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НАН РК сообщает, что научный журнал «Вестник НАН РК» был принят для индексирования в Emerging Sources Citation Index, обновленной версии Web of Science. Содержание в этом индексировании находится в стадии рассмотрения компанией Clarivate Analytics для дальнейшего принятия журнала в the Science Citation Index Expanded, the Social Sciences Citation Index и the Arts & Humanities Citation Index. Web of Science предлагает качество и глубину контента для исследователей, авторов, издателей и учреждений. Включение Вестника НАН РК в Emerging Sources Citation Index демонстрирует нашу приверженность к наиболее актуальному и влиятельному мультидисциплинарному контенту для нашего сообщества.

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**NATIONAL BANK OF UKRAINE AND NATIONAL COMMISSION
OF SECURITIES AND STOCK MARKET AS THE MAIN REGULATORS
OF UKRAINE FINANCIAL MARKET FUNCTIONING**

Abstract. The article focuses on the basic principles of powers of Ukraine National Bank and National Commission of Securities and Stock Market as the main regulators of functioning of Ukraine financial market. The mechanism of state regulation of financial market has been determined on the basis of sector model; it helps to stipulate the main directions of forming development strategies of financial market. The problems restricting the powers of the main regulators on the financial market of Ukraine have been found. The state of financing the activity of regulators in state budget of Ukraine and the peculiarities of generating continuum of the sources for replenishing the budget according to the profile has been analyzed.

The basic measures to improve the performance of functions in the conditions of joining the European Union have been proposed. The necessity of creating a mega-regulator as an integral part of forming an effective policy of regulating the financial market has been substantiated.

Keywords: regulator, national bank, financial market, expenditures, Ukraine, control and supervisory bodies.

Introduction. The problems of changing the powers of certain control and regulation bodies in the financial market are extremely relevant in the context of modern globalization processes and the manifestations of crisis phenomena. Considering the innovations carried out by Ukraine and the National Bank of Ukraine (the NBU), there is the task of analyzing contemporary changes in the legislative and regulatory framework to understand further development of Ukraine financial market. Bringing the legislative framework of Ukraine, in relation to the regulation of financial market, to international standards creates the ignorance of business entities with their rights and responsibilities regarding their participation in the financial market.

Despite the broad outline of the issue being studied in the works of national and foreign scholars, there is a need to further study the theoretical and practical principles for the distribution of powers of regulatory and supervisory bodies in the financial market of Ukraine due to the innovations in the policy of the state and the NBU.

The goal of the research is to identify the impact of changes in the legislative framework on financial market regulation and the allocation of functions between different participants in control, supervision and regulation.

1. Legal background. The conducted scientific analysis of literary sources shows that the creation of an effective mechanism of state regulation of financial market is important for ensuring the development of financial market as a determining sector of the economics and the protection of its participants. The construction of a system of interconnections between financial institutions in the process of implementing their functions, which determines the effectiveness of the functioning of the financial market, is of particular importance [1].

The mechanism of the state financial market is constructed on the basis of a sector model, i.e. the system of regulation is three-level: the regulation of bank activity is carried out by the National Bank of

Ukraine; the regulator of the market of securities is National Commission of Securities and Stock Market (NCSSM); the activities of other financial intermediaries and financial companies (insurance companies, credit unions, non-state pension funds, etc.) are regulated by the National Commission which carries out state regulation in the field of financial service markets (NCSRFSM). The NBU as a regulator is independent of the government and economically independent; and the activities of the other two are coordinated by the Cabinet of Ministers of Ukraine.

Therefore, there was a need to reorganize such a system of nonlinear subordination of state regulation of financial markets.

The initiator of the changes in the structure of supervising the market of financial services is the NBU since insurance companies, credit unions, leasing companies, investment companies and other financial companies usually make all payments through bank accounts. However, the reporting of these financial institutions is scattered and submitted to other regulating bodies.

This approach is proposed in the draft of Comprehensive Program for the Development of the Ukraine Bank System for 2015-2020 (hereinafter referred to as the Program) [5]. According to this program, the NBU will perform the part of mega-regulator and exercise the prudential supervision on key financial markets of the country. The consolidated supervision of domestic financial markets is believed to enable timely and more efficient diagnosing of high risks and thus to prevent crisis processes in the financial system; and the high level of independence and accountability of the central bank will increase confidence in regulatory measures.

