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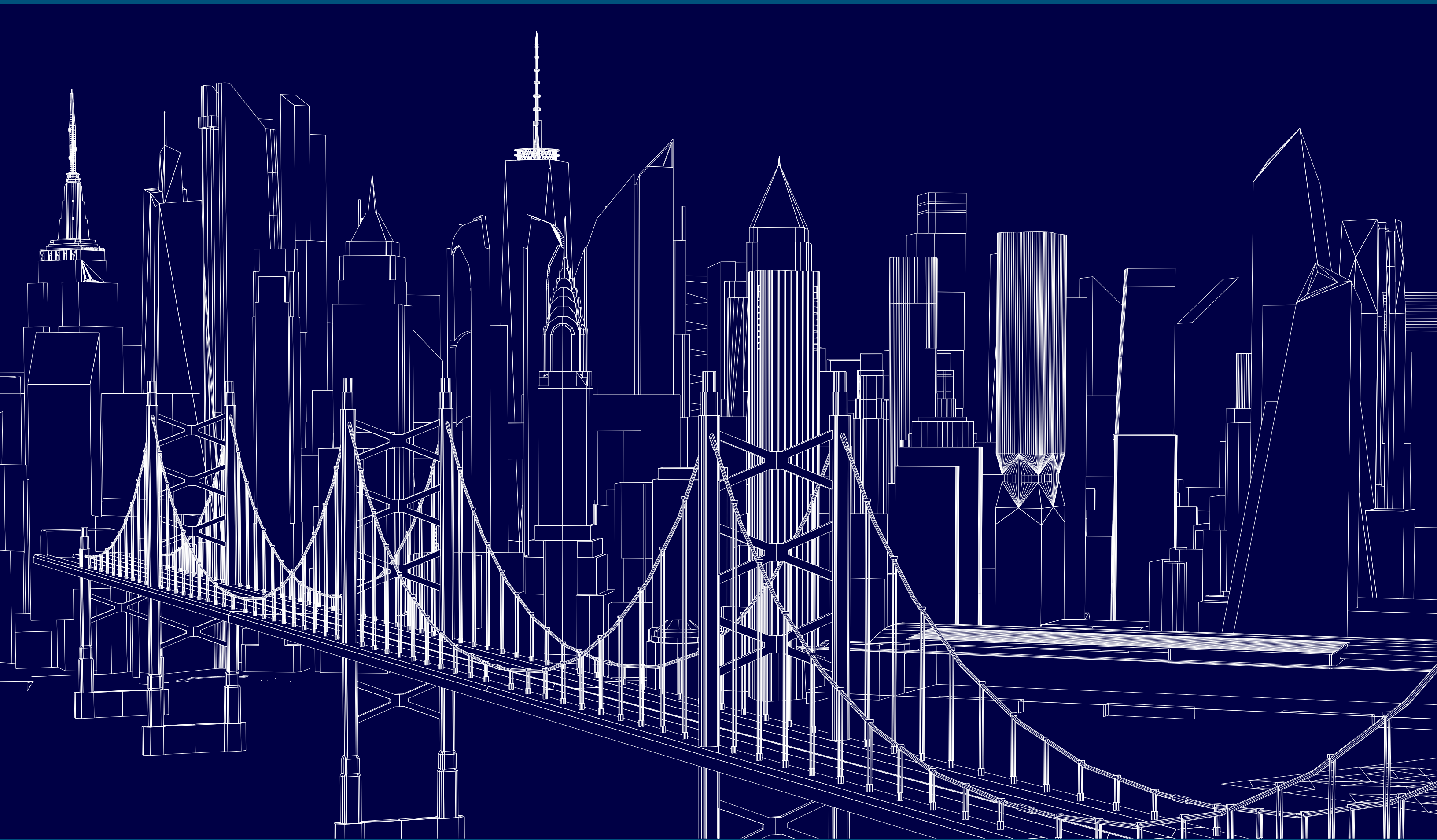
Q2 2026

US PRIVATE M&A REPORT

TRENDS AND INSIGHTS SHAPING THE SECOND QUARTER OF 2026



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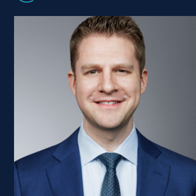

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OUR Q2 VIEW OF THE US PRIVATE M&A MARKET

Q2 2026 proved challenging for private equity, as the market slowdown that began in March with the outbreak of the war in the Middle East accelerated, resulting in a significant fall in the total value of announced deals. The war sent shockwaves through the US economy, severely disrupting energy markets and driving up input costs across many sectors, while volatility and tightening in credit markets — especially for lower-rated issuers — made underwriting deals more challenging. In this uncertain environment, sponsors became highly selective, pulling back on large buyouts and directing capital toward smaller, strategic add-on acquisitions within their existing portfolios.

