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March 2020 Strata Industry Reform

Explanatory Paper:

Regulation, Qualification, CPD
as it relates to the Strata Management Industry



ASSISTANT AGENT in Strata Management PATHWAYS



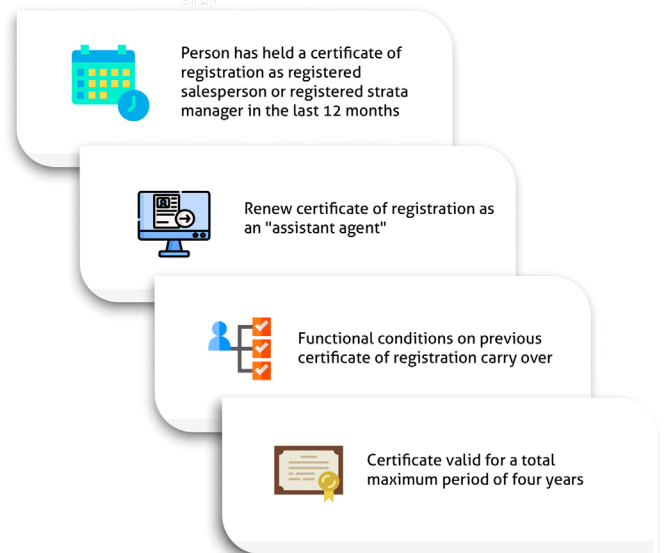
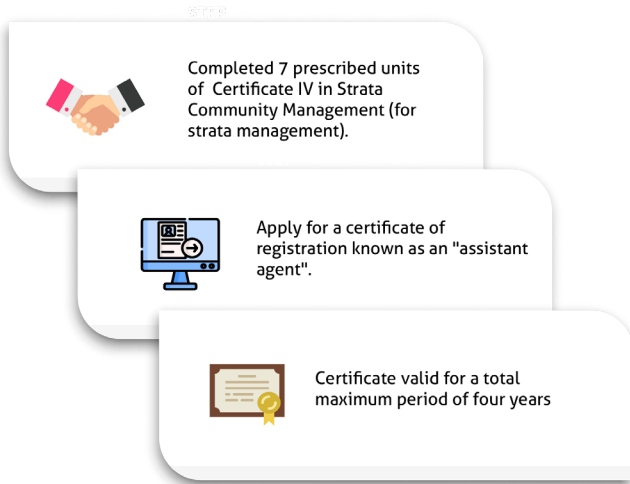
New Entrants

(From 23/03/2020)

Existing Certificate of Registration Holder

(held within last 12 months).

This pathway only available until 23 March 2021.



There will be two available pathways – one for new entrants to the industry, and a transitional pathway for existing assistant agents who are a registered salesperson or registered strata manager under the current Act.

- **New entrants to the industry**

New entrants to the industry, who have never held a certificate of registration or a licence, must start by applying for a certificate of registration as an assistant agent. They will not be able to apply directly for a class 1 or class 2 licence.

For strata management applicants for a certificate of registration must complete 7 prescribed units of the CPP40516 Certificate IV in Strata Community Management.

- **Currently registered strata managers**

To assist the transition of existing registration holders to the new assistant agent certificate of registration, renewal letters will be sent at the usual time prior to the renewal due date.

All existing certificate of registration holders who transition to the new assistant agent certificate of registration will have a maximum of four years from the date their new certificate is issued to complete their Certificate IV and apply for a class 2 licence. Individuals who do not complete their qualification and apply for a class 2 licence during this four year period will not be able to renew their certificate of registration, meaning they will no longer be able to continue working in the property services industry, and they will not be able to re-apply to be an assistant agent for a minimum of 12 months after their certificate of registration expires.

- **Certificate of registration valid for a maximum total of four years**

Certificates of registration as an assistant agent will be issued for a maximum duration of four years, with no extensions of time or further renewals beyond that time.

This restriction is designed to ensure assistant agents progressively upskill into a full agent licence and improve the overall knowledge and expertise of the industry. Assistant agents will be required to complete a Certificate IV qualification as part of their CPD requirements during the term of their certificate of registration. By the end of the four year period, the certificate holder must either apply for and obtain a class 2 licence or cease working as an agent.

