Forensic Accounting: A Study of Its Role in Investigating Corporate Frauds and Scams in India

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ABSTRACT

With the growing complexities of business and commercial operations, the financial irregularities also increase because of the mindless obsession with profit maximization at any cost when carried to any extreme can lead to failures like ENRON, WORLDCOM, SATYAM has extreme negative impact on the survival and growth of any economic entity. But there are no appropriate conventional accounting and auditing procedures that can provide absolute assurance in preventing and detecting all fraudulent financial reporting. As a mechanism to detect and prevent corporate frauds and scams, forensic accounting has emerged as a relatively new and effective tool in the hands of accountants to find out mistakes and malpractices in accounting world. Forensic accounting in India has come to limelight only recently due to rapid increase in white-collar crimes and the belief that our law enforcement agencies do not have sufficient expertise or the time needed to uncover frauds. This paper focuses on the conceptual framework, various provisions and applicability of forensic accounting in investigating corporate frauds and scams in India

Key Words: Corporate Frauds and Scams, Forensic Accounting, Forensic Accountant, White-collar crimes.

1. BACKGROUND

With an upsurge in financial accounting fraud in the global economy, forensic accounting has become an emerging topic of great importance for academic, research and industries. Forensic accounting is perceived to have evolved in response to certain emerging fraud related cases. The scandals that shocked the corporate world namely, Enron (2001), WorldCom (2002) and Satyam Computer Service (2009) cases have also brought the field of forensic accounting to the forefront. Forensic accounting can, therefore, be seen as an aspect of accounting that is suitable for legal review and offering the highest level of assurance. It is a widespread fact that the corporate crime has been inflicting far greater damage on society. Numerous corporate frauds and scams from the past and the beginning of the century have imposed the need for deeper investigation of irregularities in the area of financial reporting. In combating corporate frauds and scams through investigations and resolving allegations of frauds and embezzlements, a new regulative bodies and the appearance of a new profession as a dynamic and strategic tool called Forensic Accounting Investigation or simply Forensic Accounting (FA) has been established.

According to KPMG Fraud Survey (2013) white-collar crime in corporate India has witnessed a substantial increase of 13% in 2013. It has an adverse impact on entrepreneurial spirit in India. Therefore, in Indian perspective the Forensic accountants are the most required in the wake of the growing frauds.
2. LITERATURE REVIEW

Zysman (2004) stated that Forensic Accounting utilizes accounting, auditing and investigative skills when conducting any kind of investigation. Equally critical is the ability to respond immediately and to communicate financial information clearly and concisely in a courtroom setting. Bhasin (2007) finds that the services of forensic accountants are in great demand in the areas which include criminal investigation, settlement of outgoing partner; settlement of insurance claims, detection of employee fraud and case relating to professional negligence. Mehta and Mathur (2007) posited that forensic accounting involves a financial detective with a suspicious mind, a financial bloodhound, someone with a sixth sense that enables reconstruction of past accounting transactions and an individual who looks beyond the numbers. Mazumder (2011) remarked that law enforcement personnel in recent years have become more aware of white-collar crimes and have lacked the training and expertise in combating such crimes. They are better trained at combating violent or personal behavior crimes, but now it has the responsibility to expand its knowledge and expertise into the economic crimes area.

3. OBJECTIVES OF THE STUDY

The objectives of the present study are as follows

- To understand the conceptual framework of Financial and Corporate Frauds.
- To examine the applicability of forensic accounting in investigating corporate frauds and scams in India.
- To analyse the extent of loss from Financial and Corporate frauds.

4. RESEARCH METHODOLOGY

This study is exploratory in nature and the sources of data are secondary data (inclusive of quantitative and qualitative data) which are collected from different case studies/research papers, published reports (GOI, RBI, KPMG, Price Water house, Deliotte), reputed journal and magazines and other related websites on Forensic accounting.

5. CORPORATE FRAUD

‘Corporate Fraud refers as a violation of the Internal Revenue Code and related statutes committed by large, publicly traded corporations and/or by their senior executives’ - The Internal Resources Service, Department of the USA of the Treasury. In addition, corporate frauds have gradually become very complex in nature.