That said, corporate dealmaking strengthened over the March-to-May period, with large strategic transactions rising in both value and volume year over year, signaling sustained activity despite the broader turbulence. Power and utilities, life sciences, and energy infrastructure were among the standout sectors, where long-term structural conviction — driven by electrification demand, data center build-out and continued appetite for platform-enabling healthcare assets — kept deal activity resilient. These sectors represented the clearest bright spots in an otherwise cautious market.

Looking ahead to H2, the market's trajectory will largely depend on the duration and severity of the renewed hostilities in the Middle East, which have once again introduced significant uncertainty into the outlook. However, we expect deal volumes for the full year 2026 to recover from 2025 levels, underpinned by very large amounts of dry powder still on the sidelines and significant pent-up deal demand, alongside sustained demand for AI-ready capabilities and ongoing portfolio reshaping across both strategic and sponsor-backed portfolios.

For now, Q2 will be remembered as a quarter in which the strongest assets continued to transact and the market absorbed a significant geopolitical shock with discipline rather than panic.

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"Looking ahead to H2, the market's trajectory will largely depend on the duration and severity of the renewed hostilities in the Middle East, which have once again introduced significant uncertainty into the outlook."

AN UPDATE ON THE PRIVATE CREDIT MARKET

How private credit documentation is evolving in 2026

By Mark Ramsey
Partner

"Private credit continues to play a central and increasingly sophisticated role in U.S. middle-market leveraged acquisition finance."

Private credit continues to play a central and increasingly sophisticated role in U.S. middle-market leveraged acquisition finance, with unitranche facilities remaining the primary financing solution for sponsor-backed deals. The most notable developments reflect the continued evolution of credit agreement terms — particularly covenant structures, basket flexibility, and interest mechanics — within a highly competitive lender landscape.

Financial covenant frameworks remain a key point of differentiation in U.S. private acquisition finance. In traditional middle-market unitranche deals, lenders rely on a quarterly-tested leverage-based maintenance covenant as an early-warning tool. Competitive dynamics in prior years drove a shift toward "covenant-loose" structures (distinct from "covenant-lite" in the broadly syndicated loan market), where leverage covenants were set with wider headroom, limited to a single test, omitted entirely or replaced with a springing revolver-only covenant triggered when drawn above a specified threshold. However, 2026 has shown early signs of a correction, with new originations incorporating more robust covenant packages as lender discipline reasserts itself.

U.S. private credit documentation increasingly incorporates syndicated loan concepts, including expanded incurrence baskets, credit agreement baskets that scale with borrower EBITDA, increasing capacity for restricted payments, debt, investments, etc. as EBITDA grows, and more permissive regimes for additional debt, investments, and restricted payments. Private credit lenders nonetheless preserve structural control through smaller lender groups, enhanced information rights, and more coordinated amendment dynamics.

Recent years saw increased use of payment-in-kind (PIK) and PIK toggle mechanics as cash interest costs rose sharply from 2022 onward. Under a PIK toggle, borrowers may elect — for a given interest period — to pay interest in cash, capitalize it into the loan balance (PIK), or a combination of both. While these tools became a standard feature in many middle-market deals, their inclusion carries meaningful implications for leverage build, covenant calibration, and overall risk allocation. Notably, 2026 has seen moderation in PIK requests as lenders have regained negotiating leverage and prioritized cash-pay structures.

Finally, growing focus on liability management has shaped documentation practices. Sponsors are increasingly attentive to restricted payments, investment baskets, and unrestricted subsidiary mechanics given their potential use in out-of-court restructurings. In response, lenders have refined documentation with greater attention to value movement within capital structures and conditions under which new money can be introduced.

