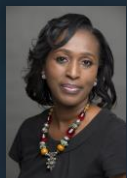




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FINTECH H1 2024 REVIEW AND OUTLOOK FOR H2 2024



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The financial technology (“Fintech”) sector in Nigeria experienced significant transformations across various segments in the first half of this year. This was as a result of the various initiatives introduced by the Central Bank of Nigeria (“CBN”), the Securities and Exchange Commission (“SEC”) and the Nigerian Data Protection Commission (“NDPC”) etc. through regulatory interventions and changes. We have highlighted in this update the key changes within the Fintech space during the first half of 2024 and offer insights into the expected developments for the remainder of the year.

REMITTANCES

One of the major updates regarding remittances was the release by the CBN of the Reviewed Guidelines of International Money Transfer Services in Nigeria (the “Guidelines”) on 31st January, 2024. The 2024 Guidelines repealed the CBN’s Guidelines for International Money Transfer services, which was issued on 26th September, 2014. The Guidelines provide a framework for the licensing and operations of International Money Transfer Operators (“IMTOs”) in Nigeria and introduced new requirements, which included:

(a) Commencement of Operations of IMTO Services

The Guidelines require any person or institution that intends to provide IMTO services in Nigeria to be duly authorised by the CBN. The person or institution is to apply to the Director, Trade and Exchange Department of the CBN (the “Director”) for approval. Subject to the applicant meeting the requirements for the approval, the CBN shall approve in two phases: approval-in-principle and final approval. IMTOs are only allowed to commence operations after the CBN has granted the final approval. The approval-in-principle only allows an IMTO to open a bank account and finalise other pre-operational processes.

(b) Requirements to Obtain Final Approval

The Guidelines require IMTOs applying for the final approval to provide the names of the authorised dealer bank(s) to serve as local agent(s), a copy of the agency agreement, and a detailed business plan. What this means is that IMTOs can only partner with a bank. This requirement has, however, been relaxed by the CBN through the Revised Regulatory and Supervisory Guidelines for Bureau de Change (“BDCs”) Operations in Nigeria, 2024 (the “BDC Guidelines”) which provides that BDCs can now serve as cash-out points for IMTOs. This means that IMTOs are now permitted to partner with BDCs as well.



(c) Restrictions on the Operations of IMTOs

The Guidelines place some limitations on the activities of IMTOs operating in Nigeria. Some of those limitations include:

(i) Prohibition of Outbound Transfers

IMTOs are prohibited from engaging in outbound transactions. In addition, IMTOs are not allowed to purchase foreign exchange ("FX") from the domestic market for settlements and accept deposits or lend to the public.

(ii) Prohibition of Banks and Fintechs from IMTO Services

Banks are allowed to act as agents for IMTOs but prohibited, together with Fintechs, from rendering international money transfer services. There is, however, no definition for "Fintechs" which leaves room for confusion as to which types of entities are permitted to operate IMTO services in Nigeria.

(iii) Restriction on Payout Options

All IMTOs are required to pay inbound money transfers to beneficiaries in "Naira" through a bank account or cash payment using the prevailing rate in the Nigerian Autonomous Foreign Exchange Market ("NAFEM"). Proceeds of IMTOs that are more than the equivalent of USD200 are required to be paid through an account. There is no longer a cap on the quotes as IMTOs are now allowed to quote exchange rates at the NAFEM on a willing seller, willing buyer basis.

(d) New measures for IMTOs to source Naira

Further to the 2024 Guidelines, the CBN has issued further guidance for the settlement of diaspora remittance.

1. New Measures to Enhance Local Currency Liquidity for Settlement of Diaspora Remittance

To enhance access to Naira liquidity for IMTOs and ensure timely settlement of diaspora remittances, the CBN issued a circular titled "New Measures to Enhance Local Currency Liquidity for Settlement of Diaspora Remittances" on 24th June, 2024 (the "Circular").



The Circular provides that eligible IMTOs can now access the CBN window directly or through their authorised dealer banks to conduct FX transactions in the Nigerian market. This will enable IMTOs to purchase Naira directly from the CBN to settle diaspora remittances. The key participants in this new market segment include eligible IMTOs, authorised dealer banks, and the CBN. Eligible IMTOs are those that are fully registered with the CBN and have an account with an authorised dealer bank. Such IMTOs must confirm their authorised dealer banks and provide standard settlement instructions to the CBN to ensure the smooth implementation of the measures.


