

Zero-Day Options (ODTE) and FINRA Day Trading Rules: A Regulatory Analysis

I. Introduction

Context: The financial landscape has witnessed a significant surge in the popularity of Zero Days to Expiration (ODTE) options, particularly those tied to major market indices like the S&P 500 (SPX).¹ These instruments, expiring on the same day they are traded, appeal to certain market participants seeking to capitalize on short-term, intraday price fluctuations.¹ Between 2016 and mid-2023, ODTE trading reportedly grew from representing 5% to over 40% of the total S&P 500 index options volume, indicating a dramatic shift in trading behavior.¹

The Core Question: This rapid adoption raises critical regulatory questions for traders, chief among them: Do transactions involving ODTE options qualify as "day trades" under the rules established by the Financial Industry Regulatory Authority (FINRA)? Furthermore, what are the implications of such classification, particularly concerning the Pattern Day Trader (PDT) designation and its associated requirements?

Report Purpose and Scope: This report provides a detailed analysis of the relevant financial regulations to address these questions definitively. It examines the characteristics of ODTE options, the official FINRA definition of a "day trade," and the specifics of the Pattern Day Trader (PDT) rule. The analysis focuses primarily on the application of these rules within **margin accounts**, as FINRA's day trading regulations, including the PDT rule, are specifically tied to this account type.⁴ The objective is to clarify how ODTE options trading interacts with these regulations and the resulting consequences for traders operating under FINRA jurisdiction.

The explosive growth in ODTE trading volume has not gone unnoticed by market observers and regulators.¹ This heightened activity has spurred discussions regarding potential impacts on market volatility and stability.² While some sources suggest concerns about increased volatility², others posit that ODTE activity might suppress intraday volatility under certain conditions.⁷ Against this backdrop of increasing market share and regulatory interest, a clear understanding of the established trading rules, such as the PDT regulations, becomes essential for market participants navigating this dynamic environment.

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II. Decoding ODTE Options

Definition: Zero Days to Expiration (ODTE) options are precisely what their name implies: options contracts that expire at the close of the trading session on the very same day they are traded.⁸ These are not necessarily a distinct class of options but often represent standard options contracts, such as weekly options, on their final day of existence.⁷ In some cases, specific options might be listed for only a single trading session.¹⁰ The proliferation of ODTE trading has been significantly enabled by exchanges listing options with daily expirations on major indices and related exchange-traded funds (ETFs), such as the S&P 500 Index (SPX), SPDR S&P 500 ETF Trust (SPY), Nasdaq-100 Index (NDX), and Invesco QQQ Trust (QQQ).¹ These underlyings now offer expirations covering every trading day of the week, facilitating continuous ODTE opportunities.²

Key Characteristics: The defining feature of ODTE options is their extremely short lifespan, which dramatically influences their behavior and risk profile:

- **Accelerated Time Decay (Theta):** The erosion of an option's time value, known as theta decay, occurs at a drastically accelerated rate on the expiration day.⁸ While longer-dated options lose time value gradually, a ODTE option's extrinsic value (the portion of the premium not related to its intrinsic, in-the-money value) effectively plummets towards zero throughout the final trading session.⁶ This rapid decay is a critical factor, benefiting sellers who collect premium but acting as a significant headwind for buyers who need substantial, favorable price movement to overcome it.⁶
- **Heightened Price Sensitivity (Gamma):** ODTE options, particularly those trading near the current price of the underlying asset (at-the-money), exhibit extreme sensitivity to changes in the underlying asset's price. This sensitivity is measured by the option Greek "gamma".¹ High gamma means that even small fluctuations in the underlying asset's price can cause disproportionately large and rapid swings in the ODTE option's price and its delta (its sensitivity to a \$1 move in the underlying).¹
- **Amplified Leverage:** Due to the minimal time value remaining, ODTE options often trade at significantly lower premiums compared to options with longer expirations.³ This lower cost allows traders to control a large notional value with a relatively small capital outlay, providing substantial leverage.⁸ While this leverage can magnify potential percentage gains, it equally amplifies potential percentage losses, making large losses possible from small adverse price movements.⁸
- **Intraday Volatility Sensitivity:** The combination of high gamma and minimal time value makes ODTE options exceptionally reactive to intraday market events,

such as news releases, economic data announcements, or shifts in market sentiment.³ This heightened sensitivity creates opportunities for nimble traders but also exposes positions to significant risk from sudden, unexpected market fluctuations.⁸