Creating the only mega-regulator of the financial bank based on the Department of bank supervision of the Ukraine National Bank and the National Commission performing state regulation in the sphere of financial service markets is also initiated according to the introduction of norms and principles of the Comprehensive Program for the Development of the Ukraine Bank System till 2020 approved by the Resolution of the Board of the Ukraine National Bank dated by June 18, 2015, No. 391 [4].

According to this program, it was planned to give the powers to regulate financial markets to three bodies of state regulators. In 2016, Law of Ukraine “On Amendments to Certain Legislative Acts of Ukraine Concerning the Consolidation of Functions of State Regulation of Financial Service Markets” with the aim of optimization and more effective work of state bodies of supervision and regulation [6]. The goal of the draft law was to optimize the work of state control and supervision bodies.

With the adoption of this draft law, the changes were extended to the main legislative acts regulating the activities of participants in the financial market.

The main change that can be tracked in the legislative framework is the elimination of the National Commission that carries out state regulation in the field of financial service markets and the division of its functions between the NBU and the NCSSM.

2. Systematic analysis of the law. Considering the current trends in the domestic financial market and globalization processes in the economics, we believe that in order to develop and improve functioning of financial market, the mechanism of its state regulation needs to be improved.

Taking into account the adoption of the Ukraine Law “On Amendments to Certain Legislative Acts of Ukraine regarding the Consolidation of Functions of the State Regulation of Financial Service Markets”, changes occurred in the function distribution of the regulatory institutes of the NBU and the NCSSM (table 1).

The changes were significantly extended to the Law of Ukraine “On the National Bank of Ukraine”, which expanded and extended the powers of the authority to regulate financial markets.

It is necessary to draw attention to the fact that the method of standards and codes has recently had greater influence on functioning of national financial markets and their integration into the global financial markets.

In this context, it is necessary to highlight firstly the method of standards and codes, which regulates the functioning of the financial market.

The mentioned method was called “soft law” in practice that is the regulation, which is based not on legal norms and rules defined by the legislation and state regulation bodies, but on voluntarily accepted norms and rules; failure of which will lead to loss of reputation and non-recognition by the society. In this case, the elements of “soft” legislation can be successfully combined with the rules and regulations, established by law.

Table 1 – Function distribution of the regulatory institutes of the NBU and the NCSSM

	National Commission for State Regulation of Financial Market Services	NBU and NCSSM
	Supervised on a consolidated basis for non-bank financial groups, whose predominant activity is carried out by financial institutions.	The NBU monitors, on a consolidated basis, banking groups, as well as non-bank financial groups, except for financial groups, whose predominant activity is carried out by financial institutions supervised by the NCSSM.
	Carried out the state regulation of financial service markets in relation to other financial service markets.	State regulation of financial service markets is carried out: by the NCSSM, on activity in the markets of securities and derivatives, professional activity in the stock market; by the NBU, regarding activities in the market of banking services and activities.
	Inspected the activities of financial service market participants (except for financial service customers), their affiliated and related parties.	Within its powers in the field of state regulation of the markets for non-banking financial services, the NBU has the right to audit (inspect) the activities of financial market participants (except for financial service customers), their affiliates and related persons.
B e f o r e	Cooperated with international organizations, state bodies and non-government organizations of foreign states on questions within its competence.	Within its authority in the field of state regulation of the markets for non-bank financial services, the NBU cooperates with international organizations, state bodies and non-government organizations of foreign states on matters within its competence.
	Issued licenses for the implementation of financial institution transactions within its competence.	Within the scope of the powers in the field of state regulation of non-bank financial service markets, the NBU issues licenses for financial institutions to carry out operations.
	Set up requirements for the auditors who audit entities of non-state pension provision.	Establishes the requirements for auditors who carry out the audit of legal entities of the subjects of non-state pension provision of the NCSSM.
	Acted as the authorized body for organizing the formation and circulation of credit histories.	The NBU acts as the authorized body to organize the formation and circulation of credit histories.
	Carried accounting of mortgage coverage and transactions with it for the issuers of non-bank financial institutions.	Mortgage coverage and transactions with it are accounted by the NCSSM.
	Exercised functions of state regulation, supervision and control in the field of issue and circulation of mortgage bonds, concerning the activities of non-bank financial institutions.	State regulation, supervision and control in the issue and circulation of mortgage bonds and activities of financial institutions are carried out by the NCSSM.
	Accepted information on administrative offenses by participants in financial markets, except for banks.	Information and other legal requirements regarding administrative violations by financial market participants are submitted to the NBU.
	Supervised and determined the procedure for establishing an insurer.	Functions and rights concerning supervision and procedure of establishing an insurer pass to the NBU.
	Prudential supervision regarding established criteria and standards.	The NBU establishes guidelines for prudential supervision regarding the established criteria and standards of financial institutions.
	Compiled by the author on the basis of [6-8].	

