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TECHNOLOGY MARATHON

**The Emergence of New Tech Hubs in
the EU: Immigration Strategies and
Realities for Multinational Employers**

Shannon Donnelly, Yvette Allen, Barton W.S. Bassett

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Presenters



Shannon Donnelly
Partner, Immigration
Washington, DC



Yvette Allen
Associate, Immigration
London



Barton W.S. Bassett
Partner, Tax
Silicon Valley

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Today's Agenda

- 
- Relocation of Ukraine-based Tech Talent
 - EU Temporary Protection Directive
 - Relocation of Russia-based Tech Talent
 - Overview of International Tax Considerations
 - Questions

Ukrainian Workforce



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Ukraine Visa Schemes in the UK

Ukraine Family Scheme

- Intended for immediate and extended family members of UK-based sponsors.
- Ukrainian nationals and their family members will be eligible to apply to the scheme if they are:
 - applying to join or accompany a UK-based family member; and
 - have been living in Ukraine on or immediately before January 1, 2022 (even if they have now left Ukraine).
- Visa issued for up to 3 years allows work and study and access to public funds.

Ukraine Sponsorship Scheme (Homes for Ukraine)

- Allows Ukrainian nationals and their family members to come to the UK if they have a named sponsor who can provide accommodation for a minimum of 6 months.
- Applicants must:
 - have been residing in Ukraine on or immediately before January 1, 2022 (including those who have now left Ukraine);
 - be outside of the UK; and
 - have an eligible UK-based sponsor.
- Visa issued for up to 3 years allows work and study and access to public funds.

Ukraine Extension Scheme

- Ukrainian nationals in the UK who have temporary visas, including work, study, or visit visas, can apply to the Ukraine Extension Scheme.
- Ukrainians who had visas on or before March 18, 2022, or visas that expired on or after January 1, 2022, can apply. Their partner and children can also apply if they are already in the UK as “dependents”.
- Visa issued for up to 3 years allows work and study and access to public funds.
- This scheme is currently not a route to settlement. Individuals who have leave on a route to settlement should consider carefully whether the Ukraine Extension Scheme would be the right route for which they should apply.

Impact on UK Processing Times

- The UK government is prioritizing the processing of applications under the Ukraine schemes.
- Processing times for all other UK visa applications submitted outside of the UK are therefore extended.
- Visa applications from Russian nationals are still being processed with severe delays.
- All overseas priority services suspended
- Skilled worker visa applications → average of 6 weeks
- Student visa applications → average of 5 weeks to process
- Family route applications → up to 24 weeks to process

Other UK Visas

- Ukrainian nationals remain visa nationals, which means that they require a visa in order to travel to the UK, regardless of their intended length of stay.
- Ukrainian nationals can apply under one of the new schemes or under an existing UK immigration route i.e. to work or study, if they meet the eligibility requirements.
- Ukrainian nationals can submit visa applications from any country. This does not apply to Russian nationals.

EU Member States: Temporary Protection Directive

- Ukraine nationals can enter the EU without a visa, and EU Member States have activated the Temporary Protection Directive.
- The Directive seeks to offer an expedited status outside the traditional asylum process to prevent further overburdening the asylum system across EU Member States.
- This means that Ukrainian nationals can receive immediate protection and a temporary residence permit in an EU Member State.

EU Member States: Temporary Protection Directive

- The Directive applies to the following:
 - An individual who is a Ukrainian national and was a resident of Ukraine before February 24, 2022
 - An individual who has a residence permit as a refugee or subsidiary protection status in Ukraine
 - Family members of the above two
- To be covered by the Directive, the individual must have been resident in Ukraine on or before February 24, 2022

EU Member States: Temporary Protection Directive

- Temporary Protection status will initially be granted for applicants for one year, from March 4, 2022 until March 4, 2023, renewable (should the situation in Ukraine remain unstable) in two six-month increments.
- If necessary, a third year may be added by the European Union.
- Eligible applicants are granted the right to reside and work (although restrictions may apply), and the rights to accommodation, healthcare, education and social support.
- Asylum, refugee, and similar protected status applications remain available, as do employment-based and personal (e.g., student, family member) permit types.