5.1 Types And Propensities

Corporate fraud can be classified in three broad areas:

- **Financial fraud or Accounting fraud** consists of falsifying financial information by fudging the books thereby misleading the investors and is usually perpetuated by management, capitalising expenses, side deals, swap transactions, channel stuffing, accelerated revenues and deferred expenses are the most popular accounting schemes.

- **Self-dealing by corporate insiders** is mostly related to misappropriation of corporate assets by senior executives such as loans granted to senior management that are never intended to be repaid, failure to disclose forgive loans, reimbursed personnel expenses and extra ordinary personnel expenses charged to the company. In addition, it may be insider trading, misuse of corporate property for personal gain, kickbacks and individual tax violations related to self-dealing.

- **Obstructive conduct** is falsifying testimony to regulators, erasing computer files, shredding documents, creating or altering document to support illegal conduct.
5.2 Past Incidents That Highlight The Extent Of Loss From Corporate Frauds And Scams

Some of the greatest accounting incidents of all time have rocked the corporate worlds have been felt across continents with their repercussions.

Table 1: Summary of Global Corporate Frauds and Scams

<table>
<thead>
<tr>
<th>Name of Company</th>
<th>Nature of Industry</th>
<th>What Happened?</th>
<th>Modus Operandi</th>
</tr>
</thead>
<tbody>
<tr>
<td>Waste Management (1998)</td>
<td>Houston-based publicly traded waste management company</td>
<td>Reported $1.7 billion in fake earnings.</td>
<td>Understated depreciation expenses on the company’s property and equipment..</td>
</tr>
<tr>
<td>Enron (2001)</td>
<td>Houston-based commodities, energy and Service Corporation</td>
<td>Shareholders lost US$74bn thousands of employees and investors lost their retirement accounts, and many employees lost their jobs</td>
<td>Kept huge debts off balance sheets</td>
</tr>
<tr>
<td>WorldCom (2002)</td>
<td>Securities</td>
<td>Inflated assets by as much as US$ 11 bn, leading to 30,000 lost jobs and US$ 180bn in losses for investors</td>
<td>Underreported line costs by capitalizing rather than expensing and inflated revenues with fake accounting entries.</td>
</tr>
<tr>
<td>Tyco (2002)</td>
<td>New Jersey-based blue-chip Swiss security systems.</td>
<td>CEO and CFO stole $150 million and inflated company income by $500 million.</td>
<td>Siphoned money through unapproved loans and fraudulent stock sales disguised as executive bonuses or benefits.</td>
</tr>
<tr>
<td>Freddie Mac (2003)</td>
<td>Federally backed mortgage financing giant.</td>
<td>$5 billion in earnings were misstated.</td>
<td>Intentionally misstated and understated earnings on the books.</td>
</tr>
<tr>
<td>HealthSouth (2003)</td>
<td>Largest publicly traded health care company in the U.S.</td>
<td>Earnings numbers were allegedly inflated $1.4 bn to meet stockholder expectations.</td>
<td>Allegedly told underlings to make up numbers and transactions from 1996-2003.</td>
</tr>
<tr>
<td>American International Group (AIG) (2005)</td>
<td>Multinational Insurance Corp.</td>
<td>Massive accounting fraud to the tune of $3.9 bn was alleged, along with bid rigging and stock price manipulation.</td>
<td>Allegedly booked loans as revenue, steered clients to insurers with whom AIG had payoff agreements, and told traders to inflate AIG stock price.</td>
</tr>
</tbody>
</table>
Lehman Brothers (2008) | Global financial services firm. | Hide over US$50bn in loans disguised as sales | Allegedly sold toxic assets to Cayman Island banks with the understanding that they would be bought back eventually. Created the impression Lehman had US$50bn more cash and US$50bn less in toxic assets than it really did.

Bernie Madoff (2008) | Bernard L. Madoff Investment Securities LLC was a Wall Street investment firm founded by Madoff. | Tricked investors out of US$64.8bn through the largest ponzi scheme in history | Investors were paid returns out of their own money or that of other investors rather than from profits.

Satyam (2009) | Information technology | Falsely boosted revenue by US$1.5bn | Falsified revenues, margins and cash balance to the tune US$1.5bn.