What you need to know

Your licence and authorised functions

From 23 March 2020, the name of your certificate will change to **Assistant Agent in Strata Management**. You will continue to perform the work currently done by a strata managing certificate holder. You must still be employed by a class 1 or 2 licence holder and be supervised by the Licensee-in-Charge to exercise the functions of this category.

As an Assistant Agent in Strata Management, you can perform the following functions:

- any function of an owners corporation.
- any function of an association.

But you cannot:

- enter into an agency agreement or a franchising agreement
- affix the seal of the owners corporation
- authorise the withdrawal of money from the agency's own trust account (you can still authorise withdrawals from a trust account held by the owners corporation)

From 23 March 2020, an Assistant Agent can still try to get new clients and arrange for an owners corporation to fill in an agency agreement, however, only a Class 2 or Class 1 Agent can sign and bind the agency to the agreement.

Why can't I bind parties to an agreement? I have been in the industry for years.

This is a key reform to increase the overall level of qualification of industry participants to a standard that is more appropriate for the demands of the market today. Under the reforms, the Assistant Agent is an entry level position to allow new entrants to gain the experience and knowledge required to qualify as an Agent.

Choosing to remain at the current entry level will no longer be possible. To remain in the industry, existing certificate holders and new entrants will be required to complete the Certificate IV qualification and undertake a range of experiences.

Can I still arrange agreements for services to a strata plan, such as insurance, repairs, etc?

Yes, you can still sign these agreements on behalf of your agency.

Licence duration

A certificate as an Assistant Agent is a one-off certificate issued for a period of 4 years. By the end of the 4 years, you must attain a Class 2 Strata Managing Agent licence.

You can obtain this by either:

- completing the Certificate IV in Strata Community Management (CPP40516) and
- 12 months' experience.

If you fail to obtain the Class 2 licence within this time, your certificate will lapse and you will be unable to work as an Assistant Agent for a period of 12 months.

If I hold a certificate but really just do administrative work, will I be required to qualify as a Class 2 Agent within the 4 years?

A person who holds a certificate as an Assistant Agent must obtain the Class 2 licence. After 4 years, the Assistant Agent certificate will lapse. Unless a person is undertaking strata managing agent functions as outlined in the legislation, there is no requirement for them to hold a licence or certificate of registration.

We will provide more information to assist businesses distinguish between licensed activities and administrative work before the reforms start.

Can I get 'credit' for time already spent in the industry?

You will still be required to complete a Certificate IV. You may request 'Recognition of Prior Learning' from your training provider. Contact your training provider to find out more.

Can I extend the 4 year time period as an Assistant Agent? What about extenuating circumstances?

No. The period of 4 years provides ample time to complete the qualification, with a buffer for time away from work due to health, family or other reasons.

How do I change my existing licence to the new one?

If your certificate is current as at 23 March 2020, you will automatically become an Assistant Agent in Strata Management under the reforms. Fair Trading will extend the expiry date of your current certificate until 23 March 2024 at no further cost to you. We will let you know when your new certificate showing the new licence name and expiry date is available.

Can I use my current certificate?

Yes, you can use your current certificate until your new certificate is available.

Do I need to change my business cards and other published information?

This will depend on how you refer to your current position. You can still use the term 'certificate of registration'. However, there is now a clear distinction between an Assistant Agent and an Agent.

Any reference to your position as being an Agent is misleading once the reforms commence and should be changed.

What if I haven't renewed my licence by 23 March 2020?

Only certificates that are current as at 23 March 2020 will automatically transition to the new Assistant Agent.

If you renew or restore your certificate after 23 March 2020, you will also automatically transition.

If your certificate expired in the 12 months before 23 March 2020, you will need to reapply as an Assistant Agent, but you can use the entry qualification you completed for your previous certificate.

If your certificate expired more than 12 months ago, you will need to complete the new entry qualification and apply to become an Assistant Agent.

Continuing Professional Development (CPD)

CPD will also undergo significant change and you will have new requirements. Compliance with the CPD requirements will continue to be a condition of holding your certificate.

As an Assistant Agent in Strata Management, the key changes to CPD that apply to you include:

- you will need to complete CPD on an annual basis, starting on 23 March each year.
- you must complete at least 3 units from the relevant Certificate IV.
- If you do not comply with your CPD requirements, your certificate may be suspended.

