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June 6, 2025

Ms. Vanessa Countryman, Secretary  
U.S. Securities and Exchange Commission  
100 F Street NE  
Washington, DC 20549

**Re: Digital Assets Sandbox**

Dear Ms. Countryman:

Nasdaq applauds Commissioner Peirce's recent statement relating to the creation of a digital assets "sandbox" that would allow firms to use distributed ledger technology ("DLT") to issue, trade and settle tokenized securities.<sup>1 2</sup> We agree with Commissioner Peirce, as well as with Chairman Atkins, that sandboxes can be an immensely effective tool, particularly when existing requirements are "not compatible" with emergent technology, such that market participants are faced with fitting a "square peg into a round hole."<sup>3</sup> Successful sandboxes typically have clear objectives, a focused scope, transparent and inclusive procedures for participation, prudent guardrails to mitigate risks, and appropriately timed durations and exit procedures. We hope the Commission publishes any potential sandbox for notice and comment quickly; in the interim, we offer some observations and principles for sandbox construction.

In designing a digital assets sandbox, the Commission can draw upon its experience with pilot programs, such as its pilot trading system program,<sup>4</sup> as well as the digital assets sandboxes in the United Kingdom and the European Union. The U.K.'s Digital Securities Sandbox ("DSS"), which the Financial Conduct Authority and Bank of England operate jointly, allows selected participants to use DLT in the issuance, trading, and settlement of securities such as

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<sup>1</sup> See Commissioner Hester Peirce, "A Creative and Cooperative Balancing Act," May 8, 2025, at <https://www.sec.gov/newsroom/speeches-statements/peirce-iismgd-050825>.

<sup>2</sup> In Nasdaq's April 25, 2025 letter to the Crypto Task Force, Nasdaq proposed that a sandbox to enable unclassified digital assets to list and trade in a regulated environment pending definitive classification of such assets as digital investment contracts, commodities, or non-regulated digital assets. See Ltr. from J. Zecca to V. Countryman, April 25, 2025, at <https://www.sec.gov/files/ctf-written-input-nasdaq-042525.pdf>.

<sup>3</sup> Paul Atkins, Chair, U.S. Sec. & Exch. Comm'n, Remarks at the Tokenization Roundtable (Apr. 25, 2025), <https://www.sec.gov/news/speech/2025/tokenization-roundtable>.

<sup>4</sup> See 17 C.F.R. 240.19b-5.

shares and bonds and funds.<sup>5</sup> The E.U.’s DLT Pilot provides a temporary legal framework to facilitate the use of DLT by eligible market infrastructures to trade and settle transactions in tokenized financial instruments, including stocks, bonds, and funds.<sup>6</sup> Last year, Commissioner Peirce applauded the DSS, noting that firms using it raise 15% more capital, and are 50% more likely to raise capital and 25% more likely to survive years later, especially as to smaller and younger firms.<sup>7</sup> She further observed that “firms have used the DSS to understand how regulatory requirements would apply to their innovative services or products, perform testing that could speed up the creation of a minimum viable product, or use their experience with real customers to refine their business model.”<sup>8</sup>

One clear takeaway from these experiences is that sandboxes can facilitate the ability of market participants to innovate and serve “as a laboratory where [the Commission] can review new ideas from market participants [and] consider the benefits of new products, as well as potential risks to investors and the market.”<sup>9</sup> At the same time, where nothing about a technological innovation or product renders it more difficult or uncertain to apply a regulatory requirement or alters the policy rationale for that requirement, then a sandbox is neither necessary nor appropriate. In such a situation, a sandbox could create undue competitive disparities, market fragmentation, regulatory arbitrage, and opportunities for bad actors to exploit a more limited oversight regime.

