

ANTI-MONEY LAUNDERING RULES & REPORTING

**KENYAN REAL
ESTATE SECTOR**

**CIFAR
BRIEFING
PAPER**

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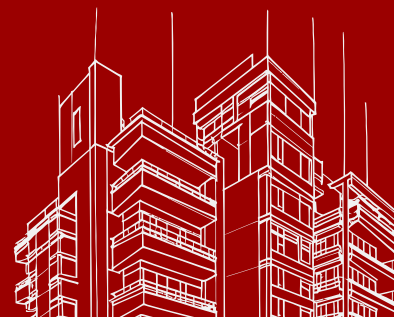
This paper was prepared by Lewis Kundai, CiFAR and reviewed by Jackson Oldfield, CiFAR in September 2025. The authors have made reasonable steps to ensure that the content is accurate.

CIFAR is responsible for case studies in Kenya within the research project *Corruption in Paradise: An Ecology of Money Laundering through Real Estate in the Touristic Global South*. This project investigates how six tourism-focused cities/regions from Brazil, Kenya, and Indonesia address illicit finance in the real estate market.

The *Corruption in Paradise* research project is coordinated by GRIP (Public Integrity Research Group) at USI (Università della Svizzera italiana) and also includes FGVceapg (Center for Public Administration and Government Studies at the Getúlio Vargas Foundation's São Paulo School of Business Administration) and the CACG (Center of Anti-Corruption and Governance Studies) at Politeknik STIA LAN Jakarta.

This research is part of the Governance & Integrity Anti-Corruption Evidence (GI ACE) programme which generates actionable evidence that policymakers, practitioners and advocates can use to design and implement more effective anti-corruption initiatives. This GI ACE project is funded by UK International Development. The views expressed in this report do not necessarily reflect the UK Government's official policies.

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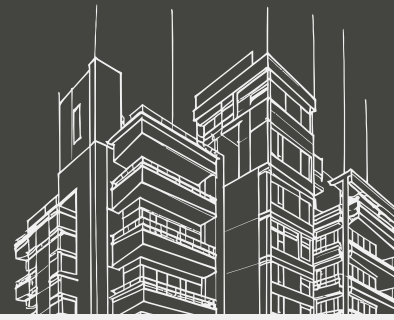
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INTRODUCTION



In 2022, Kenya underwent a Mutual Evaluation Review (MER) by the Eastern and Southern Africa Anti-Money Laundering Group (ESAAMLG) to assess its compliance with the Financial Action Task Force (FATF) recommendations.¹ The MER, together with a National Risk Assessment (NRA), identified Anti-Money Laundering and Countering the Financing of Terrorism (AML/CFT) vulnerabilities across several sectors, culminating in Kenya's grey-listing in 2024.² The designation pointed to strategic deficiencies that the country should address to more effectively combat money laundering and terrorist financing.

Among the high-risk areas flagged was the real estate sector. It was considered that the sector was high-risk driven by: Politically Exposed Persons (PEPs) linked investment both domestically and across borders; the high and appreciating value of property, which enables the movement and concealment of large proceeds of crime; and cash-based transactions that could present challenges with tracking and reporting. These drivers were worsened by gaps in the policy and legal framework and weak regulation over the actors who facilitate transactions in the sector. The NRA highlighted weaknesses in the sector as limitations with the AML framework and practice, including within supervision, monitoring, and reporting of suspicious activity.³

This paper explores AML/CFT controls relevant to the real estate sector after three years of revision since the 2022 assessment. It outlines the supervisory roles and reporting obligations that apply to buyers, sellers and key intermediaries in real estate transactions. The methodology for the analysis is based on desk review of legal instruments such as Proceeds of Crime and Anti-Money Laundering Act, 2009 (POCAMLA), with progressive amendments, supplemented by the Proceeds of Crime and Anti-Money Laundering Regulations, 2023.