Fair Trading is developing an online reporting tool for the completion of CPD which will be available later in 2020. Before this is ready, you should retain your own record of completion of CPD.

If I complete a unit of the Certificate IV through recognition of prior learning, will this count towards my CPD?

Yes, it will count towards CPD.

If I have completed other CPD since my last renewal, will this credit towards my first year?

Only if you have completed a unit from a relevant Certificate IV since your last renewal.

Do I need to keep a record of CPD? Will I need to make a statement verifying I have completed my CPD?

You will need to keep your own records until the online reporting tool is available. Certificate holders must retain the statement of attainment issued by a registered training organisation for each unit completed. These records must be retained for 4 years.

Under the current CPD arrangements, the CPD year and reporting is linked to your certificate renewal.

Going forward, certificates are issued for 4 years and licences can be renewed for 1, 3 or 5 year. This means the current practice of having CPD reporting periods aligned to an individual's renewal date will no longer apply.

Applying for, renewing or changing my licence or certificate

To assist you with managing your certificate of registration, Fair Trading is developing a new licensing system which will be available from 23 March 2020. We will also introduce 'lifetime licence numbers' which means that once you become an Agent, you will keep the same licence number even if you return to the industry after your licence expires or you make changes to it. Assistant Agents will receive an interim licence number until they become qualified as an Agent.

The online licensing system improves our services with:

- digital lodgement for all applications, changes and renewals
- faster processing times on some applications
- a simpler application process
- the option to record your preferred or anglicised name on your licence, and
- improved SMS and email updates to you on the progress of your application and reminders about your renewal.

The system will be further enhanced over the next year to provide you with an electronic log to record your experience requirements and completion of CPD topics. We will be collecting information from you about your employer, so these logs can be verified and monitored by your employer.

This additional information will also assist us in delivering a better public register for consumers and improved consumer protections through enhanced monitoring of industry compliance.

The new system will be available through Service NSW and you will receive links and further information about how to connect to your licence information.

What should I do to prepare for the changes?

There are a few things you can do to prepare for commencement of the changes:

- Make sure your certificate is current as at 23 March 2020. If your renewal date is around this time, make sure you renew promptly.
- Make enquiries with registered training organisations about their offerings for a Certificate IV in Strata Community Management (CPP40516).
- Talk to your employer about changes in your business processes. For example, what will be the process for having a Class 1 or 2 Agent sign sales agreements and property management agreements? Are there new business processes for trust accounts?
- Check your business cards and promotional material to make sure your job title is not misleading by referring to you as an 'Agent'.
- Get familiar with the revised Rules of Conduct.
- Get familiar with the experience requirements you will need.
- Register an account with my.service.nsw.gov.au if you don't already have one.
- Make sure you have subscribed to Fair Trading's eNewsletter Property Matters.
- We will use this eNewsletter to communicate important information about the reforms.

CLASS 2 AGENT PATHWAYS



Assistant Agent

(under the amended Act)



Person has:

1. Obtained the relevant Certificate IV,
2. Held a certificate of registration as assistant agent for at least 12 months, and
3. Demonstrated specified work experience



Apply for a class 2 licence as a "licensed agent"

Existing Certificate of Registration Holder

(held within last 12 months). This pathway only available until 23 March 2021.



Person has held an equivalent licence as an agent in the last 12 months



Renew licence into a class 2 licence as a "licensed agent"



Functional conditions on previous licence carry over

- **New entrants - assistant agents progressing to a class 2 licence under the amended Act**

Currently a person must complete a Certificate IV level qualification to become an agent. This requirement continues under the amended Act and in addition, applicants for a class 2 licence will be required to demonstrate at least 12 months' industry experience. Licensees in charge responsible for supervising the applicant will be asked to verify that they have completed specific work experience tasks as set out in the Qualifications Order and specify the time period during which the applicant was supervised.

- **Currently licensed agents**

An agent who holds a licence under the current framework will transition to a class 2 licence when they first renew their licence after the new laws commence in March 2020. It will take 12 months for all existing agents to transition to the new licence categories.

What you need to know

Your licence and authorised functions

From 23 March 2020, the name of your licence will change to **Class 2 Agent in Strata Management**.

You can exercise the functions of a strata managing agent, which include:

- any function of an owners corporation, or
- any function of an association

But you **cannot** authorise the withdrawal of money from the agency's own trust account (you can still authorise withdrawals from a trust account held by the owners corporation).