Temporary Protection Directive: National Variation

- While the Directive has been activated in all member states, EU Member States can introduce variations in the scope of eligible applicants and local application processes, among other factors.
- Notably, EU Member States may grant more generous rights than those outlined by the Directive, e.g., longer duration of stay or including a broader group of eligible applicants.
- Application process and timings will also vary from country to country.
- Each Member State has published its respective process.

Russian Workforce



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Immediate Travel Options for Russian Nationals

Country	Visa Requirement	Visa Free Period (days)
Argentina	Visa free	90
Austria	Schengen visa	-
Barbados	Visa free	28
Belgium	Schengen visa	-
Brazil	Visa free	90
Colombia	Visa free	90
Costa Rica	Visa free	90
Denmark	Schengen visa	-
Finland	Schengen visa	-
France	Schengen visa	-
Germany	Schengen visa	-
Guatemala	Visa free	90
Hong Kong	Visa free	14
Hungary	Schengen visa	-
**Israel	Visa free	90
Italy	Schengen visa	-
Korea	Visa free	60

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Country	Visa Requirement	Visa Free Period (days)
Luxembourg	Schengen visa	-
Malaysia	Visa free	30
Morocco	Visa free	90
*Netherlands	Schengen visa	-
Norway	Schengen visa	-
Panama	Visa free	180
Peru	Visa free	90
*Poland	Schengen visa	-
Portugal	Schengen visa	-
Slovakia	Schengen visa	-
Slovenia	Schengen visa	-
South Africa	Visa free	90
Spain	Schengen visa	-
Sweden	Schengen visa	-
Switzerland	Schengen visa	-
Taiwan	Visa free	21
Thailand	Visa free	30
**UAE	Visa free	90

Visa Suspension to Russians

- Bulgaria
- Czech Republic
- Denmark
- Estonia
- Greece
- Iceland
- Latvia
- Lithuania
- Netherlands
- Poland
- Spain
- Romania

Investor (Golden) Visa Suspension

- Czech Republic, Greece, Ireland, Latvia, Malta, Portugal, and Spain

EMEA Country Analysis for Russian Nationals

	Croatia	Hungary	Portugal	Slovenia	Spain	UAE
Business visa	15–30 days (Visitor visa)	20 days (Schengen visa)	20 days (Schengen visa)	20 days (Schengen visa)	20 days (Schengen visa)	Visa free
Work visa	<u>Pre-entry:</u> 15 days (Visa D) <u>Post-entry:</u> 30 days (Residence and Work Permit/EU Blue Card)	70–90 days	30–60 days (D1, D2, D3, Residency Visa)	75 days +	30–60 days	<u>Pre-entry:</u> 5–7 bus. days (Work Permit) <u>Post-entry:</u> 5–7 bus. days (Residence Visa)
Visa conversion in country?	No	No	Yes	Yes, in limited situations	Yes, in limited situations	Yes

Case Study: Relocation of Russian Nationals – UAE

- Foreigners can live as residents in the UAE if they have a valid visa. Visas are valid for 1 to 3 years **with a sponsor** and 5 or 10 years **without a sponsor**.
- In order to sponsor for residence visa, a corporation or individual must establish a local company. This must be completed prior to beginning of the visa application process.

Eligibility: Obtaining a UAE Residence Visa

- Employees must be 18 years of age or more;
 - Pass the requisite medical fitness test;
 - The Company License of UAE registered company sponsoring the individual must be valid; and
 - The employee's work title and expected activities must correspond to the nature of the employer's activities as per Company License.
- End-to-end timings are approximately 40 days

UAE Visa Type	Requirements
Remote Work Visa	Employees can continue to work for a company outside of the UAE but live in the UAE under a Remote Work Visa valid for 1 year. The application is approved on a discretionary basis by the UAE government. Applications can be completed here: https://www.visitdubai.com/en/business-in-dubai/travel-to-dubai/visas-and-entry/work-remotely-from-dubai
Business Visa	Individuals who show entrepreneurial experience and a history of being a majority shareholder of a start-up company
Investor Visa	Individuals who invests in a UAE company and applies for visa themselves under sponsorship of invested company
Medical Visa	Patient or family member attending the UAE for medical treatment
Property Visa	Individuals who purchases a property in the UAE and applies for visa themselves under sponsorship of the owned property
Residence Visa	Individuals who would be employed by a UAE company with a valid Company License or government entity who will apply and sponsor the individual's residence while they are in the UAE
Student Visa	University students sponsored by their UAE university
Golden Visa	Specialized long term residence visa granted to highly skilled workers, professional and talent to boost the investment. This visa is for 10 years and no sponsor is required.