Trading Motivation: Traders utilize ODTE options for various reasons, primarily centered around their short-term nature. Many seek to profit from anticipated intraday volatility or directional price movements.³ The strategy might involve targeting specific events like economic reports or earnings announcements.¹ The lower premiums offer a potentially cheaper way to gain exposure or hedge positions for a very short period.² Additionally, closing positions by the end of the day eliminates overnight market risk.² Trading strategies range from simple directional bets, like buying calls or puts¹⁰, to more complex multi-leg structures like iron condors, vertical spreads, straddles, or strangles, often designed to profit from time decay or defined price ranges.⁹

Inherent Risks: Despite their potential appeal, ODTE options carry substantial risks, often amplified compared to longer-dated options. For buyers, the rapid time decay means the option can quickly become worthless if the underlying asset's price does not move significantly in the desired direction before expiration, potentially leading to a 100% loss of the premium paid.³ The extremely short timeframe leaves little room for error or for the market to move favorably.³ For sellers of uncovered (naked) options, the high gamma can lead to rapidly escalating, potentially unlimited losses if the market moves sharply against their position.³ Effective trading requires constant market monitoring and the ability to make rapid decisions under pressure.³ The comparison to purchasing a lottery ticket is sometimes made, highlighting the low probability but high potential payoff (or loss) within a very compressed timeframe.⁶

The low premiums associated with ODTE options are a significant draw, enabling high leverage.² However, this apparent advantage is intrinsically linked to the high probability of the option expiring worthless and the extreme price sensitivity (gamma) that characterizes these instruments.³ The minimal time value means the option's price is almost entirely dependent on immediate, favorable movement in the underlying asset.⁶ Without such movement, the accelerated theta decay rapidly erodes any remaining premium.⁸ Simultaneously, the high gamma ensures that small price changes can trigger large shifts in the option's value, contributing to their volatile nature.⁷ Therefore, the low cost directly reflects both the low statistical probability of a significant payout and the high velocity at which the option's value can change or evaporate.

Furthermore, the very existence and subsequent explosion in popularity of ODTE trading are closely tied to structural changes in the market, specifically the introduction of options contracts expiring every trading day on major indices.¹ Before the CBOE and other exchanges began listing options with Monday, Tuesday, Wednesday, Thursday, and Friday expirations (achieved by adding Tuesday and Thursday expirations in 2022 for key products ²), ODTE trading was limited to the expiration days of traditional weekly or monthly contracts. The creation of daily expirations transformed ODTEs from an intermittent event into a continuously available strategy.² This constant availability allowed trading strategies specifically designed around ODTE characteristics to be deployed daily, attracting substantial new trading flows and directly fueling the dramatic increase in volume observed in recent years.¹

Table 1: ODTE Option Characteristics

| Feature | Description | Key Snippets |
|----------------------------------|--|--------------|
| Expiration | Contract expires at the end of the trading day it is traded. Often standard weekly options on their final day, or options listed for a single session. | ² |
| Time Decay (Theta) | Extremely accelerated. Extrinsic value decays rapidly towards zero during the final trading day. Major factor impacting profitability. | ⁷ |
| Price Sensitivity (Gamma) | Very high, especially for near-the-money options. Small changes in underlying price cause large, rapid swings in option price and delta. | ¹ |
| Leverage | Often high due to lower premiums compared to longer-dated options. Magnifies potential percentage gains and losses. | ³ |

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| Typical Underlyings | Major indices (SPX, NDX) and related ETFs (SPY, QQQ) with daily expirations. Also available on some highly liquid single stocks (often with weekly Friday expirations counting as ODTE on that day). | 1 |
| Primary Risks | Rapid time decay against buyers, potential for 100% loss for buyers, high sensitivity to volatility, potential for large/unlimited loss for naked sellers, requires constant monitoring. | 3 |

III. Defining a "Day Trade" under FINRA Rules

The Official FINRA Definition: To determine if ODTE trading constitutes day trading, one must first understand FINRA's official definition. According to FINRA's margin rules, a "day trade" is defined as the purchase and sale, or the sale and purchase, of the **same security** on the **same day** within a **margin account**.⁴ This action of entering and exiting a position within a single trading session is often referred to as a "round trip".⁵ The strategy typically aims to profit from small, intraday price movements.⁴

Inclusion of Options: Crucially, FINRA rules explicitly state that the term "security" encompasses options contracts, including both calls and puts.⁴ Therefore, the act of buying and subsequently selling the same option contract, or selling and subsequently buying back the same option contract, on the same trading day falls squarely within the regulatory definition of a day trade.