The main principles of state regulating and functioning of financial market in Ukraine must comply with the principles developed by the international organizations in the sphere of control in supervision of financial markets, namely, the Basel Committee on Supervision of Bank Activities, the International Organization of Securities Commissions (IOSCO) and International Association of Insurance Supervisors (IAIS), the Financial Action Task Force (on Money Laundering) (FATF) and the Committee on Payment and Settlement Systems (CPSS). The essence of these principles is to ensure transparency, financial sustainability, solvency and responsibility. If these principles are adhered by the national financial systems, the global financial market will function stably [6–8].

We can conclude that the financial market in its development entered a new strategic stage, as there have been changes in many legislative acts regulating the activities of both financial institutions and the state, in the person of the bodies of state regulation of financial markets.

3. Analytical data. With the change of legislation, changes should be made in the process of fund allocation for the activities of financial market regulators. Therefore, there is a need for a more in-depth analysis of budget expenditures in order to identify the main areas of funding (table 2).

Table 2 – Budget expenditures for financing the main regulators of financial service market for 2015-2018

(UAH million)							
Authorities	2015	2016	2017	Plan 2018	Deviation 2016-2015	Deviation 2017-2016	Deviation 2018-2017
National Commission of Securities and Stock Market	42.0	53.4	86.9	126.0	10.4	33.5	39.1
National Commission for the regulation of financial service markets	25.9	27.4	52.2	80.0	1.5	24.8	27.8
Compiled by the author on the basis of [9–11].							

Table 1 shows that expenditures from the budget for the financing of the NCSSM and the National Commission of Financial Services considerably increased for the analyzed period. The expenditures for the maintenance of state regulators in 2016 did not significantly increase, and in 2017-2018, there is a rapid growth, namely:

- In 2016, the National Commission of Securities and Stock Market received expenditures by 19.43% more than in 2015, in 2017 - by 38.58% than in 2016, and in 2018, an increase of expenditures is planned by 30.97% more than in 2017.

- The National Commission for State Regulation of Financial Services markets received financing from the budget by 5.37% more in 2016 than in 2015, increased by 47.67% in 2107, and in 2018, it is planned to increase expenditures by 34, 71% than in 2017.

The analysis of the expenditure distribution for 2015-2017 and the plan for 2018, show that budget expenditures significantly increased while transferring the functions from the National Financial Service Commission to the NBU and the NCSSM. In our opinion, such a division is not effective in terms of using budget funds.

We determine the ratio of expenditures of state bodies concerning the regulation of financial service markets to income received from their activities by the country's budget.