2. Operationalisation of the CBN Purchase of FX from IMTOs

Further to the Circular, the CBN issued guidelines titled “Operationalisation of the CBN Foreign Exchange Purchase from International Money Transfer Operators” on 1st July, 2024 (the “Operational Guidelines”) to prescribe the requirements and processes for the smooth execution of the transactions between the participants. IMTOs are required to be registered with the CBN, have an account with an authorised dealer bank and undergo verification by the authorised dealer bank to confirm the validity of their licence. With respect to the documentation, IMTOs are required to provide information on their eligibility for the sale of FX, their preferred bank for settlement and details of their authorised signatories and their designation.

The Guidelines represent a significant shift in the industry, expanding permissible activities while emphasising transparency, accountability, and robust financial practices. While IMTOs can now handle both individual and business-to-business inbound transfers, outbound transactions and additional business activities remain strictly prohibited. Despite commendable changes in the Guidelines, there are still gaps that need to be addressed, such as defining “Fintechs” and clarifying whether the approval requirement applies retrospectively. We anticipate more partnerships between IMTOs, banks and BDCs to facilitate direct fund transfers to diasporans and recipients in Nigeria. Such collaborations will enhance the efficiency and reliability of remittance services, benefiting both service providers, transferors and recipients.

PAYMENTS

Although there have been no major amendments to payment regulations, a noteworthy development is the CBN’s licensing of United Payment Services Limited (UPSL) as the second payment terminal service aggregator (PTSA). Previously, the Nigerian Interbank Settlement System PLC was the sole entity authorised to act as a PTSA under the Guidelines on Operations of Electronic Payment Channels in Nigeria 2020.



The licensing of UPSL as a PTSA is a significant advancement in the payment sector, with industry stakeholders optimistic that it will drive the growth of payment services in Nigeria and help to minimise downtime challenges.

DATA PROTECTION

There were a few developments in the area of data protection. These developments are as follows:

(a) Classification Data Controller and Data Processor of Major Importance

A key regulatory development that occurred in 2024 which had a significant impact on organisations engaged in financial services, including Fintechs, was the issuance of the Guidance Notice on the Registration of Data Controllers and Data Processors of Major Importance pursuant to the Nigeria Data Protection Act 2023 ("**NDPA**"). One of the innovative provisions of the NDPA was the creation of data controllers or processors of major importance ("**DCPMIs**") and the requirement for registration. Section 65 of the NDPA defines a DCPMI as an entity domiciled, resident in, or operating in Nigeria and processes or intends to process personal data of more than such number of data subjects who are within Nigeria, as the NDPC may prescribe, or such other class of data controller or data processor that is processing personal data of particular value or significance to the economy, society or security of Nigeria as the NDPC may designate. The section, however, failed to identify specific entities that constitute DCPMIs but rather deferred the obligation of determining such entities to the **NDPC**.

Consequently, the NDPC issued Guidance Notice NDPC/HQ/GN/VOL.02/24 on the Registration of Data Controllers and Data Processors of Major Importance on 14th February 2024 ("**Notice**"). The Notice provides that a data controller or data processor shall be deemed to have "*particular value or significance to the economy, society or security of Nigeria*" and hence, be designated to be of major importance if it keeps or has access to a filing system (whether analogue or digital) for the processing of personal data and: (a) processes the personal data of more than two hundred data subjects in six months; or (b) carries out commercial Information Communication Technology ("ICT") services on any digital device which has storage capacity and belongs to another individual; or processes personal data as an organisation or a service provider in financial, communication, health, education, insurance, export and import, aviation, tourism, oil and gas and electric power. In addition, a data controller or processor is a DCPMI where it is under a fiduciary relationship with a data subject by reason of which it is expected to keep confidential information on behalf of the data subject.



The Notice further classified DCPMIs into major data processing-ultra high level (MDP-UHL); major data processing-extra high level (MDP-EHL) and major data processing - ordinary high level (MDP-OHL). MDP-UHLs are expected to pay the sum of ₦250,000 as registration fees with the NDPC. The organisations under this category are commercial banks, telecommunication companies, insurance companies, multinational companies, oil and gas companies, public social media app developers and proprietors, public email app developers and proprietors, communication devices manufacturers and payment gateway service providers.