To that end, our experience running markets and supporting crypto markets convinces us that the existing market structure and regulatory regime applicable to trading securities, including in particular Regulation NMS, can accommodate many, if not most of the elements needed to tokenize securities, and that a sandbox is not needed for this purpose. In particular, there is nothing about recording ownership of a security using a blockchain or other DLT that affects the ability of market participants to comply with Regulation NMS or the Commission’s other trading requirements. Such requirements do not generally implicate how ownership is recorded. Indeed, the most popular platforms trading digital assets do not actually trade on the blockchain; instead, they operate central order books similar to today’s securities markets. Accordingly, creating a general sandbox apart from Regulation NMS or the Commission’s other trading requirements for tokenized securities, would not serve the purpose of a sandbox. Rather, doing so could undermine the expectations of both investors and issuers, who trade and list securities based on expectations about market integrity, liquidity, and investor protection. It

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<sup>5</sup> See Joint Consultation of the Financial Conduct Authority and the Bank of England, April 3, 2024, at <https://www.bankofengland.co.uk/paper/2024/cp/digital-securities-sandbox-joint-bank-of-england-and-fca-consultation-paper> (the “DSS Consultation”). The DSS provides for trading of equities in its sandbox. However, it prohibits use of the DSS to trade and settle derivative contracts and unbacked crypto currencies, such as Bitcoin. See *id.*

<sup>6</sup> See ESMA, DLT Pilot Regime, at <https://www.esma.europa.eu/esmas-activities/digital-finance-and-innovation/dlt-pilot-regime> (the “DLT Pilot”). The DLT Pilot provides for trading of equities in companies with a market capitalization of less than EUR 500 million.

<sup>7</sup> See Commissioner Hester Peirce, “Comment on Digital Securities Sandbox Joint Bank of England and Financial Conduct Authority Consultation Paper,” May 29, 2024, at <https://www.sec.gov/newsroom/speeches-statements/peirce-boe-fca-comment-05302024>.

<sup>8</sup> *Id.* (internal quotations omitted).

<sup>9</sup> Mark T. Uyeda, Acting Chairman, U.S. Sec. & Exch. Comm’n, Remarks at the Investment Company Institute’s 2025 Investment Management Conference (Mar. 17, 2025), <https://www.sec.gov/newsroom/speeches-statements/uyeda-ici-031725>.

would also encourage fragmentation and unfair competitive disparities between exchanges that are in compliance with the full suite of Commission requirements.

Sandbox exemptions may be useful in the following two scenarios. First, digital assets that exhibit some but not all of the attributes of securities, which Nasdaq refers to as “digital asset investment contracts,”<sup>10</sup> could benefit from a regulatory framework with customized registration, listing, and trading rules. Second, a sandbox could address real friction points in the current system for trading tokenized securities, including custody, settlement, transfer agents and record keeping.

We recognize that some also may wish to test peer-to-peer brokerless transactions in the sandbox, but we question whether such testing raises public policy questions that transcend the sandbox. The considerations related to applying existing regulations to brokerless transactions do not involve fitting a “square peg into a round hole.” Rather, these activities implicate fundamental public policy concerns related to issues such as best execution, market surveillance and investor protection. As a result, such processes and activities should not be subject to a sandbox. Rather, the Commission should request market input on them and their appropriate regulatory framework by conducting notice and comment rulemaking in order to adequately consider the full suite of issues that they raise.

Critically important to any sandbox involving tokenized stocks is that the issuer of the stocks have the right to opt in or out of the experiment. When issuers choose to list their securities on exchanges, they do so with expectations as to where and how these securities will trade.<sup>11</sup> Upsetting such expectations would not only be unfair to issuers, but it would also expose their securities involuntarily to market quality risks that issuers may prefer to avoid – risks like the harm to price discovery that may arise from the fragmentation of liquidity between tokenized and non-tokenized pools as well as the risk that market participants may leverage such fragmentation for arbitrage purposes.

We start with some core principles to guide consideration of a sandbox structure.

- ***Do no harm.*** The sandbox must be safe for the markets, market participants, and investors alike. Investors’ and issuers’ experiences and outcomes in the digital assets market should not vary based upon whether they are involuntarily subject to a sandbox experiment. Stocks trading pursuant to the national market system, where investors justifiably expect the highest degree of integrity, deserve the most care.
- ***Serve investors first, then markets, and then commercial operations.*** A primary objective of a sandbox is to remove or relax regulatory obstacles to improve investor experiences and outcomes in the digital asset marketplace. The sandbox can enable or validate specific business models, products, or services of digital assets market

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<sup>10</sup> See n.2, supra. This discussion is incorporated by reference into this comment letter. The remainder of this letter will focus on application of the sandbox to tokenized securities.