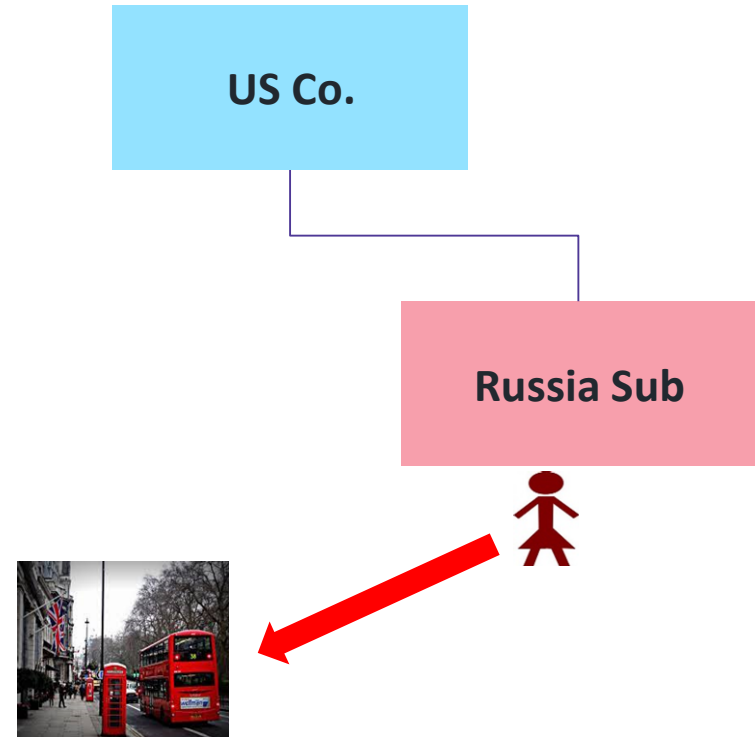
Overview of International Tax Considerations



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Potential Tax Issues with Cross-Border Employees

- Business Entities
 - Tax filing/registration and tax liability issue
 - Place of effective management and board operations
 - US trade or business test
 - Permanent Establishment (PE) treaty standard and exceptions
 - Limitations to treaty application
 - Withholding obligations re employees
- Individuals
 - Local tax filing and payment obligations
 - Equalization agreement/benefit
 - Section 911
 - Consistency with immigration reporting



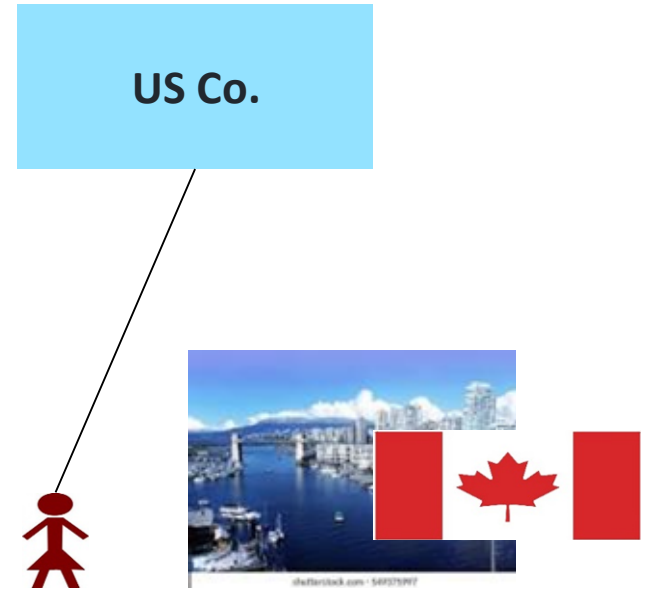
PE Standard

• US Model Treaty Provisions

- Article 7, Business Profits: “Profits of an enterprise of a Contracting State shall be taxable only in that Contracting State unless the enterprise carries on business in the other Contracting State through a permanent establishment situated therein. If the enterprise carries on business as aforesaid, the profits that are attributable to the permanent establishment ... may be taxed in that other Contracting State.”
- Article 5, Permanent Establishment: “[T]he term ‘permanent establishment’ means a fixed place of business through which the business of an enterprise is wholly or partly carried on.” A PE “includes especially”:
 - a place of management;
 - a branch;
 - an office (including some home offices*); and
 - dependent agents that have and habitually exercise an authority to conclude contracts that are binding on the enterprise