(b) Request for Social Media handles by financial institutions

On 16th May, 2024, a Federal High Court in Lagos, in the case of Chris Eke v Central Bank of Nigeria, upheld the CBN Customer Due Diligence Regulation issued on 20th June, 2023 which requires financial institutions to collect social media handles of their customers as part of the standard know your customer procedure. According to Justice Dimgba, the regulation was not a violation of the right to privacy of bank customers.

(c) Cybercrimes (Prohibition & Prevention) (Amendment) Act 2024

The Cybercrimes Act (Prohibition & Prevention) Act 2015 (as amended by the Cybercrimes Act (Prohibition & Prevention) (Amendment) Act 2024) ("**Amended Act**") now includes a provision for the notification of cyber threats to the National Computer Emergency Response Team ("**National CERT**"). Section 21 of the Amended Act now requires a person or entity, whether public or private, to report any cyber threat to the National CERT within seventy-two (72) hours (this was against the previous requirement of seven days) from the detection of the cyber threat or breach. Failure to provide such reports within the stipulated date will subject the offender to a fine of ₦2,000,000 or denial of internet services or both. This change substantially aligns with section 40(2) of the NDPA which encourages data controllers to report personal data breaches to the NDPC within 72 hours of becoming aware.

While not all cyber breaches or threats lead to personal data breaches, a person or entity that suffers a cyber breach or threat is obliged to report to the National CERT whether or not there was a personal data breach. Where the cyber breach, however, leads to a breach of personal data, the person or entity involved must report to both the National CERT and the NDPC within 72 hours of becoming aware.

(d) Development of the Nigeria Data Protection General Application and Implementation Directive

In September 2023, the NDPC inaugurated the National Committee to draft the Nigeria Data Protection General Application Implementation Directive ("**NDP GAID**"). The NDP GAID will, among other things, provide guidance on the technical and organisational measures that data controllers and processors are expected to take to ensure the privacy of data subjects, data security, and data sovereignty.



In addition, the NDP GAID will clarify the definitions of critical terms in the NDPA. Consequently, in June 2024, the NDPC released a draft NDP GAID and called for public consultation on the draft NDP GAID. The salient provisions of the draft NDP GAID include:

- i. providing guidance on when an implied or constructive consent will apply to data processing;
- ii. timeline for the filing of returns by the different categories of DCPMIs;
- iii. expanding the scope of the NDPA to include data in transit and data on Nigerian citizens who are not residents of Nigeria;
- iv. extension of the deadline for filing annual audit returns from 15th March to 31st March;
- v. introducing the concept of a data subject's standard notice to address grievance (SNAG);
- vi. providing for the need for data controllers to obtain a data subject's consent for the deployment and use of cookies and similar technologies on websites and other digital platforms and provide appropriate notice to the data subjects regarding the use of such cookies;
- vii. mandating data controllers and processors who deploy emerging technologies (like Artificial Intelligence, the Internet of Things, and Blockchain) to implement additional technical and organisational safeguards to guarantee the fair and accountable use of data;
- viii. considering data ethics and regulatory audits; and
- ix. mandating the NDPC to create a database of all certified data protection officers and carry out an annual credential assessment to ensure the professionalism required to carry out their responsibilities.

BLOCKCHAIN AND CRYPTOCURRENCY

The major developments in this space are discussed below.

(a) Banks can now Facilitate Cryptocurrency Transactions

On 22nd December, 2023, the CBN issued the Guidelines on the Operation of Bank Accounts for Virtual Asset Service Providers ("VASPs") (the "VASP Guidelines") to allow banks to open accounts for VASPs and related entities to settle transactions in cryptocurrencies, subject to complying with prescribed conditions. This development partly reversed the CBN's previous stance that prohibited banks and other financial institutions ("Fis") from (a) trading or holding virtual assets; and (b) facilitating the settlement of transactions in virtual assets and from opening and operating bank



accounts for virtual assets exchanges. While the restriction on FIs trading or holding virtual assets still subsists, the latter, as in item (b) has been relaxed. Under the Guidelines, only eligible stakeholder FIs such as commercial banks, merchant banks, and payment service providers involved in the settlement of transactions for third parties are allowed to operate the relevant accounts.