From 23 March 2020, a certificate holder (Assistant Agent) in Strata Management will be unable to enter an agency agreement. Certificate holders can still try to get owners corporations to fill in an agreement, but the agreement is not binding until signed by an Agent. Assistant Agents in Strata Management also cannot affix the owners' corporation's seal.

Your employer may ask you to review and sign agreements that have been prepared by Assistant Agents and execute documents requiring the owners' corporation's seal. In doing so, you will be responsible for ensuring the agreement or document is correct and complies with legislative requirements. You may be held accountable for any non-compliance.

Why can't an Assistant Agent bind parties to an agreement?

This is a key reform to increase the overall level of qualification of industry participants to a standard that is more appropriate for the demands of the market today. Under the reforms, the Assistant Agent is an entry level position to allow new entrants to gain the experience and knowledge required to qualify as an Agent.

Choosing to remain at the current entry level will no longer be possible. To remain in the industry, existing certificate holders and new entrants will be required to complete the Certificate IV qualification and undertake a range of experiences to qualify as a Class 2 Agent within 4 years.

Can I be held liable for any breaches or inaccuracies in agreements that I sign?

Yes, as a signatory to the agreement, you are confirming the agreement is correct and complies with the legislation. If there is a breach or inaccuracy, you may be penalised.

Licence duration

From 23 March 2020, Class 2 and Class 1 Agents will have the option to renew their licence for a period of 1, 3 or 5 years.

Licences fees have been adjusted to reflect the new levels of licences. The application and renewal fees* are as follows:

	New Application			Renewal		
	1 Year	3 years	5 years	1 year	3 years	5 years
Class 2 Agent	\$484	\$1026	\$1568	\$342	\$844	\$1426
Class 1 Agent	\$733	\$1347	\$1961	\$449	\$1063	\$1677
Company	\$1018	\$1688	\$2354	\$592	\$1242	\$1928

*Fees current as at 23 March 2020 and may be subject to CPI increase from 1 July 2020.

You will also retain your current licence number 'for life'. Even if you make changes to the type of licence you hold, or leave the industry and later return, you will retain your current licence number.

Why have some fees increased?

The fee structure has changed to better reflect the risks and responsibilities and licence processing requirements for each role in the new licence framework. Part of the fee is a contribution to the Compensation Fund to cover consumer losses arising from an agent's failure to account for money.

As the responsibility for releasing funds from a trust account now sits with the nominated LIC of the Company, the contribution has increased for Class 1 Agents, and reduced for Assistant Agents and Class 2 Agents. Processing components of the fee have been adjusted so that these are proportionate to the requirements for each role.

How do I change my existing licence to the new one?

Most Agents won't need to do anything straight away. If your licence is current as at 23 March 2020, you will automatically become a Class 2 Agent under the reforms. When you next renew, you will receive your new licence with the new licence name.

If you are interested in becoming a Class 1 Agent under the transitional arrangements, you can apply for the Class 1 licence after 23 March 2020. If you are a nominated LIC for a company that currently has more than one LIC, we will be in contact with the company to determine which person will be the nominated LIC from 23 March 2020.

Can I use my current licence?

Yes, you can use your current licence until you next renew your licence.

Will my licence number change?

No, you will retain your current licence number.

Do I need to change my business cards and other published information?

This will depend on how you refer to your current position. You can still use the terms 'Strata Manager' and 'Agent'.

What if I haven't renewed my licence by 23 March 2020?

As long as your certificate is renewed within the restoration period (3 months from the expiry date), you will be automatically transitioned to hold a Class 2 licence in the equivalent category. If you renew or restore your licence after 23 March 2020, you will also automatically transition.

If your licence expired more than 12 months before 23 March 2020, you will need to reapply but will be qualified based on your existing Certificate IV qualification. You will also need to show that you have completed the required 12 months' work experience.

Alternatively, if you have held an equivalent licence for 2 or more years and this licence did not before 23 March 2015, you will also satisfy the qualification requirements.

This pathway is only available until 23 March 2021.

Continuing Professional Development (CPD)

CPD will also undergo significant change and you will have new requirements. To view the CPD requirements for licence and Certificate of registration holders click [here](#) Compliance with the CPD requirements will continue to be a condition of holding your licence.