<sup>11</sup> Compare Securities Exchange Act, Section 12(b) (requiring registration of any class of securities that is to be listed on a national securities exchange) with id., Section 12(g) (requiring registration of any class of equity securities held by more than a certain number of investors and accredited investors, where the issuer has assets of more than a certain threshold amount).

participants, but it should not do so at the expense of investor protection, market quality, integrity, resilience, or security.

- ***Link Authentic Experimentation to Identifiable Pain Points.*** The most valuable sandbox projects involve actual and significant trials of new technologies that can serve investors or the markets, rather than incidental commercial experiments. They also are focused on measuring the effects of relaxing or removing specific regulatory obstacles or impediments to the deployment of new technologies; they should not be venues for generalized experimentation with alternative regulatory frameworks or market structures that exceed the scope of what is needed to enable progress.

With limited exceptions (e.g., peer-to-peer trading), no special regulatory relief – in a sandbox or otherwise – is needed to enable the trading of tokenized securities, and in particular, NMS securities. We understand that even on native digital assets trading platforms, trading occurs mostly as it does today in traditional securities markets – in central limit order books and other liquidity pools that automatically match and execute trades. For such trading, platforms do not trade digital assets directly on the blockchains; instead, they utilize the blockchain on a post-trade basis to record the settlement of transactions already executed. Existing regulations can largely accommodate the trading of tokenized securities in this manner.

- ***Avoid Regulatory Arbitrage.*** A poorly designed sandbox can tilt the competitive landscape in favor of sandbox participants by subjecting them to fewer or less onerous regulatory obligations or restrictions than non-participants. Likewise, a market participant’s ability to compete in the marketplace should not depend upon whether it is eligible to participate in the sandbox and receive regulatory relief or exemption. Steps should be taken to limit any competitive advantage the sandbox offers to participants over other market participants.

With these principles in mind, Nasdaq offers the following recommendations for a digital assets sandbox:

1. ***Articulate Clear and Specific Goals for the Sandbox.*** In Nasdaq’s view, the goal of the sandbox should be to: (a) identify regulatory friction points that inhibit market participants from issuing or trading tokenized securities, including existing rules governing security custody, settlement, recordkeeping, and transfer agents; and (b) determine whether, on a per se basis, experimenting with relaxing those regulatory friction points would undermine investor protection or market integrity. If the answer to (b) is no, then proceed to test, for a limited time, the effects on investors and the markets of relaxing the regulatory friction points. If the test demonstrates that relaxing the regulatory friction points would provide clear and direct benefits to, and would not harm investors or the markets, then proceed to permanently relax the relevant rules, either through rulemaking or by granting permanent exemptive relief that applies to all similarly

situated market participants, trading venues, or issuers, as applicable.<sup>12</sup> If these objectives are not met, then experiments should be discontinued.

2. ***Seek Broad Input Through Notice and Comment on Proper Sandbox Construction and Operation.*** The design for the sandbox should involve public notice and comment. Many members of the public have had experiences, both positive and negative, with other regulatory sandboxes, including the DSS and the DLT Pilot referenced above. The Commission could learn much from these experiences about what design elements made these other sandboxes successful, and which hindered participation or led to undesirable outcomes. For example, the Commission may wish to consider design elements or other factors which may be contributing to the low levels of participation in both the DSS and DLT Pilot.<sup>13</sup> Input from the public can also help the Commission to identify an appropriate scope for its sandbox. Through notice and comment, members of the public can identify not only those regulatory requirements which impede their innovation, but also those they rely upon when transacting in the U.S. securities markets. (Nasdaq notes that the design of the DSS and of the DLT Pilot were themselves subject to public notice and comment processes.)
3. ***Adopt Transparent, Fair, and Inclusive Procedures.*** The Commission should be transparent in communicating its eligibility criteria for the sandbox, including any licensing or registration requirements. The Commission should solicit public comment at each stage of a project process and grant public access to any data that the Commission gathers to evaluate that project. Moreover, data should be in a form that is readily comparable with data that exchanges and brokers publish routinely pursuant to Reg. NMS. Eligibility should be broad-based and inclusive; the Commission should open the sandbox to all types and sizes of market participants, including not only native-digital firms, such as digital asset trading platforms, but also traditional firms like exchanges and