The analysis also looks at the guidance documents issued by the Financial Reporting Centre (FRC) - Kenya's financial intelligence unit, compliance requirements for professionals in the real estate sector, as well as specific guidelines for particular actors involved in real estate transactions.⁴

INTRODUCTION

Real Estate Ecosystem

This paper is part of a series on the Kenyan real estate ecosystem and should be read alongside other forthcoming papers. The 'ecosystem', which this report and the project it sits within use, identifies and categorizes actors present and involved in the real estate market into five different units of analysis: sellers, intermediaries, buyers, influencers and rule-makers.⁵

- *Sellers* are those selling property or land. They can include developers or construction companies.
- *Intermediaries* are all professionals involved in the process of selling and registering a property. Intermediaries usually at the centre of these processes are real estate agents. However, other professionals can be involved, such as lawyers and notaries. Banks and bank employees can also act as intermediaries, when property transactions include real estate financing.
- *Buyers* can be an individual or a legal entity, they can also be a national or foreign investor.
- *Influencers* are actors who intend to influence the (formal or informal) rules of the game. This includes professional associations, industry bodies and civil society.
- *Rule-makers* establish rules that try to govern and stabilize the system. Rule-makers are typically from government, quasi-governmental, and self-regulatory bodies. The term "rules" here refers to all norms, be they formal or informal, including laws and regulations, but not limited to these.

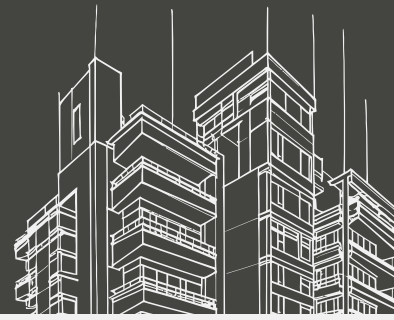
This report is designed to provide a framework for future research and looks therefore primarily at AML/CFT rules. While cross-cutting, it is consequentially specifically relevant for intermediaries, who are the main class of actor to whom AML/CFT rules apply, as well as rule-makers and influencers engaging in ongoing reform efforts.

About the project

Real estate is a significant asset class and a primary vehicle for money laundering. While knowledge products and policy options have been discussed in places such as London, Vancouver, or the United States' major cities, there is far less data, knowledge, and locally anchored policy solutions focused on cities in the Global South.

The *Corruption in Paradise* project⁶ looks at the ecology of the sector as it exists in cities in Brazil (São Paulo City and Santa Catarina state's northern coast), Kenya (Nairobi and Mombasa), and Indonesia (Jakarta and Bali province) and focuses on one of the critical actors in the system: real estate agents. It evaluates a) how the environment in which real estate agents operate enables or inhibits integrity and b) how policy interventions could make a difference and positively rewire these incentive systems.

AML/CFT LEGISLATION



POCAMLA

The principal legislation for the regulation of the real estate sector on money laundering in Kenya is the Proceeds of Crime and Anti-Money Laundering Act, 2009 (POCAMLA), as progressively amended, supplemented by the Proceeds of Crime and Anti-Money Laundering Regulations, 2023.⁷ Together, they form Kenya's AML/CFT framework, constituting relevant rules across different sectors, including the real estate sector. The legislation and its regulations criminalise money laundering, which it defines in various ways, including the act of transacting, acquiring and moving property, assets or monetary instruments which one knows or ought to have reasonably known to be proceeds of crime or are intended to be used for such in an effort to conceal it, assist an offender or diminish it.⁸

Offences under POCAMLA and its amendments carry penalties ranging from fines to imprisonment or both, as well as further consequences, such as forfeiture of assets.⁹ The framework equally provides measures to address money laundering, including the establishment of institutions such as the intelligence gathering Financial Reporting Centre (FRC) and prosecutorial Assets Recovery Agency (ARA) to enforce its provisions; preventive measures such as defining reporting and supervisory institutions in high risk sectors, their obligations, and operational AML requirements; and measures for the identification, tracing, freezing, seizure, and confiscation of the proceeds of crime.¹⁰

Under POCAMLA, supervision was established through the FRC and the Anti-Money Laundering Advisory Board.¹¹ Reporting obligations were also established for specified institutions and it defined the role of supervisory bodies in enforcing compliance.¹² The FRC is designated as the entity mandated to regulate and supervise all reporting institutions.¹³

Other relevant legislation

While POCAMLA is the primary piece of relevant legislation, several other laws are important to the regulation of the sector, even if not directly related to anti-money laundering. This includes:

AML/CFT LEGISLATION

1) The Anti-Corruption and Economic Crimes Act (ACECA)