COVID Surge in International Remote Work

- Crisis environment
- Employees forced to work remotely due to travel restrictions and/or family support
 - Unable to commute from home country to work in assigned jurisdiction
 - Employees stranded in foreign jurisdictions
 - Remote work to support family in foreign jurisdiction
 - Employees returning from ex-pat assignments to work in the US during lockdown conditions



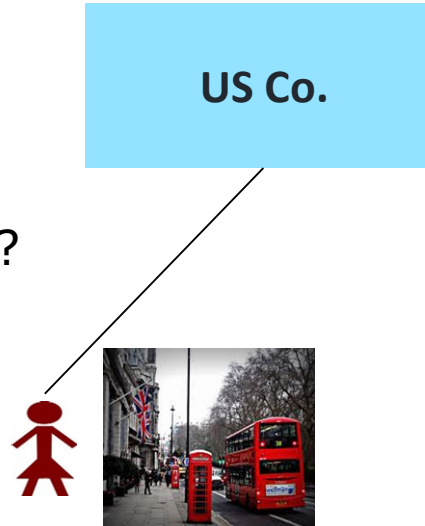
OECD Guidance Re COVID and PE Exposures

Guidance addressing tax treaties and the impact of the COVID-19 crisis:

- Original guidance issued April 3, 2020
<https://www.oecd.org/coronavirus/policy-responses/oecd-secretariat-analysis-of-tax-treaties-and-the-impact-of-the-covid-19-crisis-947dcb01/>
- Updated guidance released January 21, 2021
<https://www.oecd.org/coronavirus/policy-responses/updated-guidance-on-tax-treaties-and-the-impact-of-the-covid-19-pandemic-df42be07/>

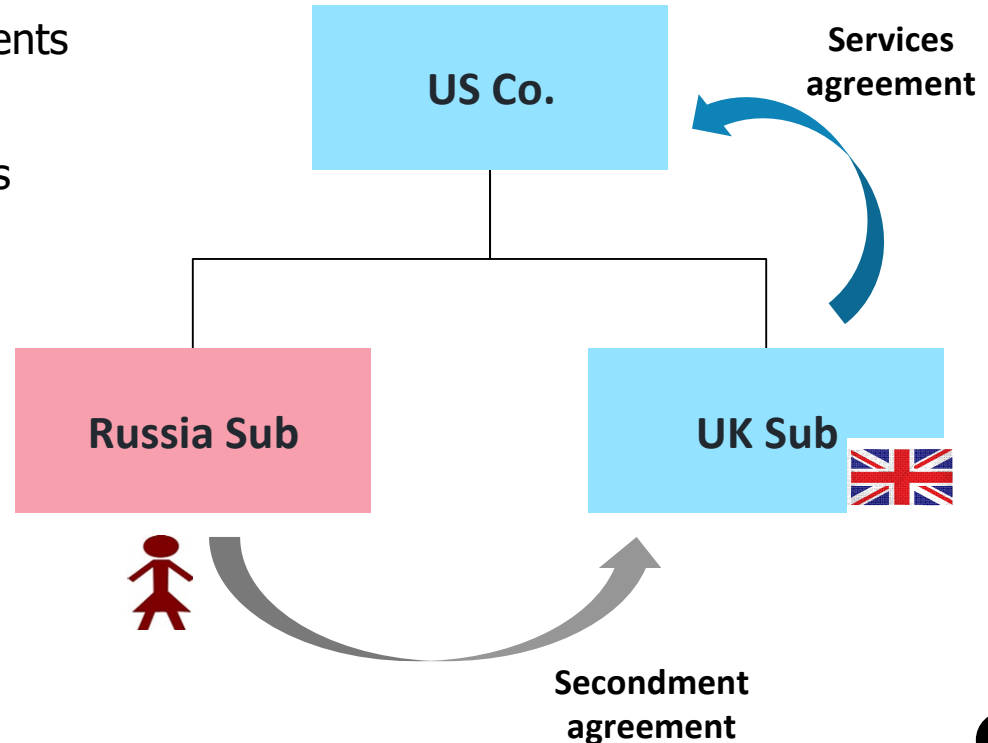
Risk Mitigation Strategies

- Treat as PE and file return/protective return
- Transfer to local affiliate
 - Align job descriptions and intercompany agreements
- Move to independent contractor relationship?