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<sup>12</sup> The stated objectives of the DSS are to: (1) facilitate innovation; (2) protect financial stability; and (3) protect market integrity. See DSS Consultation, *supra*. Applicants to the DSS must “[h]ighlight clear regulatory barriers or obstacles preventing the activity outside the DSS.” *Id.*

<sup>13</sup> As of April 2024, EMSA reported that it received only four applications to participate in the DLT Pilot. See [https://www.esma.europa.eu/sites/default/files/2024-04/ESMA75-117376770-460\\_DLT\\_Pilot\\_Regime\\_-\\_Letter\\_to\\_EU\\_Institutions.pdf](https://www.esma.europa.eu/sites/default/files/2024-04/ESMA75-117376770-460_DLT_Pilot_Regime_-_Letter_to_EU_Institutions.pdf). As of May 2025, three entities have obtained licenses under the DLT Pilot, according to the ESMA register. ESMA speculates that the reasons for low participation include the novelty of the pilot regime, a lack of clarity as cash settlements, investor protections, and self-hosted wallets, as well as challenges with interoperability. See *id.* The E.U. Commission has acknowledged such challenges, but it is working to address them. See [https://www.esma.europa.eu/sites/default/files/2024-05/3056562\\_030524\\_Reply\\_Verena\\_Ross\\_on\\_DLT\\_Pilot\\_Regime\\_Implementation.pdf](https://www.esma.europa.eu/sites/default/files/2024-05/3056562_030524_Reply_Verena_Ross_on_DLT_Pilot_Regime_Implementation.pdf). For example, French and Italian authorities have proposed amendments that include raising eligibility and capitalization limits, expanding the scope of eligible assets, and enabling interoperability. See [pr consob amf 20250409](https://www.esma.europa.eu/sites/default/files/2024-05/3056562_030524_Reply_Verena_Ross_on_DLT_Pilot_Regime_Implementation.pdf)). Meanwhile, the Bank of England lists 9 firms as participants in the DSS. See <https://www.bankofengland.co.uk/financial-stability/digital-securities-sandbox/digital-securities-sandbox-dashboard>. Critics attribute this low level of participation to similar reasons, as well as a general hesitancy about innovating in full view of regulators and competitors. See KPMG, “No-one playing in the sandbox: Regulators struggle to drum up interest in the DLTR and DSS,” May 2024, at <https://kpmg.com/xx/en/our-insights/risk-and-regulation/no-one-playing-in-the-sandbox.html>. The Commission could avoid similar concerns by providing specificity about the scope of exemptive relief and what sandbox participants can and cannot do with that relief. Moreover, the Commission could take steps under the Freedom of Information Act to shield participants’ competitively sensitive information and data from public disclosure.

alternative trading systems. The sandbox should include competitively neutral conditions for participation in the sandbox that do not unduly advantage participants relative to non-participants, and vice versa. For example, the sandbox should not provide unique competitive advantages to participants that non-participants, similarly situated, cannot attain, such as exemptions from market registration requirements and NMS trading rules. Moreover, conditions for participation also should be prudent and pragmatic; again, these conditions should reflect the need to protect consumers and ensure appropriate regulatory oversight, transparency, and accountability. These conditions should not be so burdensome as to be prohibitive to participation, but they also should not be so lax that they put the markets and investors at risk.