ACECA provides for the prevention, investigation and punishment of corruption and economic crimes. While it does not provide for the offence of money laundering, the definition of economic crime in ACECA can in some instances be applied to offences involving the laundering of the proceeds of corruption. Section 55 on unexplained assets particularly enables action where property ownership is disproportionate to known lawful income, which is important in instances where property is used to conceal illicit wealth.¹⁴

2) Estate Agents Act (CAP 533)

The Act regulates and controls professionals engaged in the sector. It provides for the registration of persons who participate in the selling, purchasing or letting of land and buildings. Section 25 of the Act penalises dishonest practices, including fraudulent or false entries in the Register or false statements to gain an advantage.¹⁵ Following the Anti-Money Laundering and Combating of Terrorism Financing Laws (Amendment) Act, 2025, the Estate Agents Act now includes Section 28, which empowers the Estate Agents Registration Board to exercise AML/CFT oversight which includes issuing directions, conducting inspections and requiring information for compliance with POCAMLA across the estate agency sector.¹⁶

3) The Land Act

Kenya's Land Act, 2012, governs the management and administration of private, public, and community land. Section 3 outlines the sector's guiding values and principles and is implemented through subsidiary regulations that support the use of land. While it generally is not an AML framework, provisions under Section 157 establish offences related to land management, such as fraud.¹⁷

4) Income Tax Act

Capital Gains Tax (CGT) applies to transfers of property in Kenya. The rate moved from 5% reintroduced via the Finance Act 2014 to 15% from 2023.¹⁸ CGT is charged on net gain which are proceeds minus allowable costs, and it can apply even to dispositions without consideration. Allowable deductions such as legal and valuation fees, enhancement costs and advertising reduce the taxable amounts. The allowable deductions however may present a money laundering risk as weak verification of claimed expenses could mask illicit funds through inflated costs. The Act does not provide for money laundering offences, preventive measures or institutional obligations.

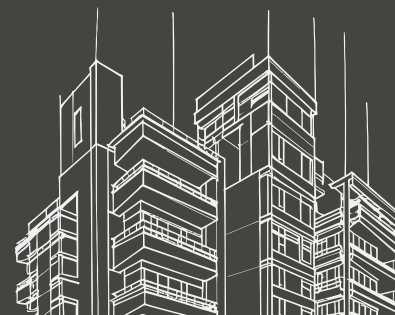
5) Stamp Duty Act

The Act governs stamp duty on property, Section 10A empowers government valuers to assign open-market value.¹⁹ Valuation manipulation presents a risk in this case as it could distort duty payable and help conceal proceeds of crime. Similar to the Income Tax Act, it does not contain provisions on money laundering.

6) The Anti-Money Laundering and Combating of Terrorism Financing Laws (Amendment) Act

In the omnibus amendment, the supervision mandate was extended across supervisory and self-regulatory bodies, establishing oversight relative to risks for reporting institutions including the Estate Agents Registration Board. This was introduced by the inclusion of Sections 28 and 29 in the Estate Agents Act.²⁰ The amendment further obligated the regulatory and supervisory bodies with the function of imposing sanctions to ensure effective enforcement.

OBLIGATIONS FOR SPECIFIC ACTORS



Real Estate Agents

Real estate agents and agencies are designated non-financial business and professions (DNFBPs) and are therefore reporting institutions under POCAMLA. The FRC is the primary AML/CFT supervisor for all reporting institutions receiving statutory reports, inspecting agencies, issuing directions, compelling information, imposing penalties and setting policy. The Estate Agents Registration Board (EARB) is the sector supervisory body for real estate agents and is obligated to coordinate with the FRC and report suspicious transactions it encounters.²¹

Real estate agents	
Supervisory body	Estate Agents Registration Board
Reporting Institution	Estate Agents Registration Board - Financial Reporting Centre

POCAMLA Part IV requires real estate agents to register, report, conduct customer due diligence and record keeping.²² POCAMLA Regulations also emphasise that reporting institutions include real estate brokers and require them to implement robust preventative measures such as risk assessments, and know your customer (KYC) procedures.