The primary objectives of the Guidelines are to prescribe the minimum standards for banking relationships with VASPs in Nigeria, monitor FIs providing services to SEC licensed VASPs, digital asset custodians, digital asset offering platforms, digital asset exchanges (“DAX”), DAX operators (“Eligible Entities”), offer guidance on Eligible Entities’ account operations, and ensure robust risk management practices in the sector.

In operating accounts for VASPs, FIs are permitted to (a) open designated accounts; (b) provide non-interest-bearing designated settlement accounts and settlement services; and (c) act as channels for FX flows and trade.

The Guidelines have brought clarity to the settlement of transactions in cryptocurrencies in Nigeria and settled the conflict between the SEC’s position and that of the CBN before the relaxation. The previous restriction by the CBN, which was a barrier to the SEC’s issuance of licences to VASPs under its Rules on Issuance, Offering Platforms, and Custody of Digital Assets (the “SEC Rules”), has now been removed.

(b) Proposed Amendments to the SEC Rules on Issuance, Offering Platforms and Custody of Digital Assets

On 15th March, 2024, the SEC published its proposed amendments to the existing SEC Rules and invited the public to forward any comments within 2 (two) weeks from the date of publication. Some players in the crypto assets space submitted comments to the SEC. Some of the key changes proposed by the SEC include:

- (i) extending the description of virtual assets to include cryptocurrency such that the defined term will now be referred to as “virtual (crypto) assets” instead of “virtual assets” as it is under the existing rules;
- (ii) introducing the requirements for VASPs to be registered with the SEC and for the CEOs/Managing Directors (or its equivalent) to be resident in Nigeria;
- (iii) introducing of the requirement for existing Capital Market Operators registered to provide trading, offering platforms and custodial services seeking registration under the rules, to establish a subsidiary/separate entity to take up the function;



- (iv) increasing the prescribed fees payable to the SEC for obtaining the requisite licences;
- (v) increasing the minimum paid-up capital for a Digital Asset Offering Platform and that of a DAX to ₦1 billion;
- (vi) introducing a new minimum paid-up capital requirement in the sum of ₦1 billion (that is, bank balances, fixed assets or investment in quoted securities) for Digital Asset Custodians subject to verification of the sources of the funds; and
- (vii) introducing the requirement for Digital Asset Custodians to hold a current fidelity bond covering at least 25% of the minimum paid-up capital.

We are aware that the SEC is currently in talks with stakeholders to finalise the SEC Rules and we expect that the amended SEC Rules will be released in H2 2024.

(c) [Framework on Accelerated Regulatory Incubation Program for the Onboarding of VASPs and DISPs](#)

Notwithstanding that the SEC has not issued the amended SEC Rules, the SEC released a Framework on Accelerated Regulatory Incubation Program (**ARIP**) for the Onboarding of VASPs and other Digital Investment Service Providers (**DISPs**) (the "**Framework**") on 21st June, 2024. The Framework provides a special window for the onboarding of entities that propose to carry on virtual assets activities and whose applications have been filed with the SEC, as well as other potential applicants that perform such activities. The Framework is aimed at enabling qualified entities to obtain an approval in principle from the SEC to carry out limited operations, pending when the amended SEC Rules are issued and become operational.

Participants who meet the prescribed ARIP's conditions and demonstrate satisfactory compliance with the Framework's requirements may transition to full registration with the SEC. That will, however, be subject to undergoing a review by the SEC and meeting any additional requirements that may be specified by the SEC.

The primary purpose of ARIP is to guide participants on the SEC's regulatory requirements before they become fully operational in the Nigerian capital market. It will also give the SEC an opportunity to better understand the business models of the entities seeking to operate directly in Nigeria. The Framework is very recent, and the SEC has mandated VASP participants to complete the registration process no later than 30 days from the 21st of June.



We expect that VASPs will be looking to register under the Framework in the coming days and that the SEC will afford applicants additional time to complete the registration process. This is because, given the robust requirements under the Framework, the 30-day timeline will not be sufficient for eligible entities to meet the registration requirements.

