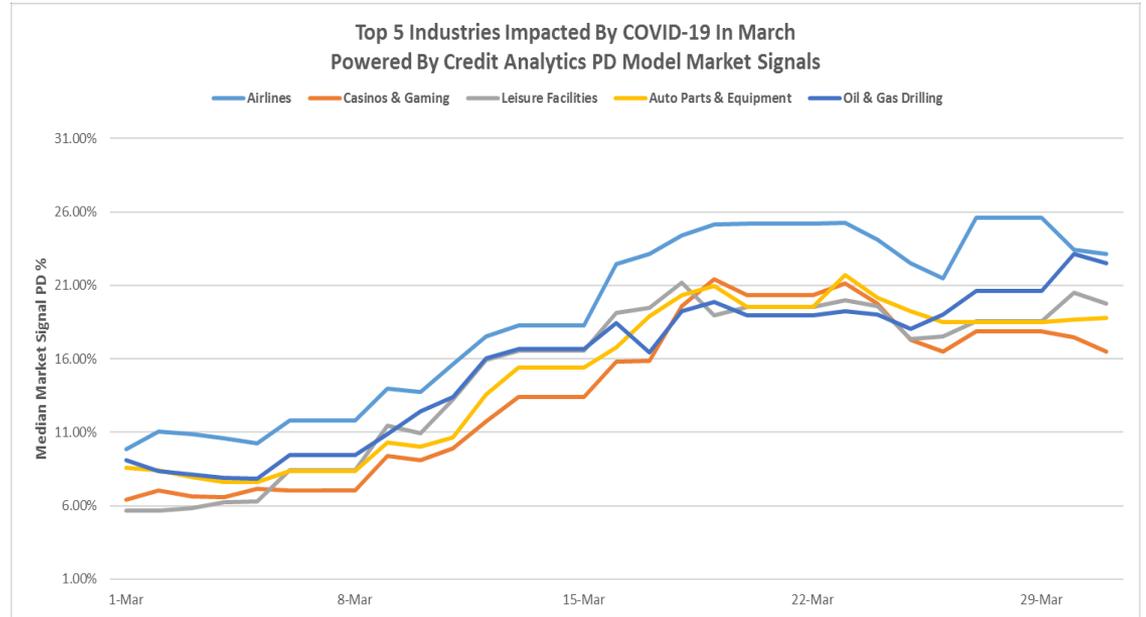
- Airlines
- Casinos and Gambling
- Leisure Facilities



Auto Parts and Equipment



Oil and Gas Drilling



Macro Economy Impact of the Great Recession (2007-2009)



Decrease in GDP



Increase in Unemployment



Reduction in Tax Revenue



Increase in Public Debt

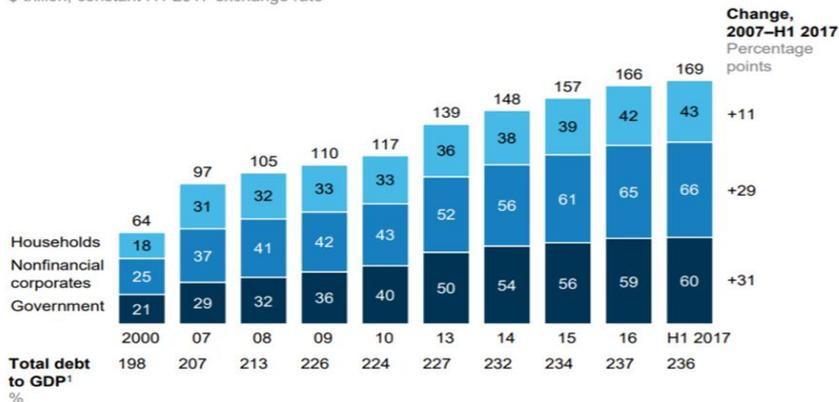
Public Debt Increase Before and After Recession (2000-2017)

Exhibit 1

Global debt has continued to swell since the crisis but has remained stable relative to world GDP since 2014.