Key changes to CPD include:

- You will need to complete CPD on an annual basis, starting on 23 March each year.
- A Class 2 Agent is required to undertake 6 hours of CPD each year. Of this, 3 hours are compulsory topics determined annually by Fair Trading and 3 hours are elective topics.
- A Class 1 Agent is required to undertake 9 hours of CPD each year. Of this, 3 hours are compulsory topics determined annually by Fair Trading and 6 hours are elective topics. 3 hours of the elective topics must be related to business management.
- Compulsory topics are delivered by industry associations, government agencies and approved entities. The details of approved providers will be available on our website before the reforms start.
- Individuals can have their licence or certificate of registration suspended if they do not comply with their CPD requirements.

Fair Trading is developing an online reporting tool for the completion of CPD which will be available later in 2020. Before this is ready, you should retain your own record of completion of CPD.

For more information on CPD, refer to the CPD requirements.

If I have completed other CPD since my last renewal, will this credit towards my first year?

If the CPD was based on any of the specified elective topics, it may be counted towards the first year. More information is available in the CPD requirements.

Do I need to keep a record of CPD? Will I need to make a statement verifying I have completed my CPD?

You will need to keep your own records until the online reporting tool is available. Licence holders must retain their records for 3 years.

Under the current CPD arrangements, the CPD year and reporting is linked to your licence renewal. Going forward, licences may be issued for 1, 3 or 5 years.

This means the current practice of having CPD reporting periods aligned to an individual's renewal date will no longer apply.

Applying for, renewing or changing my licence

To assist you manage your licence, Fair Trading is developing a new licensing system which will be available from 23 March 2020.

The online licensing system improves our services with:

- digital lodgement for all applications, changes and renewals
- faster processing times on some applications
- simple application processes
- the option to record your preferred or anglicised name on your licence, and
- improved SMS and email updates to you on the progress of an application and reminders about your renewal.

The system will be further enhanced over the next year to provide you with an electronic log to record your experience requirements and completion of CPD topics. We will be collecting information from you about your employer, so these logs can be verified and monitored by your employer.

This additional information will also assist us in delivering a better public register for consumers and improved consumer protections through enhanced monitoring of industry compliance.

The new system will be available through Service NSW and you will receive links and further information about how to connect to your licence information.

What should I do to prepare for the changes?

There are a number of things you can do to prepare for commencement of the changes:

- Make sure your licence is current as at 23 March 2020. If your renewal date is around this time, make sure you renew promptly.
- If you are currently a nominated LIC, consider whether you would like to apply to be a Class 1 Agent in an equivalent category.
- Talk to your employer about changes in your business processes. For example, what will be the process for authorising agreements prepared by Assistant Agents?
- Are there new business processes for trust accounts?
- Check your business cards and promotional material to make sure your job title is accurate.
- Get familiar with the revised Rules of Conduct and Supervision Guidelines.
- Register an account with my.service.nsw.gov.au if you don't already have one.
- Make sure you have subscribed to Fair Trading's eNewsletter Property Matters.
- We will use this eNewsletter to communicate important information about the reforms.

CLASS 1 AGENT PATHWAYS



Licensed Agent

(under the amended Act)



Person has:

1. Obtained a Diploma of Property (Agency Management) or Diploma of Property Services (Agency Management)
2. Held a class 2 licence for at least 2 years, and
3. Demonstrated specified work experience



Apply for a class 1 licence known as a "licensee in charge"

Existing licensee in charge

(under the current Act). This pathway only available until 23 March 2021.



Person is nominated as a licensee in charge by their business at the time of reforms commencing i.e. 2 March 2020



Renewal of licence converts it into a class 1 licence known as a "licensee in charge"



Any conditions imposed on previous licence restricting the agent's functions carry over

As licensees in charge, class 1 licensees perform significant oversight and agency management functions, including responsibility for authorising all withdrawals from trust accounts, proper supervision of agents and assistant agents, and ensuring compliance with all other regulatory requirements. Accordingly, applicants for class 1 licences will be required to attain higher standards of education and experience than class 2 licensees including the requirement to achieve qualifications in business management.

• New entrants

To be eligible for a class 1 licence, the applicant must have held a class 2 licence (or an equivalent level of licence under the current Act) for at least 2 years and completed a Diploma of Property (Agency Management) from a registered training organisation, or another recognised equivalent qualification.