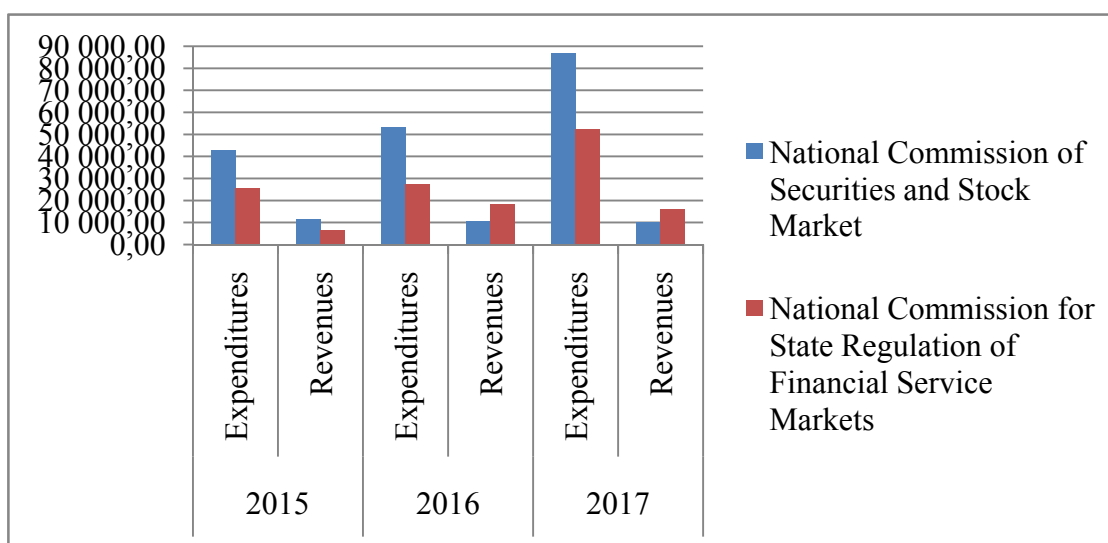


Figure 1 – Expenditure share of financial services market regulators to GDP of Ukraine for 2015-2017

For further understanding of the situation, we will analyze the financial activities of the NBU as a mega-regulator in the system of the state regulation of financial markets.

The main difference between the National Bank of Ukraine and the National Securities and Stock Market Commission and National Commission for State Regulation of Financial Service Markets is the fact that the NBU is the only state regulator that generates significant revenue in the budget rather than expenditures (table 2).

Table 2 – Analysis of the NBU profit, which is transferred to the budget of Ukraine for 2015-2017

	(UAH million)		
	2015	2016	2017
Expenditures	47 035	30 053	30 025
Revenues	85 199	74 432	74 425
Profit	81 325	68 453	68 425
Funds transferred to the budget of Ukraine	38 164	44 379	44 400
Compiled by the author on the basis of [12–14].			

According to the results of financial activity, the NBU transferred 38 164 million UAH to the budget in 2016 from the profit of 2015 and 44 379 million UAH according to the results of 2016. In 2018, the Ukraine Ministry of Finance plans that the NBU will remit funds in the amount of 44 400 million UAH to the budget.

Thus, the NBU, from the financial and economic point of view, is the most promising body for assuming the primary responsibility for regulating the financial services market.

4. Discussion. The analysis of the power distribution of the National Commission of Financial Service between the NBU and the NCSSM and the formation of expenditures for the function performance of the state regulation of the financial market showed several inconsistencies, namely:

1. Uncertainty in the further activities and functions of the National Financial Service Commission. The further role of the National Commission of Financial Services is not substantiated in the legislative acts confirming the transfer of powers to the NBU and the NCSSM. It means that this body will function without an effective and clearly defined goal, which is ineffective in terms of public authority management.

2. Unclear distribution of the Ukraine budget among state financial market regulators. In the budget of 2017, funds from the budget of Ukraine were allocated to the National Financial Services Commission irrationally to the Law of Ukraine “On Amendments to Certain Legislative Acts of Ukraine regarding the consolidation of the functions of state regulation of financial service markets”. Besides the unclear allocation of funds, there was a problem of the unjustified increase in funding to the state regulatory body, for which any functions were not legally established.

To resolve the issue of effective cooperation on the regulation of the financial market by the National Bank of Ukraine and the National Commission on Securities and Stock Exchange, with the support of the EBRD, it is planned to establish an external project office that will coordinate and synchronize the actions of all participants in the process of reforming the financial sector of Ukraine, namely: strategic planning within the framework of the transformation of financial sector regulators; lending renewal, including the introduction of effective mechanisms for protecting creditors’ rights and the work with problem assets; developing the market of FinTech; increasing the financial competence of the Ukraine population; enhancing the protection of rights of financial service consumers; improving the corporative management of financial sector participants; developing the infrastructure of financial sector; strengthening coordination between financial sector regulators [12].