Total debt outstanding¹

\$ trillion, constant H1 2017 exchange rate



¹ Includes household, nonfinancial corporate, and government debt; excludes debt of the financial sector. Estimated bottom up using data for 43 countries from Bank for International Settlements (BIS) and data for eight countries from McKinsey's Country Debt Database. NOTE: Figures may not sum to 100% because of rounding.

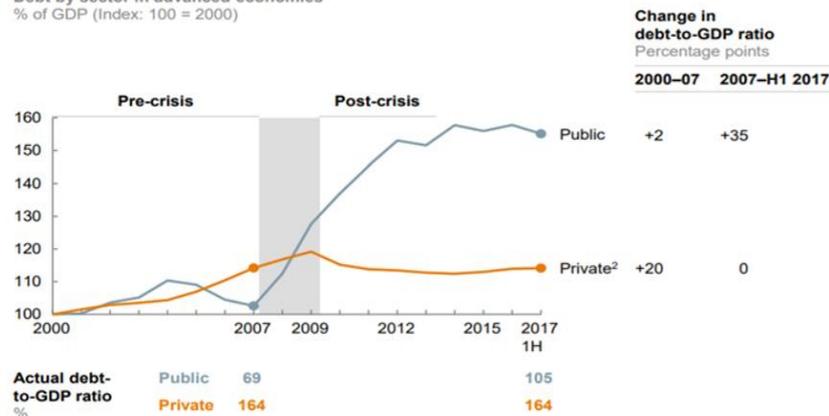
SOURCE: Bank for International Settlements (BIS); McKinsey Country Debt Database; McKinsey Global Institute analysis

Exhibit 2

Public debt increased rapidly after the crisis in advanced economies.

Debt by sector in advanced economies¹

% of GDP (Index: 100 = 2000)



¹ Australia, Austria, Belgium, Canada, Denmark, Finland, France, Germany, Greece, Hong Kong, Ireland, Israel, Italy, Japan, Luxembourg, Netherlands, New Zealand, Norway, Portugal, Singapore, South Korea, Spain, Sweden, Switzerland, the United Kingdom, and the United States.

² Includes household and nonfinancial corporate sector debt. NOTE: Debt as percent of GDP is indexed to 100 in 2000; numbers here are not actual figures.

SOURCE: BIS; McKinsey Country Debt Database; McKinsey Global Institute analysis

Practical International Tax Issues Arising from COVID-19



Will the Containment Measures (employees / directors lock down) have consequences on the taxable presence of Companies ?

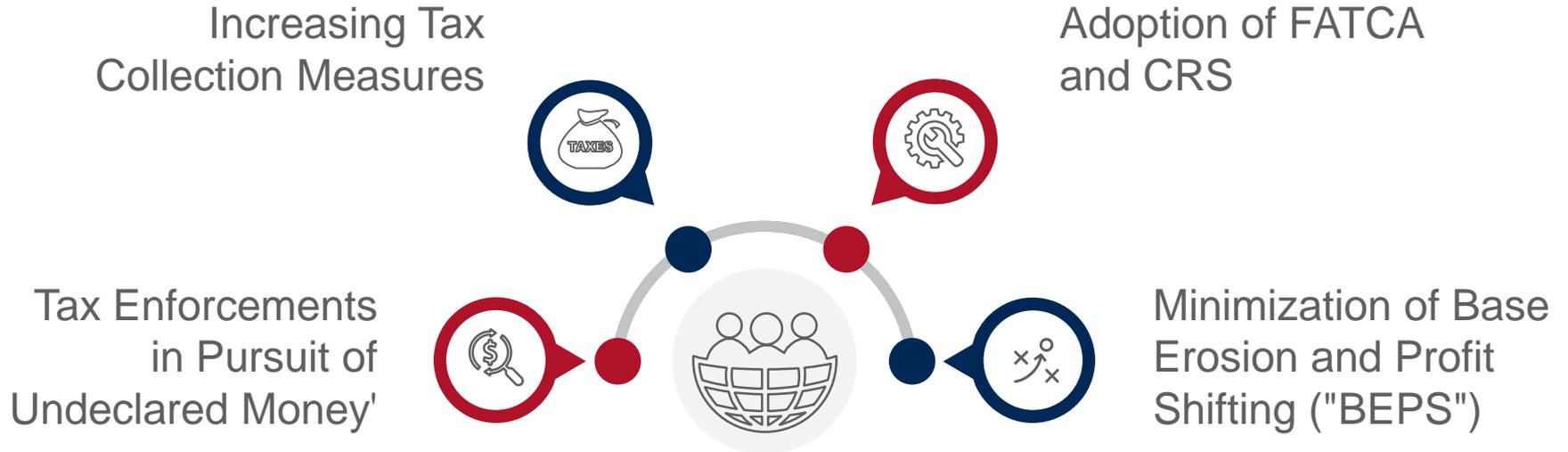
- Permanent Establishment
- Tax Residence