4. ***Consensual Participation.*** The sandbox will affect, not only those market participants who participate in it, but also issuers and investors. Issuers and investors should not be involuntary participants. Instead, sandbox participants should obtain an issuer's consent before tokenizing its securities or listing and trading its tokenized securities as part of a sandbox experiment. Likewise, investors should be informed of and have an opportunity to opt out of having their orders routed to the sandbox to purchase tokenized versions of securities.
5. ***Scope Limitations.*** Although the Commission has broad discretion to grant exemptions to the federal securities laws in connection with this sandbox, this discretion is not unbounded; where the Commission grants exemptive authority, it should do so narrowly and with a clear justification and purpose.<sup>14</sup> As a practical matter, setting reasonable limitations on the types of experiments that can occur within its sandbox can help to focus the sandbox on accomplishing its stated objectives rather than extraneous topics. Limits can also ensure that the sandbox does not amount to a free-for-all in which issuers and investors become subject to harmful products and practices, if even on a temporary and experimental basis. The sandbox should not, for example, be a venue for engaging in one-off experiments in alternative market structures, with implications that are broader than digital assets. Nasdaq recommends that the sandbox focus on experiments that address key regulatory friction points that can be clearly identified as inefficient, antiquated, burdensome, or prohibitive with respect to tokenizing securities or trading them in existing regulated U.S. markets.

Although the Commission may wish to solicit public comment to identify these key regulatory friction points, public input to the Crypto Task Force already identifies several examples:

- a. **Custody** – The sandbox should explore the concept of facilitating the ability of market participants to self-custody tokenized securities and evaluate its benefits relative to the existing model, which requires use of registered third-party custodians to custody securities on behalf of customers or to hold tokenized securities through existing intermediaries.

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<sup>14</sup> See, e.g., Cboe Futures Exchange, LLC v. SEC, 77 F.4th 971 (D.C. Cir. 2023) (striking down SEC use of exemptive authority as arbitrary and capricious where agency was deemed to have provided insufficient analysis or explanation for its use).

- b. Settlement – The sandbox should explore the viability of real-time gross settlement of tokenized securities and evaluate its benefits relative to the existing settlement process, in which securities are settled T+1 and on a net basis. However, any such experiment should be conducted in a way that limits the ability of market participants to engage in regulatory arbitrage in the event the same security is eligible for T+0 gross and T+1 net settlement.
  - c. Transfer Agents – The sandbox should explore whether and how existing transfer agent rules can be modernized to account for the availability of the blockchain to record and track securities transactions. The sandbox may also wish to explore whether the blockchain can supplant the functions of transfer agents, or whether transfer agents remain necessary even with a blockchain ledger.
  - d. Recordkeeping – Similarly, the sandbox should explore whether and how existing recordkeeping requirements can be modernized to account for the availability of the blockchain to record transaction information securely and in a manner that is readily accessible and transferrable.
  - e. Time Limitations – To help prevent regulatory arbitrage, and also to ensure that sandbox participants receive regulatory closure on their projects, the duration of sandbox projects should be limited. Although Nasdaq does not have strong views as to how long exactly such projects should last, we note that the SEC’s trading venue pilot program provides for a two-year time limit while the DSS and DLT Pilot each last for three years (the DLT Pilot may be renewed for an additional three-year period).
6. ***Limitations on NMS Exemptions.*** Nasdaq does not agree with expanding the sandbox to test exempting tokenized securities and trading platforms from elements of the national market system and Regulation NMS. As Nasdaq noted in its April 25, 2025 letter to the Crypto Task Force, the national market system ensures fair, transparent, and interconnected U.S. markets, protecting investors and enabling fast, low-cost executions while managing volatility.<sup>15</sup> Investors in NMS securities deserve these benefits and protections, irrespective of the technological form that NMS securities take.<sup>16</sup> The national market system is simply too fundamental to compromise, even on an experimental basis. If the Commission believes that elements of Reg. NMS warrant reconsideration, such reconsideration should not occur through one-off pilot projects favoring tokenized securities; to do so would be to arbitrarily tip the scale in favor of one technological iteration of the same security versus another. Instead, any reconsideration of Reg. NMS should occur in a deliberative rulemaking environment, subject to notice and comment and proper economic analyses.
7. ***Other Guardrails*** – In addition to the above, we also recommend several guardrails that the Commission may wish to consider including in its design of the digital assets sandbox. They include the following:
- a. Limiting Participation to Entities that Already Are or Become Registered with the Commission – Nasdaq recommends that trading platform participants in the

<sup>15</sup> See Ltr. From J. Zecca to V. Countryman, dated Apr. 25, 2025, at 7, supra.