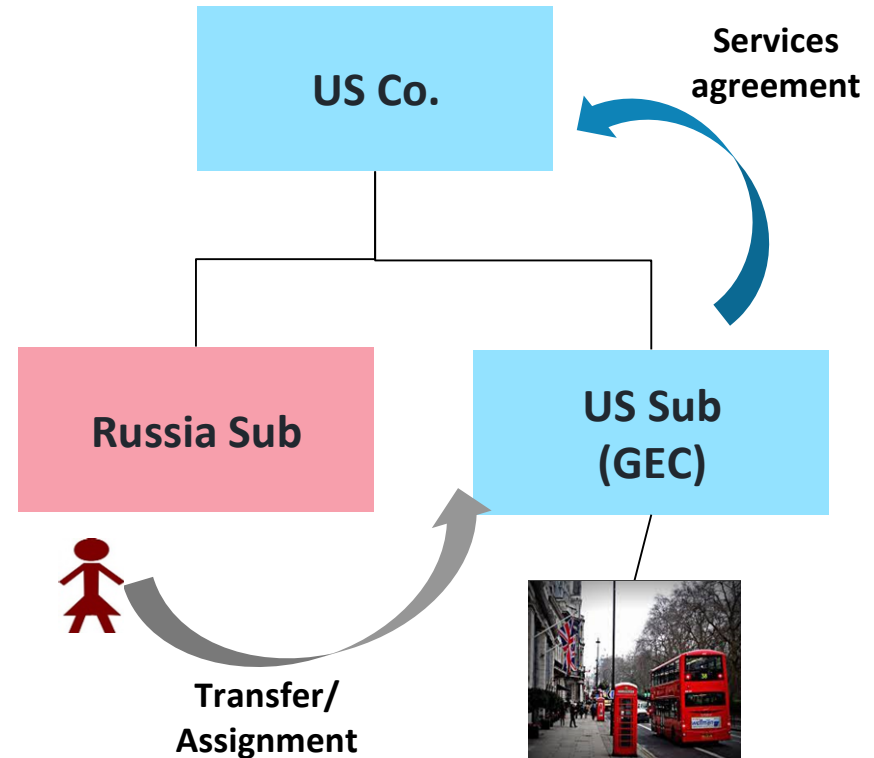
Risk Mitigation Strategies

- Secondment or employee lease
 - Confirm local acceptance/requirements
 - Employment law issues
 - Advisable to use arm's-length terms
 - Consider adjustment/addition of intercompany services agreement



Risk Mitigation Strategies

- Global Employment Company (GEC)
 - Establish a controlled subsidiary to segregate cross-border tax exposure within group
 - Use intercompany agreement and transfer pricing document to define profitability of PE operations
 - GEC makes PE tax filings (consider use of protective returns where available)
 - Address local employment issues
 - Manage economic substance considerations and dependent agent arguments