Anticipating the Impacts of the COVID-19 Crisis on Transfer Pricing

- Application of transfer pricing methods
- Valuation of Intangible Assets
- “Management Fees”
- Intra-group Financing
- Etc.

How Did the Governments Respond to the Great Recession?



History of Economic Cooperation – FATCA and CRS



History of Base Erosion and Profit Shifting ("BEPS") Measures

1996

Base Erosion and Profit Shifting Issues Appear in Law Review Articles

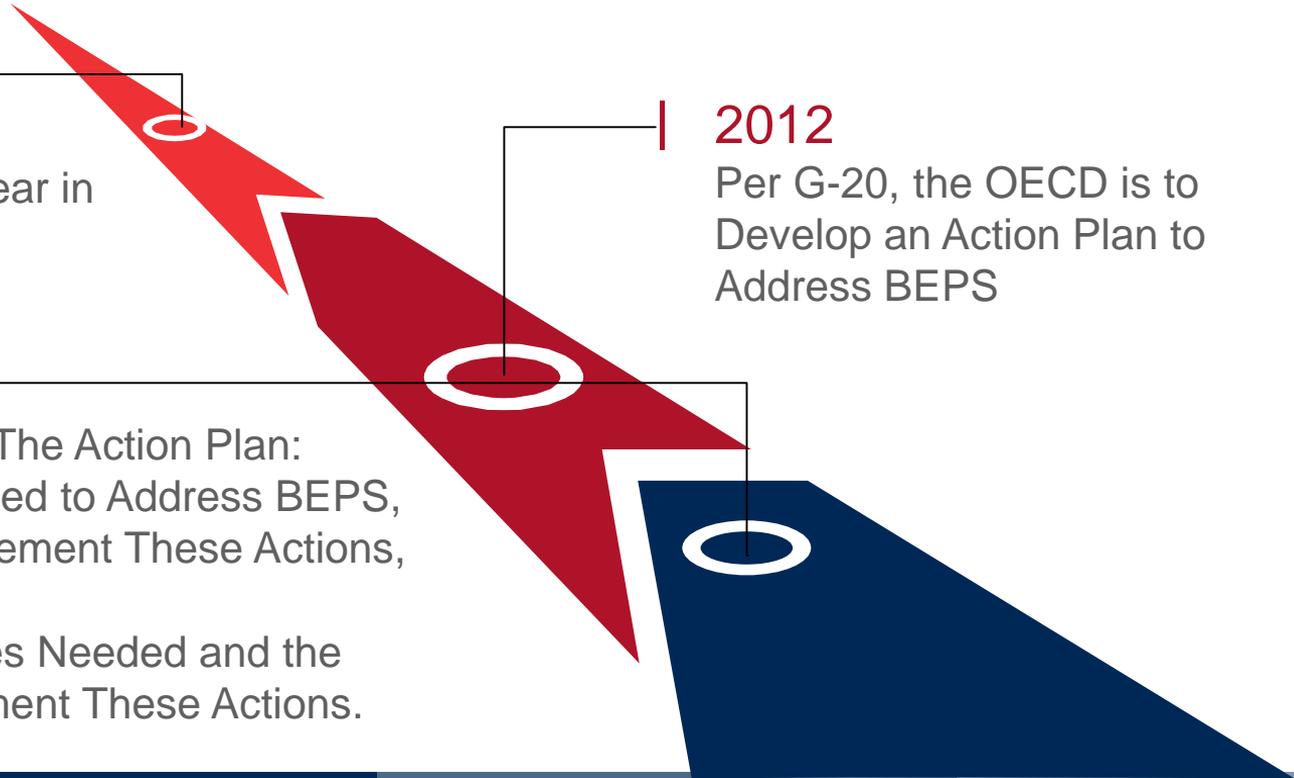
2012

Per G-20, the OECD is to Develop an Action Plan to Address BEPS

2013

OECD Report on BEPS. The Action Plan:

1. Identifies Actions Needed to Address BEPS,
2. Sets Deadlines to Implement These Actions, and
3. Identifies the Resources Needed and the Methodology to Implement These Actions.



Tax Policies In Post COVID-19 Reality – Possible Solutions

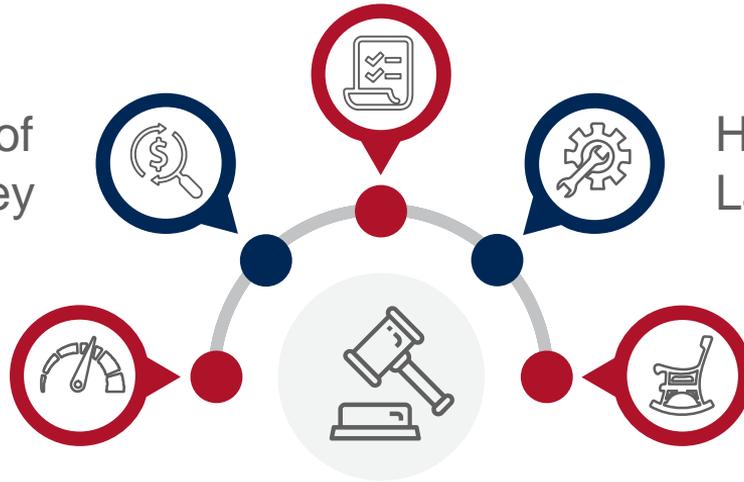
Compliance Reporting Requirements

Pursuit of Undeclared Money

Harmonization of Tax Laws and Tax Rates

Increased Enforcement Measures

Pension Reforms



1. Increased Enforcement Measures



Stricter Application
of Existing Rules



Inclination to
Settle Matters



Taxation of
Crypto-Assets
and Crypto-Asset
Transactions

“

The IRS estimates that the "tax gap" — the difference between taxes owed and those actually paid — averaged about \$458 billion annually in 2008-10