Olympus (2011) | International optical equipment manufacturer | US$1.7bn accounting fraud-speculative investment losses | Olympus created a Tobashi scheme to shift losses off the Olympus balance sheet. Companies located in Cayman Islands were purchased via exorbitant M&A fees.

Toshiba (2014) | Multinational Conglomerate | Profits were overstated by more than US$1bn | Toshiba understated its costs on long-term projects and CEOs put intense pressure on subordinates to meet sales which pushed certain employees to postpone losses or push forward sales on accounting.

Source: Compiled by author(s) from various sources

### 6. FORENSIC ACCOUNTING

The term ‘forensic accounting’ was first used in 1946 by Maurice E. Peloubet, a partner in a New York based accounting firm. The word forensic is derived from the Latin word ‘forensis’, meaning thereby belonging to the forum (the site for public discussion and debate in ancient Rome). It refers as assistance in disputes regarding allegations or suspicion of fraud which are likely to involve litigation, expert determination and enquiry by an appropriate authority and investigations of suspected fraud, irregularity or impropriety which could potentially lead to civil, criminal or disciplinary proceedings.

Forensic Accounting assists an organization in legal matters in two ways –

i) **Investigative Accounting** deals with the investigation of criminal matters relating to employee theft, securities fraud, insurance fraud etc. and also includes provisions and suggestions regarding possible courses of action.

ii) **Litigation Support** involves the quantification of the amount of economic damages and also providing accounting assistance in litigation matters.

Table 2: Framework of Forensic Accounting
6.1 Techniques Involved

Some of the techniques involved in Forensic Accounting to examine the frauds are:

i) **Benford's Law**: It is a mathematical tool and is one of the ways to determine whether a variable under the study is a case of unintentional errors or fraud on detecting any such phenomenon the variable under study is subjected to a detailed scrutiny.

ii) **Theory of Relative size factor (RSF)**: It is a powerful test for detecting errors and measured as $$	ext{RSF} = \frac{\text{Largest Record in a Subset}}{\text{Second Largest Record in a Subset}}$$. This test identifies subsets where the largest element is out of line with the other elements for that subset. It also highlights all unusual fluctuations which may be routed from fraud or genuine errors.

iii) **Computer Assisted Auditing Tools (CAATS)**: These are computer programs that helps the auditor to perform various auditing procedures like testing details, identifying inconsistencies, sampling programs, redoing calculations etc.

iv) **Data Mining Techniques**: It is a set of computer-assisted techniques like discovery, predictive modeling and deviation and link analysis designed to automatically mine large volumes of data for new and unexpected patterns.

v) **Ratio Analysis**: This analysis gives indications of the financial health of a company, data analysis ratios report on the fraud health by identifying possible symptoms of fraud.

7. REASONS BEHIND THE GROWTH OF FORENSIC ACCOUNTING

The need for forensic accounting was felt because of the failure of internal and external audits in the organizations to figure certain errors in the managerial system. The important reasons for the growth of forensic accounting are –

- Rotation of the statutory auditor addresses a part of the problem. The method of appointing the statutory auditors is not foolproof as it is prone to collusion and lobbying.
- The certificates of the auditors are hardly scrutinized carefully especially when the reports are unclean and qualified.
- The internal auditors can surely detect what was happening but they are hardly in a position to initiate proper action in proper time.
- Internal audit and audit committee as a part of the management function fail to shed light on the hidden aspects of corporate fraud.

8. FORENSIC ACCOUNTING - INDIAN SCENARIO

Recently, forensic accounting has become an indispensable tool for investigation in India due to rapid increase in white-collar crimes and our law enforcement agencies do not have the expertise or time to uncover such stock market fraud or bank fraud or cyber fraud. Scams like Satyam (2009), 2G Spectrum (2010), Commonwealth games (2010), Railgate scam (2013), Tatra Truck scam (2011) and most recently coal block allocation scam (2012) and Chopper scam (2013) in India had improves the scope for forensic accounting in India. According to the Corruption Perception Index 2016 Report released by Transparency International, India’s rank is 79th among 176 countries affected with corruption.