<sup>16</sup> See id.

sandbox either already be or become subject to Commission jurisdiction and oversight. Registration serves as a gating mechanism to assure the public the Commission has already vetted sandbox participants and their wherewithal. It also ensures that the public will have at least some transparency as to the ownership, organization, operations, and rules of these platforms. Nasdaq notes that the DSS and DLT Pilot similarly require their respective participants to be registered, at least to the extent that such participants will serve live customers.

As noted elsewhere, the Commission should deem it beyond the scope of the sandbox to permit unregistered trading platforms to trade tokenized securities; this would be tantamount to the Commission arbitrarily – and contrary to Congressional intent – establishing a new market structure for securities trading that would be inconsistent with Congressional intent as expressed in the Exchange Act. Even if the Commission’s exemptive authority is broad enough to permit market structure experimentation in a sandbox, such experiments would raise important and complex public policy issues that are appropriate for deliberation within the context of notice and comment rulemaking before they are tested in the marketplace.

- b. Prudent Approach to Testing and Live Operation – Consistent with the design of the DSS, we suggest that the Commission require sandbox participants to engage in a period of initial testing before they may serve live customers, and then if they proceed to serve live customers, to do so in a graduated fashion.<sup>17</sup> The non-live testing phase should proceed until participants satisfy the Commission that their proposed trials work as designed and are unlikely to harm investors or undermine market integrity or stability. The live service phase should begin with a small cohort of consumers and scale up over time under the Commission’s supervision. As a condition of participation in the sandbox, any participant should agree to provide or publish any disclosures or data that the Commission requires of sandbox participants.
- c. Operational Safeguards – As with the DLT Pilot, the Commission may wish to also require all sandbox participants to meet standards for security, availability, resiliency, confidentiality, and accessibility of data stored on the blockchain. Additionally, to the extent that sandbox participants operate in a decentralized manner, the Commission should require that the participants have or establish mechanisms both to ensure accountability to the Commission and to investors for meeting such standards and for promptly addressing failures to do so.
- d. Securities Limits – Nasdaq recommends that the Commission limit the extent to which trading platforms may utilize the sandbox to trade tokenized securities. These limitations would serve to mitigate risks to investors if tokenization experiments fail. In particular, we recommend that in the sandbox, only a limited number of securities be made available for tokenization (subject to the issuers’

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<sup>17</sup> The DSS operates in a five-stage process: (1) initial application; (2) testing; (3) go live; (4) scaling of operations; and (5) graduation from the DSS and continued operation under a new regime. See DSS Consultation, supra.

agreement). Moreover, we suggest a platform be permitted to trade these tokenized securities at volumes that do not exceed a small threshold percentage of the market-wide average daily trading volume in the securities (including both tokenized and non-tokenized trading volume).

Certain ideas that have been presented to the Task Force already to exempt tokenized securities from Reg. NMS would splinter the national market for securities subject to tokenization pilots and risk price decoherence and the weakening of the NBBO for the securities thus negatively impacting the liquidity, transparency and integrity of the markets. In turn, the exemptions would risk exposing investors to worse executions for transactions in tokenized securities than they would in non-tokenized securities.

### **Conclusion**

If designed properly, a digital assets sandbox would provide a helpful and safe means by which the Commission could explore ways to facilitate the tokenization of securities through regulatory adaptation. Nasdaq appreciates the Commission's consideration of this comment letter.

Sincerely,



John A. Zecca

Cc: The Honorable Paul S. Atkins, Chairman, SEC  
The Honorable Mark T. Uyeda, Commissioner, SEC  
The Honorable Hester M. Peirce, Commissioner, SEC  
The Honorable Caroline A. Crenshaw, Commissioner, SEC  
Richard Gabbert, SEC Crypto Task Force, Chief of Staff  
Michael Selig, SEC Crypto Task Force, Chief Counsel  
Taylor Asher, SEC Crypto Task Force, Chief Policy Advisor  
Sumeera Younis, SEC Crypto Task Force, Chief of Operations  
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Laura Powell, SEC Crypto Task Force, Senior Advisor  
Veronica Reynolds, SEC Crypto Task Force, Senior Advisor  
Christopher Rice, SEC Crypto Task Force, Senior Advisor  
Mark Sater, SEC Crypto Task Force, Senior Advisor  
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