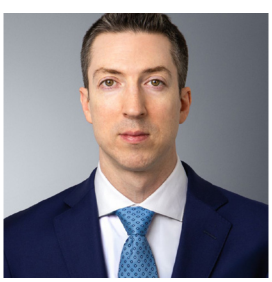
Overall, U.S. private acquisition finance continues to balance sponsor flexibility with structural lender protections. As the market matures, the negotiation of covenant terms, basket capacity, and interest mechanics has become increasingly determinative of risk allocation and long-term outcomes, underscoring the importance of precise drafting in middle-market leveraged finance transactions.

EMERGING ISSUES

Structured for uncertainty: Joint venture and minority investment structures in energy, infrastructure and mining M&A

By Robert Leung
Head of Energy, Mining & Infrastructure, Americas

By Mike Huang
Partner



By Daniel Grossman
Partner

Capital-intensive sectors like energy, infrastructure and mining have always demanded creative deal structures. But the current environment, which is defined by elevated financing costs, shifting energy policy and heightened regulatory scrutiny of foreign investment, is accelerating a clear trend: Parties are increasingly turning to joint ventures, minority investments and offtake-linked equity structures as alternatives to outright acquisitions.

The logic is straightforward. A full acquisition in a capital-intensive sector might require a buyer to absorb construction or development risk, regulatory approval timelines (which in energy and infrastructure can span many months or even more than a year in some cases), commodity price exposure and integration risk all up front. Structured alternatives allow parties to share that burden, align economic interests and preserve optionality.

Advantages of alternative structures

Minority investments allow a strategic or financial investor to gain sector exposure and commercial access without assuming full operational control or committing full acquisition capital, and they may also come with less regulatory scrutiny. Structured joint ventures (e.g., where one party contributes capital and another contributes operational expertise, permits or existing infrastructure) allow risk and cost to be shared in proportion to each party's competitive advantage. Offtake-linked investments pair an equity stake with a long-term supply or purchase agreement, effectively aligning the investor's financial return with the commercial relationship rather than stand-alone asset value.

Each structure carries its own set of negotiating friction points

Governance is consistently the most contested issue: Minority investors push for meaningful veto rights and board representation, while operators resist anything that impedes day-to-day decision-making. Capital call mechanics and the consequences of failing to fund require careful drafting in capital-intensive projects, where cost overruns are common. Exit rights and path-to-control provisions, including put/call options, rights of first offer or refusal and forced sale rights, require particular attention to valuation methodology and process mechanics, since the parties' views on asset value will inevitably diverge at the time of exercise. Forced sale provisions deserve particular care: The threshold conditions for initiating a process, who is entitled to run it and whether either party may participate as a bidder can appear straightforward at signing but become significant sources of dispute when relationships deteriorate. This tension is especially pronounced in joint ventures pairing financial and strategic investors, where the financial party may face fund life or return timeline pressures that the strategic partner does not share, making exit mechanics a priority focus from the outset. Where an equity investment is paired with an offtake agreement, the parties need to think carefully about the consequences for both the economic terms and governance rights if the commercial relationship terminates before the equity investment matures.

The bottom line:

In sectors where capital requirements are high and regulatory timelines are long, structured alternatives to full acquisitions are not just a compromise; they are often the right deal. Getting the structure right from the outset, particularly on governance, funding mechanics and exit, is what determines whether the venture delivers on its promise, and requires careful strategizing with experienced legal advisors.

FEATURED INSIGHTS

Bridging the valuation gap: earnouts, rollovers and incentive structures in a volatile market

In a market defined by macroeconomic uncertainty and persistent valuation gaps, parties to M&A transactions are increasingly turning to creative structures that allow sellers to continue sharing in the benefits of the business's returns following closing. Whether through classic earnouts, meaningful equity rollovers or hybrid incentive arrangements, each structure offers a path to bridging disconnects in deal pricing — but each comes with its own set of trade-offs and risks that must be carefully managed.

The classic earnout: clarity at a cost

The most familiar of these structures is the traditional earnout tied to EBITDA. Typically spanning two to three years post-closing, the EBITDA-based earnout offers relative clarity and a defined time horizon. These earnouts are most commonly deployed when buyers and sellers hold different views on the near-term earnings potential of the business: The buyer's message to the seller, in essence, is "show me the EBITDA, and I'll pay for it."