Table 3 shows the statistics of major frauds and scams or accounting irregularities in India.

<table>
<thead>
<tr>
<th>Frauds and Scams</th>
<th>Year reported</th>
<th>Losses Suffered (Rs.)</th>
<th>Frauds and Scams</th>
<th>Year reported</th>
<th>Losses Suffered (Rs.)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Harshad Mehta Securities Market Scam</td>
<td>1991</td>
<td>5,000 Crore</td>
<td>Commonwealth Games Scam</td>
<td>2010</td>
<td>2,342 Crore</td>
</tr>
<tr>
<td>Fodders Scam (Chara Ghotala)</td>
<td>1992</td>
<td>980 Crore</td>
<td>Adarsh Housing Society Scam</td>
<td>2010</td>
<td>NA</td>
</tr>
<tr>
<td>Name of the Company</td>
<td>Year</td>
<td>Nature of Creative Accounting Practice Followed</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>------------------------------------------</td>
<td>---------------------------</td>
<td>---------------------------------------------------------------------------------------------------------------</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>WIPRO Ltd.</td>
<td>1996-97 to 1999-2000</td>
<td>Transfer of land to stock creating capital reserve with the fair value and using it to neutralize the effect on profit of reduction of land value.</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Larsen &amp; Toubro Limited</td>
<td>1999-2000 and 2001-02</td>
<td>Income recognition through transfer of loan liabilities at a lower consideration.</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Tata Motors, Bombay Dyeing, Mahindra and Himachal Futuristic</td>
<td>200102</td>
<td>Direct write Offs from reserves.</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Apollo Tyres Ltd.</td>
<td>2004-05</td>
<td>Debiting profit and loss account with additional excise duty payable to the government and transferring equivalent amount from general reserve to neutralize the effect.</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>ONGC, Mukund Ltd., Torrent Power ACE Ltd. and Tata Motors Ltd.</td>
<td>2004-05</td>
<td>Capitalization of interest as well as other intangible assets to show fixed assets value upward and understating revenue expenses.</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Satyam Computers Services Limited</td>
<td>2008-09</td>
<td>Fraudulently incorporated a nonexistent cash component by inflating the bank balances, fudging bills, accounts receivables, interest and liabilities.</td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

Source: Jones, M. (2011), Creative accounting, Fraud and International Accounting Standards

9. CONSEQUENCES OF CORPORATE FRAUDS AND SCAMS

For the 2016/2017 Global Fraud and Risk Report, Kroll commissioned Forrester Consulting to conduct 10 in-depth interviews and an additional online survey with 545 senior executives worldwide across multiple industries and geographies. Respondents represented all major global geographies, including 25% from Europe, 20% from the Asia-Pacific region, 20% from North America, 19% from the Middle East/Africa, and 16% from Latin America. The survey covered more than 10 industries with no fewer than 50 respondents from each. The details of findings are enumerated in Chart 1.
Theft of physical assets remained the most prevalent type of fraud experienced in the last year, reported by 29% of respondents, and up 7 percentage points from 22% of respondents in the last survey. Vendor, supplier or procurement fraud (26%) and information theft, loss or attack (24%) are the next two most common types of fraud cited each up 9 percentage points year on year.

