

FIDINAM GROUP WORLDWIDE

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FIDINAM SPONSORSHIP
IN 2018

PRC INDIVIDUAL INCOME TAX
REFORM

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fidinam

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FIDINAM SPONSORSHIP IN 2018

1000 MIGLIA

BRESCIA-ROME, MAY 16 – 19 2018

Fidinam DMCC, with his Partner Matteo Pozzetti and Emilio Bordoli participated to 1000 Miglia, a regularity race for classic and vintage cars.

The participation is limited to cars, produced no later than 1957, which had attended (or were registered) to the original race.

1000 Miglia is certainly the most famous and prestige vintage car race.



FIDINAM AZZURRI

2018/2019 SEASON

Fidinam is the sponsor of Azzurri football team for the season 2018-2019. Azzurri is part of the Yau Yee League, the biggest amateur league of Hong Kong (with 48 teams across 4 divisions). The players are from Hong Kong, Switzerland, Italy and France and they are mostly working in the financial industry or luxury business.



COPA DEL REY

PALMA DE MALLORCA, JULY 28 – AUGUST 4 2018

Fidinam has been the sponsor of one of the boats (Spirits of Nerina) participating at the prestigious Copa del Rey (King's Cup) in Palma de Mallorca, Spain.

The sailing race that took place at the end of July 2018 also saw the participation of King Felipe VI of Spain with the boat Swan 42.

Copa del Rey is now a major date on the international yachting calendar and competing teams include America's Cup participants.



FIDINAM ROLLS ROYCE

CHRISTMAS PARTY – DECEMBER 14 2018

Fidinam partnered with Rolls Royce to host an exclusive Christmas Party. In celebration of the festive seasons and in order to present the latest Rolls Royce Cullinan, Fidinam and Rolls Royce Motor Cars will gather their top clients for a Christmas Toast. Fidinam is glad to have sponsored such an important event.





PRC INDIVIDUAL INCOME TAX REFORM

On August 31 2018, the Standing Committee of the National People's Congress of the People's Republic of China passed an amendment to reform the Individual Income Tax ("IIT") Law. The Amendment

was subsequently passed by Presidential Decree no. 9, with full implementation set for January 1 2019.

While much of the focus has been dedicated to the worldwide tax levied

on expats residing in China, the reform is also celebrated for drawing clearer definitions on tax residence and granting generous deduction allowance to the working class.

Tax Residency

Art. 1 of the new IIT Law stipulates differentiation between "resident" and "non-resident" for tax purposes. The key differences would be:

TAX RESIDENT	With domicile	Without domicile but lives 183 days or more in China in the same calendar year
NON-TAX RESIDENT	Without domicile and does not reside in China for 183 days or more	

The definition of domicile is determined by a multitude of factors, namely:

- **residence**, whether by virtue of home ownership or long-term rental, or household (“hukou”) registration;
- **commercial interest**, being income generation whether by employment or investment in local companies;
- **centre of life consideration**, whether the family members or association memberships are closely tied to China.

It is imperative to acknowledge the lack of quantifiable parameter to govern what constitutes “domicile”. According to Notice 89 [1994] of the SAT 國家稅務總局關於印發《徵收個人所得稅若干問題的規定》的通知, however, it provides a key decision criterion: If a person resides outside China due to work, study, travel or family visits, must the person return to China? If that is the case, the person shall be deemed as a Chinese resident.

The exact impact on expatriate workers and Hong Kong citizens residing in China will be further discussed in the Q&A section below.

Assessible Income

Art. 2 of the IIT Law defines 9 categories of income that are subject to IIT.

1. Salary and Wages
2. Income from provision of independent personal services (勞務報酬)
3. Income from author’s remuneration
4. Income from royalties
5. Income from (sole proprietorship) operation (經營所得)
6. Income from interest, dividend and extra dividend (利息、股息、紅利)
7. Income from leasing of property
8. Income from transfer of property
9. Occasional income (偶然所得)

Furthermore, categories (1) to (4) are now defined as “Comprehensive Income”. Under this construe, tax residents will be taxed on an annual basis whereas non-residents will be taxed on a monthly basis, or when taxable income arises, as per the rate in

Schedule 1 of the new IIT Law. Category (5), being income from operation, will be taxed as per the rate in Schedule 2.