The appeal is straightforward, but the limitation is equally so. After closing, it is difficult to control for continued alignment between the parties. Often there will be natural alignment between buyer and seller. Where there is less alignment, buyers and sellers may agree to post-closing operating covenants — what the buyer can and cannot do with the business during the earnout period. These operating covenants may or may not be warranted based on the individual circumstances and alignment of the parties.

By Barry Herzog
Partner, Head of Tax, US

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> "Ultimately, the best results are achieved when the parties are naturally aligned, allowing the transaction documents to reinforce that alignment rather than being called upon to create it."

The equity rollover: alignment through shared ownership

An increasingly explored alternative is a meaningful equity rollover by the seller. Like seller financing, a rollover can ease the equity financing burden in a challenging capital environment while keeping the seller invested in the ongoing success of the business.

In a rollover scenario, the seller becomes a minority equityholder in the acquired business, holding the same class of securities as the buyer. In this scenario, the seller assumes the typical risks that come with minority status. Perhaps most significantly, the seller's path to liquidity is largely in the buyer's hands: The seller remains invested until the buyer decides to sell, which may reflect a different hold horizon than the seller would choose for itself. If the rollover is substantial enough, however, the seller may be able to negotiate for a defined path to liquidity (either for its own position or for the entire business) after an agreed period of time.

The primary benefit of a rollover, and the reason it is gaining traction, is alignment. When buyer and seller hold the same class of securities, their economic interests run largely in parallel. The residual risks that remain, such as differences in hold period preferences, governance disputes and related tensions, are generally well-addressed through preemptive rights, tag-along rights, drag-along protections and carefully scoped veto rights, including with respect to related-party transactions.

The incentive rollover and participating securities: combining alignment with upside

An interesting variant of the straightforward rollover involves the seller receiving not only the same class of equity securities as the buyer but also securities that participate in exit proceeds in increasing amounts as the buyer's returns grow. Functioning similarly to an incentive equity interest, such a security participates in the distribution waterfall in increasing percentages as exit returns to the buyer increase.

This structure neatly combines two objectives: the seller's desire to continue participating in the appreciation of the business and the parties' recognition that a valuation gap existed at signing, with the seller being made whole if its more optimistic view of future value proves correct. The incentive-like security can also be issued on a stand-alone basis as part of the overall deal consideration rather than as a complement to a pari passu rollover, functioning in a manner that more precisely replicates a stand-alone incentive interest.

Like the straightforward rollover, this structure requires agreement on the right metrics but otherwise provides a meaningful degree of alignment. The standard minority equity protections (preemptive rights, tag-along rights and related provisions) apply with equal force.

Synthetic structures: contract rights as an alternative

There are circumstances in which the parties prefer to replicate the economics of an incentive equity interest through a contractual right rather than a true equity interest. Most of the features of a true equity interest can be preserved in a contract-right structure, and both approaches leave the parties substantially aligned.

Whether the structure takes the form of a true or synthetic equity interest, the parties must identify and address any potential points of misalignment. These include, among other things, the risk to the seller if the buyer, whether for good reason or not, were to:

- combine the target with an underperforming portfolio company, which could maximize aggregate returns across the buyer's portfolio but reduce returns attributable to the current transaction;
- delay monetization of the investment, which may have the effect of reducing the IRR below a threshold required to trigger the seller's participation payment; or
- extract value through mechanisms not reflected in the buyer's equity returns, such as obtaining management or advisory fees or engaging in non-arm's-length commercial arrangements with other portfolio companies of the buyer.

Where the buyer's exit takes the form of an IPO, the offering may occur before the business has reached its full value and the crystallization of the seller's securities into common equity may prematurely cut off the seller's ability to fully participate in the upside of the business. Agreeing up front on how such events are treated is critical to avoiding post-closing disputes.

Negotiating targeted protective covenants is essential, whether such protections are embedded in the buyer's operating agreement or in the governing contract. These may include anti-abuse covenants (i.e., covenants not to take actions with the intent to reduce the seller's participation), restrictions on intercompany transactions and clear definitions of the categories of proceeds that will be included in the relevant calculations.