Table 5: Magnitude of Losses suffered due to Frauds and Scams - Major Findings

<table>
<thead>
<tr>
<th>Reporting Authority</th>
<th>Major Findings</th>
</tr>
</thead>
<tbody>
<tr>
<td>The KPMG Survey (2009)</td>
<td>It was a survey of 204 executives of U.S. companies with annual revenues of $250 million or more found that 65% of the respondents considered fraud to be a significant risk to their organizations.</td>
</tr>
<tr>
<td>Committee of Sponsoring Organizations of the Treadway Commission (COSO) Fraud Report (2010)</td>
<td>It analysed 347 frauds investigated by the U.S. Securities and Exchange Commission from 1998 to 2007 and found that the median dollar amount of each instance of fraud had increased 3 times from a median of $4.1 million in the 1999 study to $12 million.</td>
</tr>
<tr>
<td>The ACFE ‘Report to the Nations on Occupational Fraud and Abuse’ (2010)</td>
<td>ACFE found that the cost of fraud to US organizations is extensive i.e. 5% of annual revenues. When such cost is applied to gross world product of 2011, this figure translates to a potential projected annual fraud loss of more than US $3.5 trillion. The median loss caused by the occupational fraud cases was US $140,000.</td>
</tr>
<tr>
<td>National Fraud Authority (U.K.) Annual Fraud Indicator (2012)</td>
<td>The scale of fraud losses in 2012, against all victims in the U.K., is in the region of £73 billion per annum. In 2006, 2010 and 2011, it was £13, £30 and £38 billion respectively.</td>
</tr>
<tr>
<td>The Ernst &amp; Young’s ‘India Fraud Indicator report’ (2012)</td>
<td>The losses suffered due to fraud amount to INR 66 billion. According to Reserve Bank of India (RBI) report, the money lost by banks due to scams and fraud has doubled in the past four years. Losses incurred by banks due to fraud increased by 88% in 2010-11 to exceed INR 37.9 billion (more than INR 20.1 billion in 2009-10).</td>
</tr>
</tbody>
</table>

Source: Compiled by the author(s) from various sources

10. APPLICABILITY OF FORENSIC ACCOUNTING ASSIGNMENT

Since each and every fraud and financial irregularity is unique, accordingly the approaches to be adopted to unveil each of them will be specific to it. Association of Chartered Certified Accountants (ACCA) has provided guidelines to perform Forensic Accounting assignment such as - i) Meeting with the client and accepting the engagement, ii) Performing conflict check, iii) Performing initial investigation, iv) Planning the audit or formation of robust action plan, v) Gathering relevant evidence, vi) Analysis of evidences and other supporting information and finally, vii) Preparation of Report.

10.1 Core Knowledge and Personal Skill Of Forensic Accountants

Wallace (2001) has listed the following minimum requirements a forensic accountant must possess -
• Ability to review a large volume of documentation ranging from the more usual accounting records and management information systems to memos, correspondence and other less obvious financial data and to extract the key issues quickly.
• Sound understanding of peculiarity of various business methods.
• Adherence of strict timetable even when needs arise to work for more hours to meet targeted time.
• An ability to communicate complex theoretical ideas in a manner which is readily understandable by the layman supporting with facts and figures when necessary without giving an impression of superiority.

10.2 The Role Of Forensic Accountants

- Giving preliminary advice as an initial appraisal of the pleading and evidence available at the start of proceedings.
- Identifying the key documents which should be made available as evidence.
- Preparing a detailed balanced report on quantum of evidence written in a simple language understood by a non-accountant.
- Reviewing expert accounting reports submitted by the other party which may have impact on the quantum of evidence and advising lawyers on these reports.
- Briefing legal counsels on the financial and accounting aspects of the case during pre-trial preparation.
- The forensic accountant can initiate measures for introduction of environment accounting to highlight the damage done to the environment.

10.3 Indian Regulatory Environment

Due to some recent corporate frauds incidents, regulators have proposed the companies to develop certain standards specially made for fighting frauds and create framework to address fraud prevention, detection and response in future. The new Companies Act 2013 is a step towards the evolution of India’s regulatory environment. The Act includes specific provisions to address the risk of fraud, alongside prescribing greater responsibility and increased accountability for independent directors and auditors. It goes beyond professional liability for fraud and extends to personal liability, prescribing penalties for directors, key management personnel, auditors and employees. The establishment of a vigil mechanism for listed companies, and a greater degree of accountability placed on the Board of Directors are the most effective provisions of the law.

Several terms are used by globally recognised control frameworks and market regulators - Internal Control for Financial Reporting (ICFR) mostly in the US after the Sarbanes Oxley (SOX) Act and Internal Control (IC) mostly outside the US.

The Companies Act 2013 (the Act) introduces a new term - Internal Financial Control (IFC) which has certain features of IC and certain features of ICFR. The Indian regulatory environment aspires to set up a legal framework to incorporate the global standards and provisions in its statutes. This convergence with the global laws is extremely important with the idea of bringing Indian corporate laws at par with the global standards and ensuring that the disparity in laws cannot be used to the advantage of fraudsters.