The "Same Security" Nuance for Options: When applying the "same security" criterion to options, it refers to the *exact same options contract*. This means the contract must have the identical underlying asset, expiration date, strike price, and type (call or put).⁴ For example, buying an SPX Weekly \$4500 call expiring today and later selling that *same* contract today is a day trade. However, buying an SPX Weekly \$4500 call expiring today and selling an SPX Weekly \$4550 call expiring today involves two different securities, and thus this pair of trades would not constitute a single day trade under the rule.²⁰

Margin Account Context: It is essential to reiterate that the FINRA day trading rules, and specifically the Pattern Day Trader (PDT) regulations discussed later, apply to trading activities conducted within a **margin account**.⁴ Day trading is generally not permitted in a cash account due to settlement rules (typically T+1 for options, T+2 for stocks). Selling a security in a cash account before it has been fully paid for with settled funds constitutes a violation known as "free riding," which can lead to account restrictions.⁴

The specific focus of the PDT rules on margin accounts highlights the regulator's concern regarding the risks associated with leverage. Day trading itself carries inherent risks due to market volatility and the need for rapid decision-making.⁴ Margin trading amplifies these risks by allowing traders to control positions larger than their deposited capital would otherwise permit, thereby increasing the magnitude of potential losses.¹⁵ FINRA's PDT rules, including the minimum equity requirement and specific buying power limitations, function as safeguards designed specifically for this leveraged environment.⁴ They aim to ensure that traders engaging frequently in intraday trading on margin possess adequate capital to absorb potential losses, reflecting the heightened risk profile of this activity.⁴ Cash accounts, lacking this inherent leverage, are subject to different regulations centered on ensuring proper settlement of trades.⁴

IV. The Pattern Day Trader (PDT) Rule

Defining a Pattern Day Trader: FINRA Rule 4210 establishes the criteria for classifying a customer as a "Pattern Day Trader" (PDT).⁵ This designation is triggered if a customer executes:

1. **Four or more day trades** within any period of **five consecutive business days**.⁴
2. AND the total number of these day trades represents **more than 6 percent** of the customer's total trading activity (total trades) in the margin account over that same five-business-day period.⁴

Broker Discretion: Beyond this quantitative test, FINRA rules also permit a brokerage firm to designate an account as PDT if the firm "knows or has a reasonable basis to believe" that the customer *intends* to engage in pattern day trading.⁴ This "reasonable belief" could stem from factors such as the firm providing specific day-trading training to the customer or the customer explicitly stating their intention to day trade frequently.⁴

The \$25,000 Minimum Equity Requirement: The most significant consequence of being designated a PDT is the minimum equity requirement. A PDT must maintain

minimum equity of \$25,000 in their margin account on any day they engage in day trading.⁴ This equity can be a combination of cash and eligible securities, and it must be present in the account *before* the trader initiates any day trades for that day.⁴

PDT Privileges: Day-Trading Buying Power (DTBP): Accounts designated as PDT generally receive enhanced Day-Trading Buying Power (DTBP). This is typically calculated as up to four times the account's maintenance margin excess as of the close of the previous business day.⁴ Maintenance margin excess is the amount by which the account's equity exceeds the minimum margin required by the brokerage firm (typically 25% for stocks²⁴). This contrasts with standard margin accounts (non-PDT), which usually have buying power limited to two times the maintenance margin excess.²³

Consequences of Violations: Failure to adhere to PDT rules carries significant consequences:

- **Equity Below \$25k:** If a PDT-designated account starts the trading day with equity below the \$25,000 minimum, the trader is prohibited from making any day trades until the account equity is restored to \$25,000 or more.⁴ Placing a day trade while below the minimum equity threshold will typically result in the account being restricted, often to closing transactions only, until the minimum equity is met.¹⁴
- **Margin Calls:** If a PDT exceeds their calculated DTBP, the brokerage firm will issue a day-trading margin call for the amount of the deficiency.⁴ The trader generally has up to five business days to meet this call by depositing cash or fully paid marginable securities.⁴ Any funds deposited to meet the call must remain in the account for at least two business days following the deposit.⁴
- **Restrictions for Unmet Calls:** While a day-trading margin call is outstanding, the account's DTBP is typically restricted, often to two times the maintenance margin excess.⁴ If the margin call is not met within the allotted five business days, the account faces further, more severe restrictions. It may be limited to trading only on a cash-available basis (meaning trades must be fully covered by settled cash) or restricted to liquidating existing positions only, typically for a period of 90 days or until the call is met.⁴

PDT Designation Persistence: Once an account is flagged as PDT, the designation typically remains in place, even if the customer's day trading activity subsequently decreases.⁴ While a customer can request that their broker remove the PDT designation if their trading strategy has genuinely changed, brokers often allow only one such reset during the lifetime of the account.¹⁴ If the account is subsequently

re-flagged, the designation may become permanent.¹⁴

The inclusion of the ">6% of total trades" criterion in the PDT definition ⁴ is noteworthy. It suggests that the rule is designed to identify accounts where day trading represents a significant *strategy* or proportion of activity, rather than simply penalizing accounts with high overall trading volume that might include a few incidental day trades. A trader executing 4 day trades but 100 total trades in a five-day period (4% day trades) would meet the first condition but not the second. This focus on the relative frequency implies that FINRA's primary regulatory concern is directed towards traders whose core approach involves frequent intraday turnover using margin leverage, distinguishing them from active traders with more diverse strategies.

Furthermore, the provision allowing brokers to proactively designate accounts as PDT based on "reasonable belief" ⁴ underscores the importance of trader awareness. It signifies that PDT status is not solely a reactive measure triggered after the quantitative thresholds are breached. If a brokerage firm actively promotes day trading services or provides specialized training ⁴, it may reasonably conclude that a client utilizing these services intends to engage in pattern day trading and apply the associated rules from the outset. This highlights the need for traders to understand their specific broker's policies regarding PDT designation and be cognizant that their account might be subject to the \$25,000 minimum equity requirement even before executing the threshold number of day trades.

Table 2: Pattern Day Trader (PDT) Rule Summary

| Category | Detail | Key Snippets |
|------------|--|--------------|
| Criteria | | |
| Definition | Executes 4+ day trades in 5 consecutive business days, AND day trades > 6% of total trades in that period. Broker may also designate based on "reasonable belief" of intent. | ⁴ |
| Threshold | 4 or more day trades | ⁴ |

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| Timeframe | Within 5 consecutive business days (rolling period) | 4 |
| Account Type | Applies only to Margin Accounts | 4 |
| >6% Rule | Day trades must exceed 6% of total trades in the 5-day period | 4 |
| Requirements | | |
| Minimum Equity | Must maintain \$25,000 in account equity (cash + eligible securities) on any day the PDT day trades. Must be present <i>before</i> trading. | 4 |
| Privileges | | |
| Buying Power (DTBP) | Generally up to 4x maintenance margin excess (vs. 2x for non-PDT) | 4 |
| Consequences | | |
| Equity Below \$25k | Prohibited from day trading until equity restored. Trading below minimum can lead to restrictions (e.g., closing transactions only). | 4 |
| Margin Call | Issued if DTBP is exceeded. Must be met within 5 business days. | 4 |
| Unmet Call | DTBP restricted (often to 2x excess) while call outstanding. Failure to meet in 5 days can lead to 90-day cash-only or liquidation-only restriction. | 4 |

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| Designation | Often permanent once flagged, though a one-time reset may be possible with broker approval. | 4 |
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V. Analysis: Classifying ODTE Option Trades

Applying the Day Trade Definition to ODTEs: The central question can now be addressed directly by applying FINRA's definitions to the specific characteristics of ODTE options. The act of purchasing to open an ODTE option contract (e.g., a specific SPY call expiring today) and subsequently selling to close that *exact same contract* within the same trading day, while utilizing a margin account, unequivocally satisfies all criteria of FINRA's definition of a day trade.⁴ The same applies to initiating the trade with a sale (sell to open) and closing it later that day with a purchase (buy to close) of the identical contract.