Tax Policy Center Briefing Book

2. Pursuit of Undeclared Money



Focus

Undeclared Money in Underground Economy



Possible Solutions

A. Change of Currency:

- Partial (example: demonetization of selected banknotes)
- National
- Global

B. Elimination of Paper Currency.

- Electronic Payments v. Cash
- Use of Electronic Payments

3. Mandatory Disclosure Rules and Prevention of FATCA and CRS Avoidance



CRS New Efforts



DAC6 Implementation



Implementation of Widespread Mandatory Disclosure Requirements:

- Taxpayers
- Intermediaries
- Financial Institutions



Implementation of Additional Disclosure Requirements Similar to DAC

3. Mandatory Disclosure Rules and Prevention of CRS Avoidance



CRS New Efforts



DAC6 Implementation



Implementation of Widespread Mandatory Disclosure Requirements:

- Taxpayers
- Intermediaries
- Financial Institutions



Implementation of Additional Disclosure Requirements Similar to DAC

4. Harmonization of Tax Laws and Tax Rates



What Governments May Want to Consider:

- Agreement on How to Fairly Source the Revenue Based on Substantive Factors
- OECD Consensus-Based Solution to the Challenges of Rapid and Expansive Digital Transformation:
 - Pillar One: Reallocation of Taxing Rights
 - Pillar Two: Global Anti-Base Erosion Mechanism

5. Pension Reforms



Potential Sources of Revenue:

- Increase in Retirement Age
- Reduction in Amount of Benefits
- Increase in Contribution Rates
- Harmonization

International initiatives : Digitalisation of the Economy

Proliferation of unilateral / regional measures (Digital Services Tax)



Trade war / retaliatory trade measures



OECD/G20/IF:
Development of a Consensus Solution to
the Tax Challenges Arising from the
Digitalisation of the Economy

International initiatives : Digitalisation of the Economy

Development of a Consensus Solution



Pillar 1: Revised Nexus and Profit Allocation Rules

New allocation of taxing rights among countries in the digital age:

- **Amount A:** New taxing right granted to market jurisdictions irrespective of physical presence.
 - Businesses in scope: Automated digital services + Consumer-facing
 - Thresholds
 - Formulaic approach
- **Amount B:** Fixed remuneration for baseline distribution and marketing functions
- **Amount C:** Dispute resolution

International initiatives : OECD and G20

Development of a Consensus Solution



Pillar 2: Global Anti-Base Erosion Proposal (GloBE)

Provide jurisdictions with a right to “tax back” where others have not exercised their primary taxing rights or the payment is subject to low levels of effective taxation. 4 components:

- **Income inclusion rule**, i.e. a minimum tax by requiring a shareholder in a corporation to bring into account a proportionate share of the income of that corporation if that income was not subject to an effective rate of tax above a minimum rate.
- **Switch-over rule**, i.e. turn off the benefit of an exemption and replace it with the credit method where that income was subject to a low effective rate.
- **Undertaxed payments rule**, i.e. denying a deduction or making an equivalent adjustment in respect of an undertaxed intra-group payments.
- **Subject to tax rule**, i.e. subjecting a payment to withholding or other taxes at source and denying treaty benefits on certain items of income where the payment is not subject to tax at a minimum rate.

International initiatives : Digitalisation of the Economy

Development of a Consensus Solution

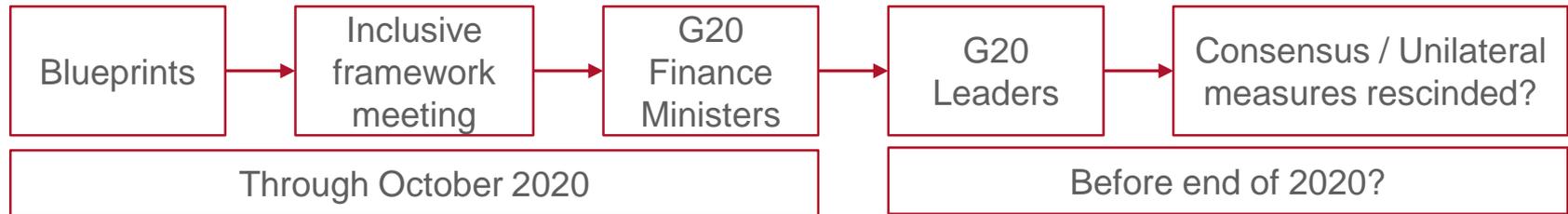


OECD Preliminary Economic Analysis and Impact Assessment

- Up to 4% increase of global CIT revenues (+/- bUSD 100 annually)
- 85% of the increase stems from Pillar 2
- based on 2016 data (pre US tax reform and COVID)



Next Steps



International initiatives : European Commission

EC Package for Fair and Simple Taxation (July 15, 2020)

Revision of the Directive on administrative cooperation (DAC7)

Extend the EU tax transparency rules to digital platforms: Member States will automatically exchange information on income generated by sellers on digital platforms.

Action Plan for fair and simple taxation supporting the recovery

25 initiatives to implement through 2024, including:

- Implementation of Standing Committee for dispute resolution (2021).
- Reinforcement of verifications of cross-border transactions by switching from exchanging to sharing of tax-related data (2023).

Communication on Tax Good Governance in the EU and beyond

Promote transparency and fair taxation, incl. :

- Reforming the EU Code of Conduct for Business Taxation.
- Reviewing the EU list of non-cooperative jurisdictions.
- Supporting partner countries in tax good governance.



Questions

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