FOREIGN EXCHANGE

The CBN has been actively implementing various policies in the Nigerian foreign exchange market with the aim of stabilising the Naira's exchange rate. Some of the changes that the CBN introduced during H1 2024 include:

(a) Sale of Foreign Currency to Bureau De Change Operators

In February and April 2024, the CBN issued circulars announcing the reintroduction of the sale of foreign currency to all BDCs at fixed rates to meet retail demand for FX to fund eligible invisible transactions. Such eligible transactions include educational expenses, medical expenses and travel expenses (BTA and PTA). The CBN also mandated BDCs to sell their foreign currency purchases at a maximum spread of 1% in February and increased to 1.5% in April to help stabilise the exchange rate of the Naira. It is unclear whether the CBN's objective was met as the Naira continued to depreciate in the NAFEM and parallel market.

(b) Removal of Spread on Foreign Exchange Transaction

The CBN, through its circular titled "Removal of the Spread on Foreign Exchange Transaction" dated 8th February, 2024, discontinued the application of caps on the spread on interbank FX transactions and restriction on the sale of interbank proceeds in the NAFEM. It further mandated authorised dealers to continue to execute FX transactions in the NAFEM using the "willing buyer and willing seller" model. Authorised dealers were also required to maintain high ethical standards in their dealings in the FX market, such as making appropriate price disclosures and maintaining transparency in all transactions. The introduction of these measures resulted in a significant depreciation of the Naira against other major currencies.

(c) Harmonisation of Reporting Requirements on Foreign Currency Exposures of Banks

In January 2024, the CBN issued a circular requiring banks to maintain a Net Open Position limit of foreign currency assets and liabilities of 20% short and 0% long of shareholders' funds unimpaired by losses, using the Gross Aggregate Method. The CBN provided further instructions to banks, including requiring that banks: (i) must maintain an adequate stock of high-quality liquid foreign assets, such as cash and government securities, in each currency to cover their maturing foreign currency



obligations; and (ii) should borrow and lend in the same currency to avoid currency mismatch, and the base interest rates for borrowing and lending should also be the same.

(d) The Use of Foreign Currency Denominated Collateral for Naira Loans

On 8th April, 2024, the CBN issued a letter to all banks titled "The Use of Foreign Currency Denominated Collateral for Naira Loans" to prohibit the use of foreign currency collateral for Naira loans. In addition, it specifies that the only permissible forms of foreign currency collateral for Naira denominated loans are: (i) Eurobonds issued by the Federal Government of Nigeria; or (ii) guarantees of foreign banks, including letters of credit.

The CBN went further to mandate banks to wind down all such loans within 90 days. This deadline expired on 8th July, 2024. The affected banks' level of compliance is not public yet and it is unclear what step the CBN may take in respect of any non-compliant bank.

(e) Allowable Channels for Payout of Personal Travel Allowance (PTA) and Business Travel Allowance (BTA)

On 14th February, 2024, the CBN issued to all banks a circular titled "Allowable Channels for Payout of Personal Travel Allowance (PTA) and Business Travel Allowance (BTA)" to require banks to disburse PTA/BTA to eligible customers exclusively through electronic channels, including debit or credit cards. It emphasised that cash payment for PTA/BTA, which was the practice at the time, is no longer permissible.

OUTLOOK FOR H2 2024

Looking ahead to the second half of 2024, Nigeria's fintech sector is hopefully poised for continued growth and innovation. We anticipate that there will be several key developments in the following sectors:

1. Blockchain and Cryptocurrencies:

As stated above, we expect that the amended SEC Rules will be released in H2 2024 and that various players in the crypto space will be licensed by the SEC to operate in Nigeria. In addition, following the VASP Guidelines issued by the CBN permitting banks to open accounts and facilitate the settlement of transactions in virtual assets, we expect that VASPs may now be able to operate banks accounts in Nigeria.



Given that this is a new development, there could be challenges with implementation and that banks may not clearly understand the extent of their obligations under the Guidelines. As a result, we expect the CBN to clarify any of the unclear provisions of the Guidelines and for banks to train their employees on the implementation of the requirements. We also expect to see increased monitoring of transactions in virtual assets to achieve transparency.

With the release of the VASP Guidelines, we expect the SEC to start taking steps towards the licensing of Eligible Entities and the implementation of the SEC Rules. Furthermore, we expect participants in the digital and virtual assets space to start taking steps to incorporate entities in Nigeria and/or apply to the SEC to obtain the relevant licence to enable them to open a designated bank account and designated settlement account with Nigerian banks for their operations in Nigeria. This strategic shift is likely to contribute to the broader adoption and usage of virtual and digital assets in Nigeria.