Often the parties seek to tie the seller's additional participation to the same metric on which the buyer's sponsor is rewarded through carried interest (i.e., MOIC or, in some instances, IRR). Tying the participation to the same metric as the sponsor, however, is not always the appropriate result for operational or other reasons. Whatever the metric, where the seller's participation is not tied to an identical measure as that of the sponsor, contractual provisions will be necessary to guard against misalignment.

Tax considerations

Sellers should also be attentive to the tax treatment of the structure chosen. The tax implications vary across the range of structures described above — from the classic EBITDA earnout to the rollover equity interest to the synthetic participation right — and should be evaluated carefully in light of the particular transaction and the form of consideration involved. For example, ensuring that the receipt of a rollover equity interest is tax-deferred may be challenging at times, depending on the buyer's tax structure. Consideration received, whether rollover equity or contractual participation rights, that is tied to the seller's continued involvement in the business runs the risk that the income would be treated as compensatory for tax purposes. In addition, where a seller's participation right is characterized as a contractual right, such as an earnout, rather than an equity interest, the seller may owe imputed interest to the IRS each year based on the maximum potential participation value, even if the seller never ultimately realizes the applicable gains.

Key takeaway:

Each of the approaches described offers a viable path to bridging valuation gaps in a volatile market, but each must be crafted carefully to address any points of nonalignment between buyer and seller. Ultimately, the best results are achieved when the parties are naturally aligned, allowing the transaction documents to reinforce that alignment rather than being called upon to create it.

An escrow structure for carve-out technology conditions

Carve-out transactions present a familiar structural tension: Buyers want to close, but critical operational dependencies — particularly around third-party technology integration — often cannot be fully resolved by closing. These transactions are often paired with transition services agreements (TSAs) that bridge the gap to full operational independence for the target company.

The problem

In carve-outs, the acquired business may rely on technology licensed to the seller's parent rather than to the carved-out entities themselves. Where assignment or novation of those licenses cannot be completed before closing — because third-party consent is required or the timeline simply doesn't accommodate it — buyers face a real exposure: They are closing on a business that cannot yet stand on its own technologically. Closing without addressing it leaves the buyer holding execution risk it didn't price in.

A potential solution

Rather than treat incomplete integration as a deal-stopper, buyers should consider deferring a portion of the purchase price into escrow, conditioned on post-closing satisfaction of an agreed technology (or other operational integration) condition.

Release is triggered once the buyer receives evidence, in form and substance reasonably satisfactory to it, that the technology condition has been satisfied — typically, either an assignment of the applicable third-party intellectual property agreements to the acquired companies, or a direct license between the acquired companies and the technology owner. A TSA operates alongside the escrow as the operational bridge, with both parties required to use reasonable best efforts to facilitate satisfaction of the condition. That creates contractual alignment between the TSA's operational function and the escrow release trigger: The seller has both a financial incentive and a contractual obligation to drive the condition to satisfaction.

Drafting considerations

Three issues deserve careful attention. First, the release condition must be drafted with precision — the trigger needs to be objectively verifiable. Second, the TSA liability cap and the escrow amount need to be coordinated to avoid inadvertently capping buyer remedies. Third, the TSA should include a structured escalation mechanism for disputes, preserving the working relationship essential to satisfying the condition.

By Damian Petrovic
Partner

By Nathan Wolfe
Associate

Key takeaway:

Done right, this structure converts an execution risk that might otherwise derail a deal into a contractually managed post-closing workstream — with the right financial incentives on both sides to see it through.

WHAT'S HAPPENING AROUND THE GLOBE

Our London office provides a Q2 market update

Overall

Despite six UK prime ministers in a decade — with a seventh imminent — leadership turnover has not materially impacted dealmaking, which continues to be driven by global themes including defense, AI, energy and infrastructure. UK and cross-border deal activity has remained resilient amid domestic and global uncertainty.

Q2 UK M&A showed high deal values but lower volumes, consistent with Q1 2026 trends, with H1 2026 improving on H1 2025. US buyers have continued to capitalize on undervalued UK assets, particularly listed companies, while UK corporates have pursued carve-outs to sharpen focus and enhance shareholder returns.

Private equity activity has picked up with stabilizing interest rates but remains below pre-rate hike levels due to constrained financing. PE sponsors are seeking greater deal certainty on conditionality (sometimes seeking hell-or-high-water provisions with respect to regulatory approvals) and termination rights, with material adverse effect clauses increasingly influencing English law deals.