Applicants for class 1 licences must also be able to demonstrate evidence of specified work experience, verified by a licensee in charge, as set out in the Qualifications Order.

• Currently nominated licensees in charge

Currently the role of licensee-in-charge is undertaken by a nominated agent without any additional qualification or experience. To avoid disruption to business, a 'grandfathering' arrangement will be introduced to provide a transitional pathway to the amended Act. The transitional pathway for existing nominated licensees in charge will only be available until 23 March 2021. The applicant must have been nominated as a licensee in charge by their business at the time the reforms commence to be eligible for this pathway. That is, by 23 March 2020.

What you need to know

Nominated Licensees-in-Charge (LIC)

Under the reforms, any person that is nominated as a LIC must hold a **Class 1 Agent licence** in the relevant category of work. The reforms place even more responsibility and accountability on nominated LICs and in keeping with the importance of this role, the qualifications for new entrants will increase to completion of a Diploma in Property Services and at least 2 years' experience as a Class 2 Agent.

A Class 1 Agent can undertake all functions of a strata managing agent, except authorising the withdrawal of trust monies from a trust account held by a licensed agent in relation to the business, unless they are the nominated LIC.

To provide a smooth transition for business, there are some transitional qualifications that are available.

Until **23 March 2021**, a person is also eligible for a Class 1 Agent's licence in an equivalent category if they:

- are nominated as a LIC immediately before 23 March 2020, or
- held an Agent licence for at least 2 years before 23 March 2020.

If you are currently licensed as an Agent and meet either of these requirements, you will need to consider whether you want to transition to the Class 2 Agent's licence or opt in for a Class 1 Agent's licence.

Other significant changes to LICs include:

- removing the requirement for a LIC to be appointed to each business location
- requiring only one LIC for each company licence, and
- authorising only the nominated LIC to withdraw money from the agency's own trust account/s (licensed agents and assistant agents working in strata management will still be allowed to authorise withdrawals from the owners corporation's trust account, if they are authorised to do so by the owners corporation).

These changes are discussed in more detail on the Real Estate Corporation's Licence webpage.

Won't everyone whose held a licence for 2 years just opt in for a Class 1 licence?

As a Class 1 Agent you will have significantly more CPD requirements and incur higher fees when applying for, renewing and restoring your licence. It is expected that only those persons who have a genuine requirement will opt in.

Can I hold a Class 1 licence and not be the nominated LIC?

Yes. It is expected that many companies will want to retain persons qualified as a Class 1 Agent to provide supervision, leadership and to provide relief in the case that the nominated LIC is absent, if required.

How does a business withdraw trust funds if the nominated LIC is unavailable?

A business can appoint a temporary LIC by notifying Fair Trading within 5 business days. However, with electronic banking facilities available, there are likely to be few circumstances when this is required. For strata managing agents, there are no changes to their ability to authorise withdrawals from trust accounts held by the owners corporation.

If I will not be the single nominated LIC going forward, how do I apply for a Class 1 under the transitional arrangements?

From 23 March 2020, you will be a Class 2 Agent under the transitional arrangements. You can apply anytime up to 22 March 2021 to upgrade your licence to a Class 1 in an equivalent category. If you do not apply within this time, you will need to complete a Diploma in Property Services and 2 years' work experience to qualify.

Appendix 1

Property and Stock Agents (Qualifications) Order 2019 [NSW]

Part 4 Certificates of registration

Assistant strata managing agent

A person may be issued with a certificate of registration as an assistant strata managing agent if the person has satisfactorily completed all of the following units of CPP40516 Certificate IV in Strata Community Management with a registered training organisation—

- (a) Work in the property industry (CPPDSM3016),
- (b) Implement customer service strategies in the property industry (CPPDSM4048),
- (c) Communicate effectively to support customer service in real estate (CPPREP3002) or Communicate with clients in the property industry (CPPDSM3019),
- (d) Identify and analyse risks and opportunities in the property industry (CPPDSM4028),
- (e) Work in the strata community management sector (CPPDSM3017),
- (f) Monitor a safe workplace in the property industry (CPPDSM4057),
- (g) Manage conflicts and disputes in the property industry (CPPDSM4056).

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