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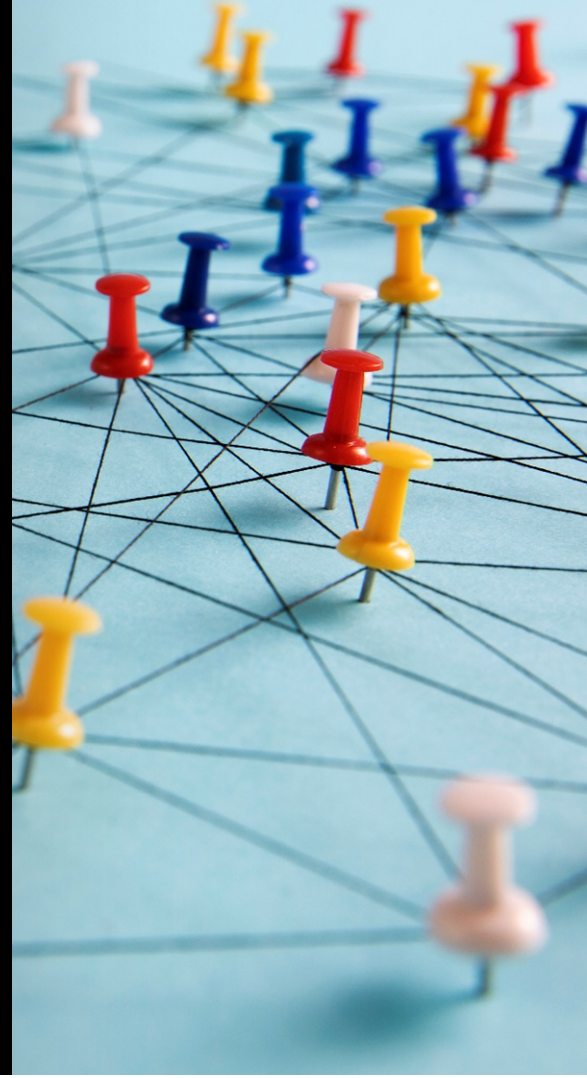
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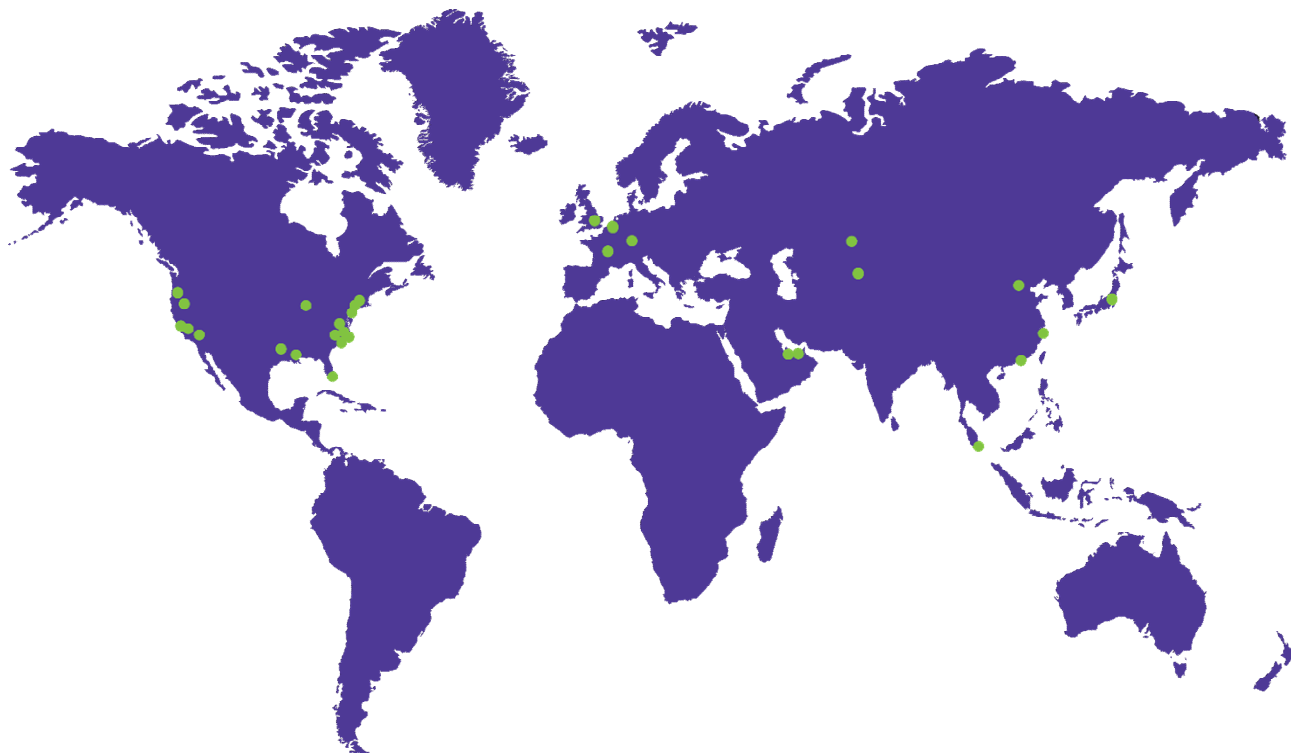


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