Key themes

Traditional auction processes remain limited, with "soft" bilateral negotiations, often featuring a lead bidder becoming more prevalent. Buyers are spending more time on structuring, regulatory approvals and due diligence, with due diligence risks being actively priced into valuations rather than addressed solely through indemnities and warranties.

Valuation gaps remain central, with earn-outs, deferred consideration, rollovers and bespoke incentives now commonplace — a trend dominating dealmaking for the past two years and continuing into 2026.

Regulatory reform is showing positive effects, including the Competition and Markets Authority's adoption of the "4P" approach (pace, predictability, proportionality and process) and the Financial Conduct Authority relaxing rules for listed companies, though uncertainty persists in strategic sectors. Notably, locked-box structures — traditionally seller-friendly — are also on the rise, particularly for high-demand assets

Outlook for H2 2026

A strong asset pipeline remains, though pre-summer deal acceleration has been muted. Geopolitical tensions may delay near-term activity but could drive increased deal volumes after the summer.

By Sid Shukla
Partner

"UK and cross-border deal activity has remained resilient amid domestic and global uncertainty."

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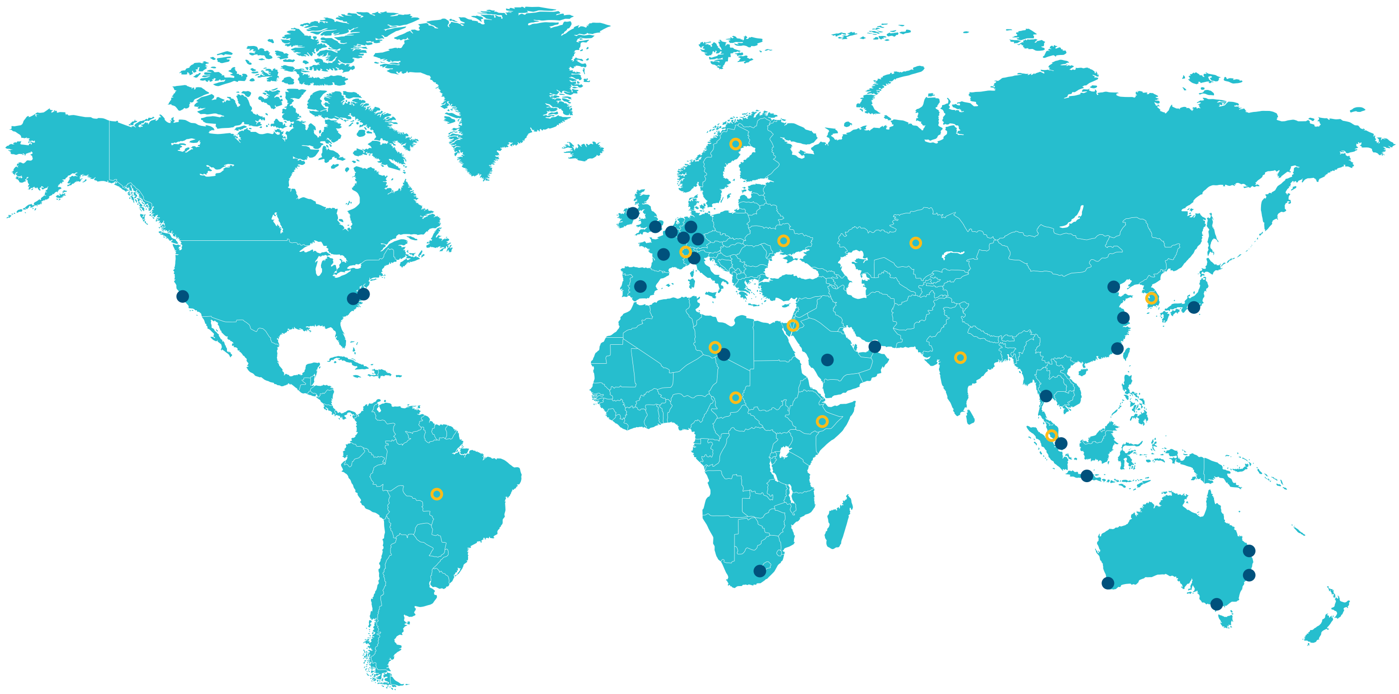

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