Conclusions. The emergence of a number of problems during the implementation of modern reforms is largely due to the lack of an integrated, systematic and planned approach to their practical implementation. The revealed discrepancies should not be an obstacle to the full functioning of the state financial market authorities, but should be taken into account and eliminated, in order to increase the efficiency of the activity.

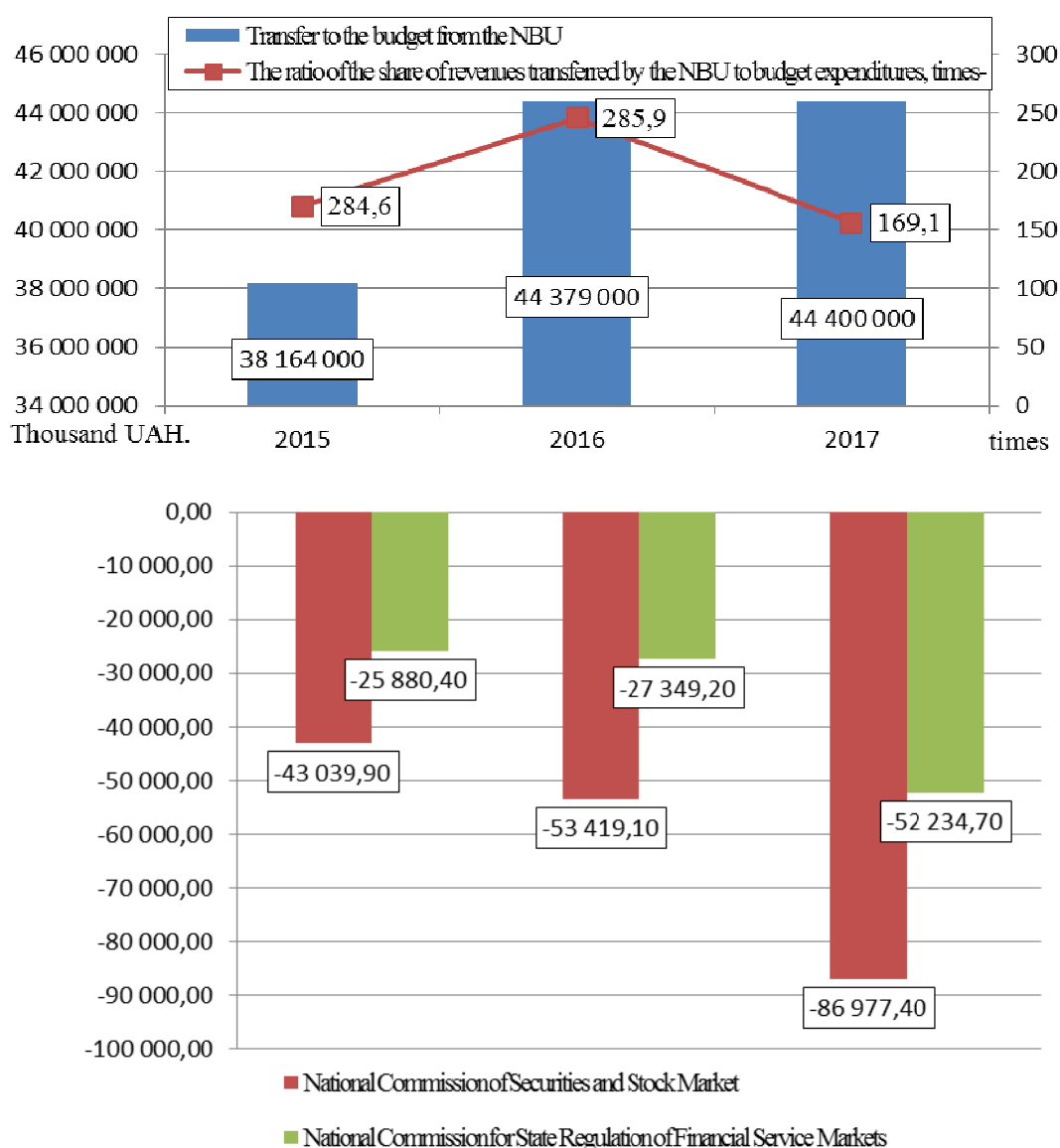


Figure 2 –The ratio of expenditures and revenues of the state regulators of financial markets.
Compiled by the author on the basis of [12-19].

