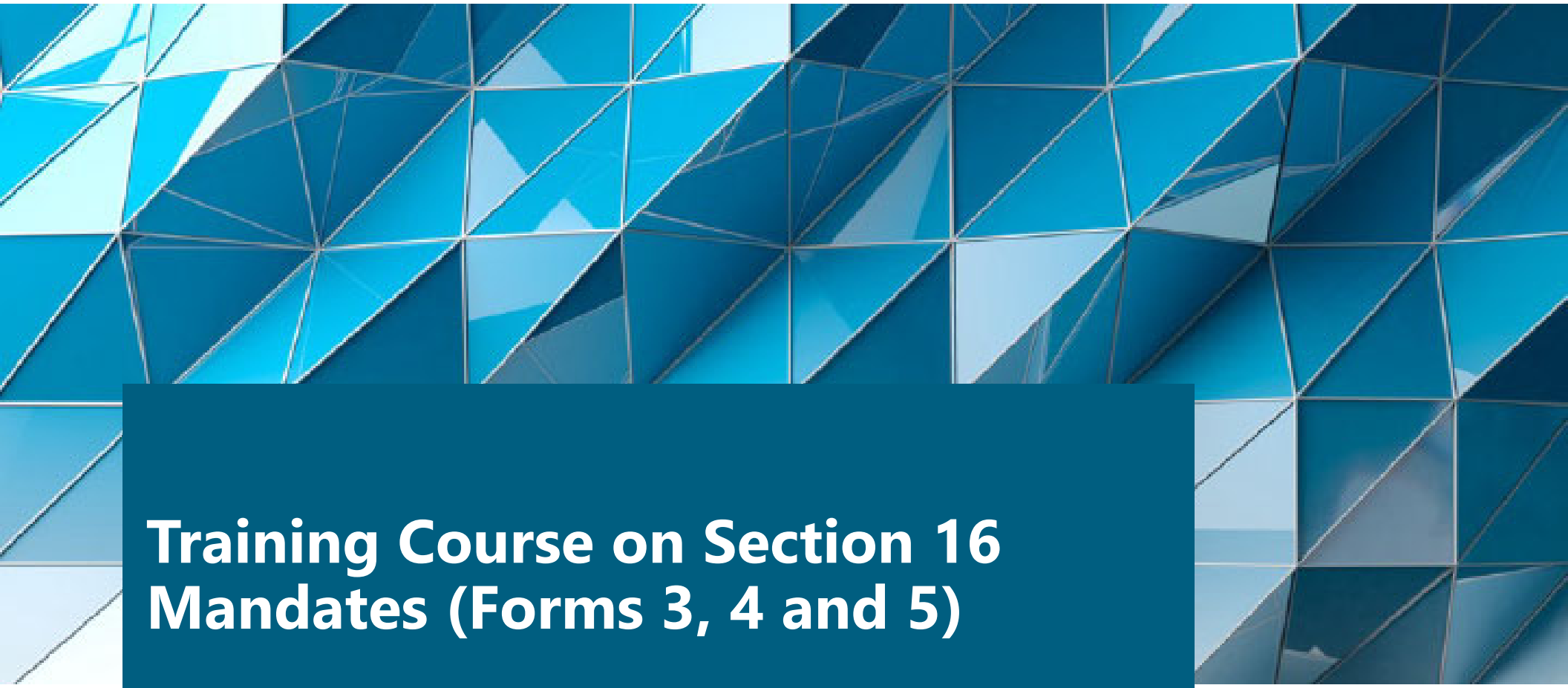


Training Course on Section 16 Mandates (Forms 3, 4 and 5)

Presentation for:
Hunton's Executive Compensation Webinar Series
November 12, 2026

HUNTON

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- Questions during this presentation
  - We encourage questions (even though your audio lines are muted)
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About Anthony “Tony” Eppert



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- Tony practices in the areas of executive compensation and employee benefits

- Before entering private practice, Tony:
  - Served as a judicial clerk to the Hon. Richard F. Suhrheinrich of the United States Court of Appeals for the Sixth Circuit
  - Obtained his LL.M. (Taxation) from New York University
  - Obtained his J.D. (Tax Concentration) from Michigan State University College of Law
    - Editor-in-Chief, Journal of Medicine and Law
    - President, Tax and Estate Planning Society

Upcoming 2026 Webinars

- 2026 webinars:
  - Compensation: Year-End Review of 2026 Items (12/10/26)

Sign up here: https://www.hunton.com/en/insights/executive-compensation-webinar-schedule.html

Our Compensation Practice – What Sets Us Apart

- Compensation issues are complex, especially for publicly-traded companies, and involve substantive areas of:
  - Tax,
  - Securities,
  - Accounting,
  - Governance,
  - Surveys, and
  - Human resources

- Historically, compensation issues were addressed using multiple service providers, including:
  - Tax lawyers,
  - Securities/corporate lawyers,
  - Labor & employment lawyers,
  - Accountants, and
  - Survey consultants

Our Compensation Practice – What Sets Us Apart (cont.)