2. Payments:

As the payments ecosystem continues to grow, we expect that the CBN will continue to explore various ways of regulating the payments space. While there have been reports of licensed switching and processing companies being mandated by the CBN to unbundle by creating separate entities for their payment gateway services, payment terminal service provider services and super agent businesses, there have been no official announcements by the CBN. We expect that as the year progresses, the CBN will issue amendments to the existing payment regulations. This will be in line with the announcement by the CBN Governor in November 2023 that the CBN is reviewing the regulatory framework for Fintechs in Nigeria and that significant changes will be introduced in that sector.

3. Financial Inclusion and digitalisation:

We expect that financial institutions in Nigeria will continue to pay keen attention to the growing need for financial inclusion and seamless transaction flows in Nigeria. This is predicated on challenges that Nigerians faced in accessing Naira in 2023, and the constant network glitches and transactions decline in processing payments. We anticipate renewed efforts from all stakeholders to ensure that the rural and developing areas in Nigeria have access to traditional and innovative financial services.



- 4. Development of A Nigerian Stablecoin:** The Africa Stablecoin Consortium (“ASC”), which comprised various pan-African banks, Fintechs, and blockchain businesses, is currently developing a stablecoin for Nigeria which will be known as cNGN. The coin is expected to be launched in 2024 which we expect will be in H2 2024. ASC had, through a statement on 8th January, 2024, confirmed that they are currently engaging with the appropriate regulatory bodies, including the CBN, to participate in its regulatory sandbox program. Through this sandbox program, ASC hopes to showcase the potential benefits of the cNGN ecosystem. The benefits will include providing a secure, transparent, interoperable, and innovative solution for digital asset transactions in Nigeria.

In our view, the development of cNGN is particularly interesting as it presents a tremendous opportunity for the growth and adoption of cryptocurrency/digital currencies in Nigeria. This development, combined with the CBN’s greenlight for banks to facilitate settlement cryptocurrency transactions in Nigeria, will usher in a new horizon for the adoption and utilisation of cryptocurrencies by the Nigerian public. The issuance of cNGN could also have a positive impact on Nigeria’s economy generally as it will facilitate the use of the Naira for international trade, eliminating high transaction charges, reducing long wait times, and minimise currency price manipulation by middlemen. Furthermore, as the development of the cNGN is driven by banks, Fintechs and other stakeholders in the cryptocurrency industry, we believe that it may receive wider adoption than the eNaira which was developed solely by the CBN.

- 5. Digital Lending:** We expect more comprehensive guidelines for the registration and surveillance of digital lenders operating in Nigeria to replace the current interim framework for the registration of digital lenders by the Federal Competition and Consumer Protection Commission (“FCCPC”). There has been a recent indication by the FCCPC of its strategic plans to curb the increasing indebtedness to loan apps and the unethical and inappropriate loan recovery mechanisms utilised by digital lenders. It is anticipated that the FCCPC may release new regulations that establish a broader approach to responsible borrowing and lending by corporates and individuals.

- 6. Development of the Nigeria Data Protection General Application and Implementation Directive**

As stated above, the NDP GAID is currently undergoing stakeholders’ consultation, and the final version will be issued after considering stakeholders’ comments on the draft NDP GAID. We are unsure when this final version of the regulation will be issued. We believe, however, that the NDPC may release the final version of the regulation before the end of the year.

CONCLUSION

H1 2024 was a busy period for some regulators, particularly the CBN. Things are still evolving in the Fintech space. We expect more activities and regulatory changes in H2 2024. We will continue to monitor the space for developments and how they impact Fintechs. In addition, we expect to see more participation in the Fintech industry following some of the notable and commendable changes introduced by the relevant regulators in H1 2024.

This update has been provided by Yinka Edu, Joseph Eimunjeze, Pamela Onah, Damilola Adedoyin, Precious Onyebuchi David and Itoro Etim of the Fintech team at Udo Udoma & Belo-Osagie. For more information about our Fintech practice group offerings, please visit our website at www.uubo.org or email us at uubo@uubo.org.

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