Bringing the Ukraine legislation to the international standards concerning the function distribution of the financial service market between the NBU and the NCSSM will improve the efficiency of the supervision system of financial market objects, will ensure bringing the function to the universal standards on all segments of control by the state authorities.

Positive moments of the proposed reform can be made by reducing the number of control bodies in the financial service market, which, in its turn, will result in a corresponding reduction in the number of regulatory acts, better coordination of the regulator within a single body. However, we get more negative effect - instead of realizing the chance of a real reform of non-bank financial sector, they offer the usual mechanical transfer of the Commission's powers to the NBU.

The analysis of the Ukraine budget expenditures on the state regulators of the financial service market shows positive consequences in the elimination of the National Commission of Financial Services, since there is an annual substantial economy in 52 234.7 thousand UAH.

The main negative point can be determined that the National Bank will concentrate all functions of influence on the financial market immediately: methodological, control, and emission ones. In fact, it is

about creating the “regulator-monopolist” monopolizing all power in the person of the National Bank. Due to the high corruption in Ukraine, it will lead to control of the entire financial market in the hands of politicians.

In addition, the NBU specialists do not have practical experience in regulating the non-bank financial services market, which may pose a threat to excessive state interference in this area and negative trends in the form of market stagnation.

The Law did not cover one more aspect, namely, the fate of the workers of the eliminated structure. Most likely, we will witness that people from the National Commission of Financial Services will simply become employees of the NBU and will carry out the same work.

In general, the reform of reducing the number of regulators appears to be negative. The mechanical transfer of functions from one controlling authority, with its subsequent elimination, to another, is a quantitative component of reducing the state pressure on financial activities, but not a qualitative one. The main problems associated with corruption, for example, issuing financial licenses to unscrupulous companies, further supporting of these companies for a part of profits; the ordered custom checks of competing companies; illegal orders and sanctions; will not disappear if taking into account the proposed changes.

In addition, an incomplete “reform” can even lead to increasing the number of officials and the cost of maintaining the body. The termination of the National Commission of Financial Services activity and the transfer of its powers to another body, the NBU, will not significantly affect the financial market, as the law does not specify how exactly the National Bank will pursue its regulation policy for non-bank financial institutions.

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**УКРАИНА ҰЛТТЫҚ БАНКІ ЖӘНЕ БАҒАЛЫ ҚАҒАЗДАР ЖӘНЕ
ҚОР НАРЫҒЫ ЖӨНІНДЕГІ ҰЛТТЫҚ КОМИССИЯСЫНЫҢ ЕЛДЕГІ ҚАРЖЫ
НАРЫҚТАРЫНЫҢ ЖҰМЫС ІСТЕУІН РЕТТЕУШІ РЕТІНДЕ**

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**НАЦИОНАЛЬНЫЙ БАНК УКРАИНЫ И НАЦИОНАЛЬНАЯ КОМИССИЯ
ПО ЦЕННЫМ БУМАГАМ И ФОНДОВОМУ РЫНКУ КАК ОСНОВНЫЕ РЕГУЛЯТОРЫ
ФУНКЦИОНИРОВАНИЯ ФИНАНСОВЫХ РЫНКОВ СТРАНЫ**

Аннотация. В статье рассмотрены основные действующие полномочия Национального банка Украины и Национальной комиссии по ценным бумагам и фондовому рынку как основных регуляторов функционирования финансового рынка Украины. Определен механизм государственного регулирования финансового рынка на основе секторной модели, что позволило обосновать основные направления формирования стратегии развития финансового рынка. Выявлены проблемы в законодательской базе, которые ограничивают полномочия основных регуляторов на финансовом рынке Украины. Проанализировано состояние финансирования деятельности регуляторов из государственного бюджета Украины и особенности генерации континуума источников пополнения бюджета в соответствии с их профилем работы.

Предложены основные мероприятия по улучшению выполнения функций в условиях вхождения в ЕС. Обоснована необходимость создания мегарегулятора как неотъемлемой составляющей формирования эффективной политики регулирования финансового рынка.

Ключевые слова: регулятор, национальный банк, финансовый рынок, расходы, Украины, контрольно-надзорные органы.

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