11. MAJOR THREATS TO THE ORGANISATION

• **Fraudulent Financial Reporting:** Financial statement fraud is deliberate mis-representation, mis-statement or omission of financial statement data for the purpose of misleading the reader and creating a false impression of an organisation’s financial strength.

• **Related Party Transactions:** The most frequent type of transactions that require regulatory action are concessionary loans to related parties, payments to company officers for services that were either unapproved or non-existent, transfer of funds through overvalued purchases of assets investments and sales of goods or services to related entities in which the existence of the relationship was not disclosed.

• **Procurement Fraud:** It refers as the unlawful manipulation of the procurement process to acquire goods/services obtain an unfair advantage, avoid an obligation or cause a loss to public property during the procurement process by public servants, contractors or any other entity involved.

• **Payroll Fraud:** It is a theft of cash from a business via the payroll processing system and it can occur in various ways like advances not paid back, buddy punching, ghost employees, pay check diversion, pay rate alteration, unauthorised hours etc.

• **Tax Evasion and Money Laundering:** Money laundering is a criminal offence aimed at presenting wealth of illicit origin or the portion of wealth that has been illegally acquired or concealed from the purview of tax and other
authorities, as legitimate, through the use of methods that hide the identity of the ultimate beneficiary and the source of the ill-gotten profits.

- **Fraudulent expense claims**: This is the easiest means of stealing some money from an organisation. Employees inflate their expense reimbursements and derive gains from the company.

- **Misappropriation of Assets**: Asset misappropriation schemes include both theft of company assets, such as cash or inventory and the misuse of company assets such as using a company car for a personal trip.

12. **KEY CHALLENGES**

A joint Grant Thornton and ASSOCHAM survey conducted in the year 2015-2016 revealed that cases of financial fraud have risen in India over the last few years and has become one of the main factors deterring foreign companies from investing in India. As the economy is growing increasing corporate frauds will prove to be disastrous for India. Some of the key challenges prevalent in the current environments are:

- Challenges in detecting financial statement fraud.
- Inability to perform an effective fraud risk assessment.
- Lack of appropriate monitoring of third parties.
- Limited ability to demonstrate ethical behaviour or compliance with an ethics programme.
- Lack of segregation of duties.

13. **PREVENTIVE MEASURES**

- Formulating a strong anti-fraud programme like Leadership setting the tone, Fraud prevention, Ethics Code and Whistleblower or complaint mechanism, Training/awareness programmes to employees
- Enhanced focus on identifying fraud risks:
  - Continuous monitoring using data analytics
  - Due diligence on third parties

14. **RECOMMENDATIONS**

- Proactively monitoring key processes and run data analytics modules on internal/external communication, payroll and reimbursements, receivables and collections, sales and distribution, time and physical access controls and vendor payments.
- SEBI and RBI should create a 'cell for Forensic Accounting’ in field of corporate crimes and financial crimes respectively.
- Conferences, seminars and training programs need to be organized to enhance skills and ability of professional Accountants regarding Forensic issues.
- Forensic accounting may be integrated into the academic curriculum as a means of increasing awareness of the related subject matter.
- It should be made mandatory to recruit a forensic accountant in all the companies especially in public sector companies and large scale companies.
- A regulatory body of forensic accounting needs to be set up to govern the role, duties, responsibilities and power of forensic accountant to set the system free from bureaucracy and red-tapism.

**CONCLUSION**

Organisations are facing a number of challenges in the current economic scenario. They constantly deal with pressure of uncertain markets, escalating input costs, high labour turnover and advent of technology. Such pressures may provide opportunity and incentives for fraudsters to commit frauds.

With any change in the environment of the businesses, the need to adapt to these changes is a prerequisite to attain sustainable growth. The change in the current environment is the increased fraud exposure for organisations. The response to this change is to equip our businesses against fraud risks and exposure through a systematic programme of fraud risk assessment, monitoring, incident response and remediation. Forensic accounting is the best ever growing areas of accounting that enables in enhancing the chances of success in day to day life of corporate firm by improving the role of corporate governance as well as helping in formulating and establishing efficient control systems. Hence, proper attention is required by the regulators, Government and the educational institutes to support forensic accounting in India.
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