- The members of our Compensation Practice Group are multi-disciplinary within the various substantive areas of compensation. As multi-disciplinary practitioners, we take a holistic and full-service approach to compensation matters that considers all substantive areas of compensation



Our Compensation Practice – What Sets Us Apart (cont.)

- Our Compensation Practice Group provides a variety of multi-disciplinary services within the field of compensation, including:

Traditional Consulting Services

- Surveys
- Peer group analyses/benchmarking
- Assess competitive markets
- Pay-for-performance analyses
- Advise on say-on-pay issues
- Pay ratio
- 280G golden parachute mitigation

Corporate Governance

- Implement "best practices"
- Advise Compensation Committee
- Risk assessments
- Grant practices & delegations
- Clawback policies
- Stock ownership guidelines
- Dodd-Frank

Securities/Disclosure

- Section 16 issues & compliance
- 10b5-1 trading plans
- Compliance with listing rules
- CD&A disclosure and related optics
- Sarbanes Oxley compliance
- Perquisite design/related disclosure
- Shareholder advisory services
- Activist shareholders
- Form 4s, S-8s & Form 8-Ks
- Proxy disclosures

Design/Draft Plan

- Equity incentive plans
- Synthetic equity plans
- Long-term incentive plans
- Partnership profits interests
- Partnership blocker entities
- Executive contracts
- Severance arrangements
- Deferred compensation plans
- Change-in-control plans/bonuses
- Employee stock purchase plans
- Employee stock ownership plans

Traditional Compensation Planning

- Section 83
- Section 409A
- Section 280G golden parachutes
- Deductibility under Section 162(m)
- ERISA, 401(k), pension plans
- Fringe benefit plans/arrangements
- Deferred compensation & SERPs
- Employment taxes
- Health & welfare plans, 125 plans

International Tax Planning

- Internationally mobile employees
- Expatriate packages
- Secondment agreements
- Global equity plans
- Analysis of applicable treaties
- Recharge agreements
- Data privacy

Section 16: Background

- As background, Section 16 is a provision of the Securities Exchange Act of 1934 (the "***Act***") that imposes reporting requirements and trading restrictions on "insiders" of publicly-traded corporations

- A purpose of Section 16 is to deter insiders from using confidential information for personal gain. To that end Section 16 generally requires insiders to:
  - File public reports relating to the insider's transactions with equity of the issuer, and
  - Disgorge profits realized on "short-swing transactions" (*i.e.*, any purchase and sale, or vice versa, of equity in the issuer within a period of less than 6 months)

- For purposes of Section 16, the term "***insider***" includes:
  - A director;
  - An officer (defined as the president, principal financial officer, principal accounting officer, any VP in charge of a principal business unit/division/function, and any other person who performs a policy-making function for the issuer) – to this point, function (not title) controls; and
  - Any 10% beneficial owner

- Most Board of Directors determine who are Section 16 insiders and whether such are to be disclosed in the issuer's annual proxy statement (however, any person identified as an "executive officer" are presumed to be Section 16 insiders)

Section 16: Background (cont.)

- Section 16 applies to all equity securities that are beneficially owned by an insider, including:
  - Stock, and
  - Derivative securities (defined generally as any instrument that derives its value from the issuer's stock, such as options, restricted stock units and performance stock units)

- Whether a person is a "beneficial owner" depends upon the test for which it is applied
  - For the 10% beneficial owner test, the inquiry is whether the person has voting or investment power over the equity in question
  - For all other tests under Section 16, the inquiry is whether the person has a pecuniary (or financial) interest in the equity in question (*e.g.*, family holdings, trust holdings, partnership holdings, etc.) – i.e., an opportunity to directly or indirectly profit from the securities
    - Insiders are presumed to have a pecuniary interest in securities held by members of the insider's immediate family sharing the same household
    - Rule 16a-1(e) defines the term "immediate family" broadly to include "any child, stepchild, grandchild, parent, step-parent, grandparents, spouse, sibling, mother-in-law, father-in-law, son-in-law, daughter-in-law, brother-in-law, or sister-in-law" and encompasses adoptive relationships
    - An insider who serves as a trustee of a trust for the benefit of a member of his or her immediate family is required to report the family member's pecuniary interest in the trust holdings

Section 16: Background (cont.)