Real estate agents are required to conduct customer due diligence on all buyers and sellers they broker deals for, and for all transactions, notwithstanding the value. POCAMLA Regulation part III, specifically obliges real estate agents to identify and verify the identity of their clients, determine beneficial owners if the client is a company/legal entity and know the purpose of the transaction. Real estate agents should also record details of the property transaction and payment method. If an agent receives or handles cash of USD 15,000 or above from a client, it should be reported to the FRC. They are also required to monitor for any suspicious transactions that raise questions and, if identified, subsequently file Suspicious Transaction Reports (STRs) to the FRC within seven working days. Additionally, if they are unable to identify a client and cannot complete customer due diligence they are required to file a STR. In all transactions undertaken they should maintain records for at least seven years. Real estate agents also have a duty to identify politically exposed persons (PEPs) involved in transactions and perform enhanced due diligence.²³

OBLIGATIONS FOR SPECIFIC ACTORS

The Estate Agents Registration Board is the professional regulator for realtors and is also designated as the AML/CFT supervisory body for real estate agents under POCAMLA. This means that the Board is tasked with monitoring and enforcing compliance of real estate agents with AML obligations, in coordination with the FRC.²⁴ The EARB can issue guidelines or directives to registered agents on requirements for compliance in implementation of POCAMLA. The Board has disciplinary powers under the Estate Agents Act where it can suspend or revoke an agent's license for misconduct, including with respect to AML/CFT obligations.²⁵

Lawyers

Lawyers in Kenya are governed by the Advocates Act,²⁶ which set professional standards for legal professionals. Initially, advocates were not covered under POCAMLA as reporting institutions. However, in 2021, Kenya amended POCAMLA to bring legal professionals into the AML regime. Under the Proceeds of Crime and Anti-Money Laundering (Amendment) Act 2021, advocates, notaries, and independent legal professionals are designated as reporting institutions when they prepare or carry out certain transactions for clients.²⁷

The Law Society of Kenya (LSK) is designated as the AML/CFT self-regulatory body for the legal profession under the First Schedule of POCAMLA. This means LSK should issue guidelines to lawyers, monitor compliance, and liaise with the FRC. The AML/CFT (Amendment) of 2023 added LSK to the list of supervisory bodies and envisioned LSK inspecting law firms for AML compliance and enforcing the new requirements. The subsequent amendments under the AML/CFT Amendment 2023 and 2025 then obligated lawyers to submit suspicious transaction reports to the Law Society of Kenya, as well as to the Financial Reporting Centre (FRC).²⁸

Lawyers	
Supervisory body	Law Society of Kenya
Reporting Institution	Law Society of Kenya - Financial Reporting Centre

OBLIGATIONS FOR SPECIFIC ACTORS

According to POCAMLA, lawyers are required to comply with AML/CFT measures when dealing with and acting for clients. They are required to perform customer due diligence and maintain transaction records. If the lawyer knows, suspects, or has reasonable grounds to suspect that a transaction or funds involve the proceeds of crime or terrorist financing, they are legally compelled to file a STR with the FRC without notifying the client. Lawyers are also expected to file Cash Transaction Reports for large cash payments above the USD 15,000 threshold. Additionally, legal practitioners should have internal controls and report to LSK any suspicious transactions as per AML regulations. They are also required to pay attention to PEPs involved in property deals, with an emphasis on enhanced due diligence to verify sources of funds and ownership of property. Records are required to be kept for 7 years.²⁹

Financial Institutions

The Banking Act (Cap. 488) and Central Bank of Kenya (CBK) regulations obligate banks to comply with AML requirements, but POCAMLA and its Regulations are the key instruments that regulate AML/CFT compliance and apply across all financial institutions. Saccos (Savings and Credit Cooperative Organizations) which are member owned financial cooperatives that mobilize savings and extend credit to those members and are similarly regulated under the Sacco Societies Act, 2008 and the Microfinance Act, 2006, but they have the same requirements as banks with regards to AML compliance requirements under POCAMLA.