Regulatory Parity: It is crucial to understand that FINRA's day trading rules make no distinction between stocks and options in their fundamental application.⁴ Options, regardless of their time to expiration, are treated as securities under these regulations. Consequently, ODTE options receive no special exemption or different treatment compared to stocks or longer-dated options concerning day trading classification or the PDT rule.

Counting ODTE Trades Towards PDT: Each instance where a trader executes a round trip (buy/sell or sell/buy) of the same ODTE option contract on the same day within their margin account counts as one day trade towards the "four or more trades in five business days" threshold for PDT designation.⁴

Nuances in Counting Complex ODTE Orders: While the basic principle is straightforward, complexities can arise in how day trades are counted, particularly with options strategies common in ODTE trading:

- **Multiple Fills:** If a trader places a single order to buy, for example, 10 contracts of a specific ODTE option, and that order is filled through several smaller, sequential partial executions due to market conditions, followed by a single order to sell all 10 contracts later that day, this sequence may be counted as only *one* day trade. The determining factor is often the trader's intent as reflected in the initial order structure.¹⁴ Conversely, placing multiple separate buy orders for the same contract, even if closed with a single sell order, would likely count as multiple day trades.¹⁴
- **Spreads and Multi-Leg Strategies:** Entering a defined multi-leg options spread

(like an iron condor, vertical spread, butterfly, etc.⁹) as a single complex order and later closing the *entire spread* as a single transaction is generally counted as *one* day trade by most brokers.¹⁶ However, if the trader "legs out" of the spread by closing the individual option components separately throughout the day, each closing transaction that pairs with an opening transaction from the same day could potentially count as a distinct day trade.¹⁶

- **Broker Variation and Monitoring:** The precise implementation of these counting rules, especially for complex orders or partial fills¹⁷, can sometimes vary slightly between brokerage firms. FINRA provides interpretations aiming for flexibility based on intent or changes in trading direction¹³, but translating these into automated systems can lead to differences. Therefore, traders must understand their specific broker's methodology.²⁰ Fortunately, many trading platforms provide a running count of executed day trades within the relevant five-day window, which traders should monitor closely.¹⁴

Given the explicit inclusion of options within the scope of securities covered by day trading rules⁴ and the unambiguous definition of a day trade as opening and closing the same security on the same day in a margin account⁴, the conclusion is inescapable. Opening and closing the *same* ODTE option contract on the same day *is* classified as a day trade under FINRA regulations. The contract's short duration until expiration does not alter its fundamental nature as a security or the classification of the round-trip transaction.

However, while the basic rule is clear, the nuances involved in counting day trades for more complex order types, such as spreads or orders experiencing multiple fills¹³, necessitate heightened vigilance from traders. Those employing sophisticated ODTE strategies that involve scaling into or out of positions, rolling contracts, or managing multi-leg spreads must pay careful attention to how their specific broker counts these actions, especially if operating near the PDT threshold. Relying on the broker's provided day trade counter¹⁴ becomes crucial to avoid inadvertently triggering PDT status due to a misunderstanding of how complex sequences are tallied.

VI. Implications and Considerations for ODTE Traders

Accelerated Path to PDT Status: The inherent nature of ODTE options trading—characterized by rapid responses to intraday market movements, short holding periods, and the need for quick entries and exits³—naturally lends itself to a higher frequency of transactions that meet the definition of a day trade. Consequently, active traders utilizing ODTE strategies within a margin account are highly likely to cross the PDT threshold (four or more day trades in five business days)

relatively quickly compared to traders employing longer-term strategies.