- Section 16(a) was enacted to serve three main purposes:
  - Subject insiders' transactions to public scrutiny and deter unfair insider trading practices,
  - Provide investors with useful information on which they could base investment decisions, and
  - Facilitate the enforcement of Section 16(b) by providing the basic information necessary for the issuer's security holders to detect short-swing transactions and initiate actions to recover short-swing profits

- Section 16(b) was enacted to deter insiders from using confidential information about the issuer for personal gain
  - Deterrence is effectuated by eliminating the profit element
  - The issuer can recover profits an insider realizes due to his/her short-swing transaction
  - Section 16(b) imposes strict liability without regard to fault

- The disgorged "profits" is computed by matching the highest sales price to the lowest purchase price during the period, and so on, irrespective of the dates on which the transactions occurred
  - Therefore, transactions subject to Section 16(b) are referred to as "matchable" transactions

Section 16: Background (cont.)

- There are a few exemptions from Section 16(b) liability, including:
  - Gifts,
  - Inheritances, and
  - Transactions with the issuer under Rule 16b-3

- Pursuant to Rule 16b-3, transactions with the issuer relating to equity compensation are generally exempt from Section 16(b) liability if the plan/transaction is approved by:
  - The issuer's Board of Directors,
  - A committee of the Board of Directors comprised solely of two or more independent non-employee directors, or
  - The issuer's stockholders

- Equity incentive plans are designed to comply with Rule 16b-3, which means acquisitions and dispositions under the plan should not be subject to the short-swing liability rules
  - Acquisitions from the issuer are exempt under Rule 16b-3(d)
  - Dispositions to the issuer are exempt under Rule 16b-3(e)

Reporting Forms

- There are three reporting forms under Section 16(a)
  - Form 3s,
  - Form 4s, and
  - Form 5s

- Every insider must file an initial statement of beneficial ownership on Form 3 (regardless of whether the insider has any holdings)
  - The deadline is within 10 calendar days of the person becoming an insider, unless the filing is in connection with an IPO (and then no later than the effective date of the registration statement)

- A change in beneficial ownership of the issuer's securities that occurs after a person becomes an insider is reportable on Form 4 (unless it could instead be reported on a Form 5)
  - Deadline is the end of the second business day following the execution of the transaction (*i.e.*, the trade date, not the settlement date)
  - Form 4s cover open market purchases/sales, grants and exercises of stock options, RSU and PSU grants and settlements, share withholding for taxes, gift dispositions and acquisitions of phantom equity, etc.

Reporting Forms (cont.)

- The following types of transactions are eligible for deferred reporting (*i.e.*, they may be reported on a Form 5 rather than a Form 4):
  - *Acquisitions* by bona fide gifts (*i.e.*, charitable donations) and inheritances (though *dispositions* by a bona fide gift must be reported on a Form 4),
  - Small acquisitions of $10,000 or less within any 6-month period,
  - Contributions/withdrawals from a voting trust,
  - Prior year transactions that were not reported on a Form 4 (but should have been reported on a Form 4)

- If required, the Form 5 must be filed within 45 days after the issuer's fiscal year end

- Transactions eligible to be reported on Form 5 may always voluntarily be reported on Form 4

Reporting Forms (cont.)

- Form 3s, 4s and 5s
  - Must be filed by 10:00 pm EST on the due date
  - A copy must also be filed with each national securities exchange on which the issuer has its securities registered
  - If the issuer maintains a corporate website, then the applicable form must be posted on the website by the end of the business day following the date on which the report is filed with the SEC

- Counting provisions for Forms 3, 4 and 5:
  - All deadlines that fall upon a Saturday, Sunday or holiday are extended until the next business day

- The consequences associated with failing to timely file Forms 3, 4 and/or 5 include:
  - Required disclosure under a prominent caption ("Delinquent Section 16(a) Reports") within the annual proxy statement and Form 10-K
  - Possible SEC enforcement proceedings if the failure is regular