Banks and other financial institutions have comprehensive AML/CFT obligations spelt out in the POCAMLA Regulation.³⁰ Financial institutions are expected to conduct KYCs for clients and due diligence to ascertain the identity of clients. If a customer or transaction is deemed high-risk, for example, when the client is a PEP or when the transactions are suspicious, institutions must apply enhanced due diligence measures such as verifying the source of funds and monitoring the accounts.³¹

Financial Institutions	
Supervisory body	Central Bank of Kenya
	-
Reporting Institution	Sacco Societies Regulatory Authority
	-
	Capital Markets Authority
	Financial Reporting Centre

OBLIGATIONS FOR SPECIFIC ACTORS

These obligations include reporting, which requires that institutions monitor transactions involving property and file STRs to the FRC within two days when they suspect that a purchase or payment may involve the proceeds of crime.³² Large cash payments should also trigger automatic reporting under the Fourth Schedule to POCAMLA. Any cash transaction exceeding USD 15,000 must be reported to the FRC.³³ Similarly to other reporting institutions, all records should be maintained for at least seven years. To support these obligations, lenders are expected to implement robust internal AML/CFT programmes, appoint compliance officers, train staff to spot red flags in property transactions, audit their systems regularly, screen customers and transactions against sanctions lists and comply with asset-freezing directives for designated persons in line with also Prevention of Terrorism Act 2012 provisions.³⁴ Different regulators oversee different financial sub-sectors, but all coordinate to enforce AML/CFT compliance:

1. The Central Bank of Kenya (CBK) is the primary regulator for commercial banks, deposit-taking microfinance banks, payment service providers, and foreign exchange bureaus. CBK conducts on-site and off-site supervision, including AML examinations of banks. It has issued detailed guidelines, such as CBK Prudential Guideline No. 8 (CBK/PG/o8) on AML/CFT, which details POCAMLA's requirements for banks.³⁵ The Banking Act was amended to integrate POCAMLA compliance into banks' licensing conditions.³⁶ CBK has the power to impose sanctions on banks for AML non-compliance.
2. The Sacco Societies Regulatory Authority (SASRA) oversees deposit-taking SACCOs. SASRA is listed as an AML supervisory body in POCAMLA's First Schedule, and they issue guidelines similar to those issued by CBK.³⁷
3. Capital Markets Authority (CMA), equally listed in the First Schedule, regulates REITS, which are listed real estate investments and has guidelines on ML in capital markets.³⁸

All financial institutions are registered with the FRC and are required to report to the FRC in line with the provisions of POCAMLA and its regulations. Similarly, the reporting thresholds for values of USD 15,000 apply as in all regulated professions. This is further tightened by banks whose threshold of KES 1,000,000 (approx. USD 7,700) requires enhanced due diligence, whereby individuals are required to explain the amounts.

OBLIGATIONS FOR SPECIFIC ACTORS

Real Estate Agents and Land Traders

Real estate developers are not part of POCAMLA's list of reporting institutions. If a developer engages in property transactions, they are not obligated to comply with AML compliance requirements. Their conduct is, however, regulated by other existing laws such as the Companies Act and building regulations. This also applies to land traders. AML requirements will however apply if they hold other registered professions, for instance, as real estate agents. AML laws and regulations will also apply if they engage with regulated professionals and interact with institutions that have reporting requirements, such as financial service providers.

POCAMLA provisions will further apply in cases where they knowingly handle illicit funds. This is also the case under Section 48 of POCAMLA which outlines reporting obligations for institutions when handling client money or property in transactions.

SANCTIONS FOR REPORTING AND SUPERVISORY INSTITUTIONS



POCAMLA and its regulations contain various provisions to address money laundering as a criminal offence, amongst other related offences, and the conduct that enables it, along with accompanying penalties.

- Section 3 of POCAMLA states that a person commits an offence if they know or ought reasonably to know that property represents criminal proceeds and they enter into an agreement, arrangement, transaction, or perform any act that conceals or disguises the property's nature, source, location, movement or ownership; enables an offender to evade justice or removes or diminishes property derived from crime.³⁹
- Section 4 then criminalises holding, using or acquiring property while knowing or where one ought reasonably to know that it represents the proceeds of crime.

Violations of these two provisions include penalties of imprisonment of up to 14 years or a Kes 5 million fine for natural persons and fines of fines up to Kes 25 million for a body corporate.