The \$25k Equity Gatekeeper: This high likelihood of triggering PDT status makes the \$25,000 minimum equity requirement a critical factor for serious ODTE traders using margin. For those wishing to actively day trade ODTE options without facing restrictions on frequency, maintaining account equity at or above \$25,000 becomes a practical necessity.⁴

Strategic Adjustments for Sub-\$25k Accounts: Traders operating with margin account equity below the \$25,000 threshold must be acutely aware of the PDT limitations and adjust their strategies accordingly. Options include:

- **Strict Day Trade Limitation:** Diligently tracking and limiting day trades to a maximum of three within any rolling five-business-day period to avoid triggering the PDT flag.⁴
- **Swing Trading:** Focusing on strategies that involve holding positions overnight or longer, thereby avoiding the classification of trades as day trades.
- **Cash Account Trading:** Utilizing a cash account instead of a margin account eliminates the PDT rule's applicability. However, traders must then adhere strictly to settled funds rules, ensuring they only sell securities that have been fully paid for with settled cash to avoid free-riding violations.⁴ This can limit trading frequency due to settlement times.
- **Strategy Modification:** Employing options strategies that are less dependent on rapid intraday entry and exit, such as selling wider premium-collection spreads with the intention of holding to expiration or employing longer-term directional views.

Risk Management Amplified: The regulatory constraints imposed by the PDT rule add another layer of complexity to the already challenging task of managing risk in ODTE trading. Traders must not only navigate the extreme price volatility, rapid time decay, and inherent leverage risks associated with these instruments³ but also meticulously manage their day trade count and equity levels to remain compliant and avoid potentially crippling account restrictions.

The PDT rule, while designed as a general safeguard for day trading across all securities, effectively functions as a significant capital threshold for the high-frequency, often highly leveraged style of trading commonly associated with ODTE options in margin accounts. The very characteristics of ODTEs—high gamma and rapid theta decay—often necessitate frequent intraday adjustments or trades to manage positions effectively.⁷ The PDT rule directly curtails this frequency for accounts holding less than \$25,000.⁴ By imposing this substantial minimum equity

requirement, the regulation ensures that participants engaging most actively in this specific type of high-risk (due to ODTE characteristics) and potentially high-leverage (due to margin use) activity possess a larger capital buffer. This aligns with FINRA's stated objectives of mitigating risks for both customers and brokerage firms stemming from the potential for rapid losses in day trading.⁴

However, this regulatory framework may also lead to unintended consequences for traders operating below the \$25,000 threshold. The strict limit on day trades might compel these traders to alter their tactics in ways that could increase risk or reduce efficiency. For instance, a trader might identify an optimal intraday exit point for a volatile ODTE position but choose not to close it to conserve one of their allotted three day trades.⁴ This decision forces them to accept unwanted overnight risk² or exposure to further adverse market movement, potentially turning a profit into a loss or magnifying an existing loss. Alternatively, the rule might discourage traders from making small, tactical adjustments or scaling out of positions—actions often necessary for risk management in the fast-paced ODTE environment⁸—because each round trip consumes a valuable day trade allocation. This could hinder their ability to effectively manage risk or capitalize on fleeting opportunities within the rigid constraints of the rule.

VII. Conclusion

Direct Answer: The analysis of FINRA regulations and the nature of ODTE options trading leads to an unequivocal conclusion: Yes, purchasing and selling (or selling and purchasing) the **same ODTE option contract** on the **same trading day** within a **margin account** definitively counts as a **day trade** under FINRA rules.⁴ Options, including those with zero days to expiration, are subject to the same day trading regulations as stocks.

Key Takeaway: The fast-paced, intraday nature often associated with ODTE options strategies means that active traders utilizing these instruments in margin accounts have a high probability of being classified as Pattern Day Traders (PDTs). Consequently, a thorough understanding of, and adherence to, the PDT rule is paramount. For traders seeking to engage in frequent ODTE day trading without restriction, maintaining the **\$25,000 minimum account equity requirement** is not merely a suggestion but a practical necessity to avoid trading limitations.

Final Caution: While this report clarifies the regulatory classification of ODTE trades, potential traders must remember that compliance with FINRA rules is only one aspect of responsible trading. ODTE options possess unique and substantial inherent market

risks stemming from their accelerated time decay, extreme sensitivity to price movements, and amplified leverage.³ Any decision to trade these instruments should be made only after careful consideration of one's own risk tolerance, available capital, trading experience, and a comprehensive understanding of the potential for rapid and significant losses.⁴

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