Team of 4 to Effectuate Form 4s

Role	Responsibilities
Insider	Pre-clears trades; reports every transaction, including by family members, trusts and brokers, to the legal team the same day; keeps EDGAR Next credentials current; signs a power of attorney
Legal team	Maintains the Section 16 insider list and pre-clearance; decides reportability, table, code and footnotes; approves the draft; tracks deadlines; prepares Item 405 disclosure and collects annual representations
Stock-plan administrator / broker	Reports grants, vesting, withholding, exercises and plan trades the same day, with exact dates, share counts and prices; confirms Rule 10b5-1 plan trades and adoption dates
Filing agent	Acts under delegated EDGAR Next authority; prepares and transmits the filing before 10:00 p.m. ET; returns the accepted filing for website posting (Rule 16a-3(k))

Reporting Exemptions

- There are certain transactions that are exempt from reporting altogether, including:
  - Stock splits and dividends,
  - Changes in the form of beneficial ownership (*e.g.*, securities that an insider owns indirectly becomes owned directly),
  - Expiration of derivative securities for no value (*e.g.*, the expiration of a stock option),
  - Acquisitions under broad-based employee benefit plans such as a 401(k) plan or an employee stock purchase plan,
  - Transactions taking place prior to the person becoming an insider, and
  - Certain non-matchable transactions taking place after the person is no longer an insider

- However, a transaction that is not reportable may affect the number of securities beneficially owned as reported in a subsequent Form 4 or Form 5 filing
  - Therefore, it is advisable to include a footnote in subsequent reports explaining the reason for the change in the insider's reported holdings

Information Required for Forms 3, 4 and 5

- Forms 3, 4 and 5 each have three main sections:
  - Introductory information
  - Table I – Non-derivative securities acquired, disposed of or beneficially owned
    - Non-derivative securities are direct equity investments
    - The most common form of non-derivative securities are common stock and restricted stock
    - Phantom stock and restricted stock units may also be reported in Table I instead of Table II where they may be settled only in stock on a one-for-one basis and may not be settled in cash
  - Table II – Derivative securities beneficially owned
    - A derivative security is an option or right that derives its value from an equity issuer of the security
  - Additionally, footnote and remarks may be included at the end
- The following introductory information is required:
  - Name and address of the reporting person
  - Issuer's name and ticker
  - The relationship of the reporting person to the issuer
  - The date of the earliest transaction required to be reported (Form 4 only)
  - Statement of issuer's fiscal year ended (Form 5 only)
  - If an amendment, then the date the original was filed
  - Individual or joint/group filing

Information Required for Forms 3, 4 and 5 (cont.)

- The following information is required in Table I:
  - Title of the security
  - The transaction date (Form 4 and Form 5 only)
  - The deemed execution date (Form 4 and 5 only)
  - The transaction code (Form 4 and Form 5 only)
  - The securities acquired or disposed of (Form 4 and Form 5 only)
  - The amount of securities beneficially owned
  - The ownership form: direct or indirect
  - The nature of the indirect beneficial ownership

- The following information is required in Table II:
  - All of the information requested in Table I
  - Conversion or exercise price of derivative security (Form 4 and Form 5 only)
  - The date exercisable or the expiration date
  - The title and amount of the underlying securities
  - The price of the derivative security

- Certain explanatory information may be required to be provided in the footnotes

- Additional information that does not relate to a specific line item or relates to the introductory information may be included in the “remarks” section

Transaction Codes

- General transaction codes
  - P = open market or private purchase of non-derivative or derivative security
  - S = open market or private sale of non-derivative or derivative security
  - V = transaction voluntarily reported earlier than required

- Rule 16b-3 Transaction Codes
  - A = Grant, award or other acquisition pursuant to Rule 16b-3(d)
  - D = Disposition to the issuer of issuer equity securities pursuant to Rule 16b-3(e)
  - F = Payment of exercise price or tax liability by delivering or withholding securities incident to the receipt, exercise or vesting of a security issued in accordance with Rule 16b-3
  - I = Discretionary transaction in accordance with Rule 16b-3(f) resulting in acquisition or disposition of issuer securities
  - M = Exercise or conversion of derivative security exempted pursuant to Rule 16b-3

- Typical award sequence: **A** at grant; **M** in Table II and Table I at option exercise or RSU settlement; **F** for shares withheld; **S** for a market sale (never S for withholding)

Transaction Codes (cont.)