POCAMLA also targets conduct that undermines preventive controls. Section 5 makes it an offence to wilfully ignore the reporting duties contemplated in Section 44(2), reflecting the legal expectation that suspicions are escalated to the FRC without delay.⁴⁰ Section 7 captures the knowing transport, transmission, transfer or receipt or attempted handling of monetary instruments or anything of value with intent to commit an offence.⁴¹ Section 8 prohibits disclosing that a report under section 44 is being prepared, has been made, or is about to be sent to the FRC. For these offences, the penalties provide for natural persons to face up to 7–14 years' imprisonment (depending on the section) or fines up to Kes 2.5–5 million, body corporates to face fines up to Kes 10–25 million, and for tipping off specifically, up to Kes 10 million or the value of the property involved, whichever is higher.

Truthfulness and integrity in interactions with the framework are enforced by misrepresentation, in section 9, and malicious reporting, in section 10.⁴² The provisions state that it is an offence to knowingly make false or fraudulent statements or provide false documents to a reporting institution, supervisory body or the FRC, and equally an offence to wilfully give information to the FRC or an authorised officer knowing it to be false. Each carries penalties of up to 2 years' imprisonment or Kes 1 million for individuals, and up to Kes 5 million for corporate entities.

SANCTIONS

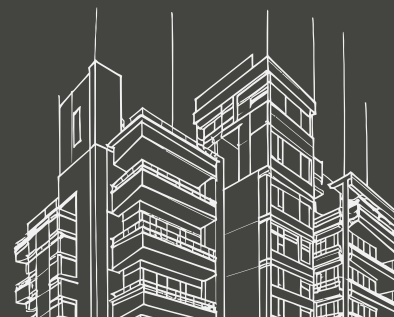
POCAMLA further imposes a systems compliance duty on reporting institutions under section 11(1) for failing to meet requirements under ss.44–46 or any Regulations, and states that it is an offence punishable by up to 7 years imprisonment or a fine of Kes 2.5 million for individuals, and up to Kes 10 million for corporates.⁴³

To protect investigations and prevent misuse of information/prejudicing investigations, section 13(1) makes it an offence to alert someone in a way likely to prejudice an inquiry after information has been disclosed under Part II or an investigation is underway or contemplated.⁴⁴ Individuals who engage in the offense face up to 7 years imprisonment or a fine of Kes 2.5 million while corporate entities can be fined up to Kes 10 million. Finally, hindering performance of functions is criminalised under section 15. This includes obstructing a receiver, police officer, or any other person exercising powers under POCAMLA, with penalties applying as provided in the Act.⁴⁵

The regulations supplement the provisions in the Act, with regulation 42 providing that any person, reporting institution, or supervisory body that contravenes the regulations commits an offence punishable by up to 3 years imprisonment, a fine of up to Kes 5 million, or both.⁴⁶

Read together, these provisions ensure that not only the laundering of criminal proceeds but also failures to prevent, report, or cooperate, and any attempt to mislead or obstruct, attract clear, escalating penalties for both individuals and corporate actors.

CONCLUSIONS



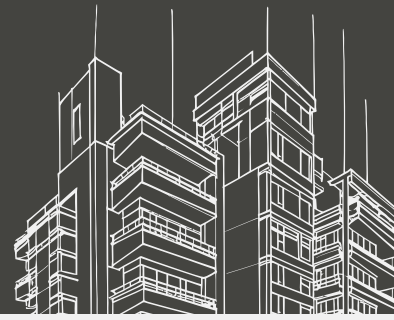
Real estate agents, lawyers, financial institutions and other intermediaries require clear guidance, resources and accountability mechanisms to perform due diligence, file timely Suspicious Transaction Reports, and maintain accurate records.

Kenya's 2022 Mutual Evaluation Review and subsequent grey-listing underscored the real estate sector's role as a conduit for money laundering and terrorist financing. The country's legislative framework anchored by POCAMLA, the AML/CFT (Amendment) Act, and supporting sector laws and regulations such as the Estate Agents Act, Land Act, and Income Tax Act lays out comprehensive preventive and mitigation measures.

The ecosystem approach taken by this paper, that is an analysis of the sellers, intermediaries, buyers, influencers and rule makers and their roles and obligations under existing laws points to the spread of the risk across sectors that interact with the real estate sector. It equally highlights that, in a system of fragmented actors involved in a single transaction, there is only partial visibility as each actor is guided by their own reporting requirements.

However, it is also evident that despite these challenges, there has been progress especially in development of laws and policies to address the money laundering risks presented by the real estate sector in Kenya.

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