- Derivative security codes (except for transactions exempted pursuant to Rule 16b-3)
  - C = Conversion of derivative security
  - E = Expiration of short derivative position
  - H = Expiration (or cancellation) of long derivative position with value received
  - O = Exercise of out-of-the-money derivative security
  - X = Exercise of in-the-money or at-the-money derivative security

- Other Section 16(b) exempt transaction and small acquisition codes (except for Rule 16b-3 codes above)
  - G = Bona fide gift
  - L = Small acquisition under Rule 16a-6
  - W = Acquisition or disposition by will or the laws of descent and distribution
  - Z = Deposit into or withdrawal from voting trust

- Other transaction codes
  - J = Other acquisition or disposition (describe the transaction in a footnote)
  - K = Transaction in equity swap or instrument with similar characteristics
  - U = Disposition pursuant to a tender of shares in a change of control transaction

- If a wrong code is used, correct it promptly on Form 4/A

Select Examples

- Open market sale transactions
  - Report on Form 4
- Open market purchase transaction of $10,000 or less within the past 6 months
  - Report on Form 5
- Open market purchase transaction, together with other transactions within the past 6 months, exceed $10,000
  - Report on Form 4
- 10b5-1 trading plan
  - At adoption, no Form 3, 4 or 5 is required (though the issuer must disclose officer and director adoptions and terminations of such plans on a quarterly basis)
  - Every trade pursuant to a 10b5-1 plan must have footnote disclosure on the Form 4 or Form 5

Select Examples (cont.)

- Grant of a stock option or a SAR
  - Generally exempt from Section 16(b)
  - Report on Form 4
- Vesting of a stock option or a SAR is a non-event
- If the stock option or SAR expires or is cancelled, then:
  - If no value is received, then generally exempt from Section 16(b) and no Form filing is required
  - However, if value is received, then still generally exempt from Section 16(b), but a Form 4 is required
- A repricing of a stock option or SAR is deemed to be both a disposition of the old stock option or SAR and the acquisition of a new stock option or SAR
  - Generally, both are exempt from Section 16(b)
  - However, both transactions must be reported on a Form 4

Select Examples (cont.)

- A material amendment to a stock option or SAR is deemed to be a disposition of the old stock option or SAR and the acquisition of a new stock option or SAR
  - Generally, both are exempt from Section 16(b)
  - However, both transactions must be reported on a Form 4
- Receipt of dividend equivalents
  - Generally, exempt from Section 16(b)
  - Reportable on Form 4
- Exercises of a stock option or SAR
  - Generally, exempt from Section 16(b)
  - Reportable on Form 4

Select Examples (cont.)

- Stock grants
  - Generally, exempt from Section 16(b)
  - Reportable on Form 4
- Vesting of a stock grant is a non-event
- Stock grants – withholding stock to pay withholding taxes
  - Generally, exempt from Section 16(b)
  - Reportable on Form 4
- Stock grants – resale in open market transaction
  - Reportable on Form 4
- Stock grants – forfeiture
  - Generally, exempt from Section 16(b)
  - If forfeiture occurs while the person is an insider, then reportable on Form 4
  - However, if forfeiture occurs after the person ceases to be an insider, then NOT reported

Select Examples (cont.)

- RSU grant
  - Generally, exempt from Section 16(b)
  - Reportable on Form 4
- RSU - Vesting
  - Generally, exempt from Section 16(b)
  - Reportable on a Form 4 UNLESS the grant of the RSU was reported in Table I
- RSU - Forfeiture
  - Generally, exempt from Section 16(b)
  - No reporting is required if the forfeiture was implemented for no value

Select Examples (cont.)

- Grant of performance shares (derived from stock price)
  - Generally, exempt from Section 16(b)
  - Reportable on Form 4

- Forfeiture for failing to satisfy the performance goals
  - Not reportable if the grant was initially reported in Table II
  - But reportable on Form 4 if the grant was initially reported in Table I

- If instead the performance share vests on a metric other than stock price, then:
  - No Form 4 due with respect to the grant
  - No Form 4 if the award is cancelled
  - And a Form 4 is due upon settlement of the award (whether such be in cash or stock)

Select Examples (cont.)

- Amending a report previously filed
  - Only the new lines need to be reported (as opposed to restating the entire report)
  - There is no obligation to amend intervening reports that also contained the error

- An insider should report securities held by members of his/her immediate family that live in his/her household. For this purpose, the term "immediate family" is broadly defined
  - Reason is that absent a disclaimer, the insider is deemed to have a pecuniary interest in the equity held by the family member sharing his/her household
  - Beneficial ownership may be disclaimed by the insider

Don’t Forget Next Month’s Webinar

- Title:
  - Compensation: Year-End Review of 2026 Items
- When:
  - 10:00 am to 11:00 am Central
  - December 10, 2026

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