Taxpayer Identification and Anti-Avoidance

Citizens and non-citizens with the right of abode in China will have an ID. The ID no. would serve as their TIN. Those without Chinese residencies will be allocated a TIN by the tax authority for IIT declaration purpose.

Art. 8 of the Law also introduced measures similar to that of the Corporate Income Tax Law to assess if a taxable individual is engaged in:

- **tax avoidance by use of offshore tax heavens**, including direct ownership in a foreign entity or participating in a JV by the taxable individual and a (PRC) resident enterprise in an “exceeding low tax rate” country or region for the purpose of unreasonable profit distribution without sound business rationale;
- **asset transfer that is not at arms’ length** such that it leads to a reduction of taxable income for the taxable individual or his/her counterparty;
- **unreasonable commercial arrangement** such that it allows the taxable individual to derive inappropriate tax benefits.

The tax authority reserves all rights to make adjustment to the taxable base and levy interest on the additional tax payable.

Big Data

Oft-overlooked is the negative impact of aggressive tax planning under the new Law. The introduction of TIN will facilitate data collection in an increasingly digitised Chinese society.

Art. 15 requires public security bureau and the banking system to “assist” the tax authority to collect and make comparison of such data. The most notable of which is the alignment of records between the MPS

Exit and Entry Administration and the State Administration of Tax (“SAT”)

Whilst having less impact on expats, the relevant education, healthcare, social security, human resources, housing and urban-rural development ministries will also connect its system to SAT’s in order to help determine the eligibility of deductible allowance.

Impact on Expatriate Workers Residing in Mainland China

Expatriates who are tax residents in China will now be subject to IIT for their foreign-sourced income.

Expats previously residing in the Guangdong area may consider relocating their residences to Hong Kong, which adopts a territorial tax regime, while taking advantage of the connectivity by the new Express Rail Link and HK-Zhuhai-Macao Bridge to commute for work. So long that these individuals do not reside for 183 days or more in China, they are unlikely to be deemed a Chinese resident for tax purposes.

That being said, it doesn’t relieve them from the obligation to pay IIT for income paid by their Mainland employers. The move to HK merely mitigates the risk of being taxed on a worldwide basis. The individuals must also be careful not to trigger Chinese domicile by (1) owning or engaging in long term rental of properties in China, or (2) marrying Chinese spouses who reside in China, or (3) developing a large social circle, whether by virtue of friends and business connections, such that the centre of life is deemed to be in China.

Expats who live in cities which do allow regular same-day commute to/from HK may consider other compliant solutions. For instance, business owners may consider splitting their income-generating activities between the Mainland and Hong Kong (or equivalent business

hubs). Other general anti-avoidance rules such as transfer pricing and substance requirements must be respected throughout the process.

Questions & Answers

Q1: I am an expat. What if my job requires me to live and work in Shanghai? Am I subject to worldwide tax?

A1: According to Art. 4 of the IIT Law of the PRC – Rules for its Implementation 《中華人民共和國個人所得稅法實施條例》, the so-called “5-year rule” is still applicable. The following foreign individuals will not be deemed as a Chinese tax resident if:

- a. residing for less than 183 days in a calendar year for 5 consecutive years; OR
- b. residing for more than 183 days in a calendar year for 5 consecutive years, but they leave China for 30 consecutive days or more in each of the 5 consecutive years.

If you fulfil the conditions in (b) and limit any factors that would cause you to be deemed with domicile in China, you are unlikely to be taxed on a worldwide basis.

Q2: I am a Hong Kong permanent resident and HKSAR citizen. I own an apartment in Shenzhen but I commute to work in Hong Kong every day. I pay my Salaries Tax in Hong Kong dutifully since my income is sourced from Hong Kong. Am I deemed a Chinese tax resident?

A2: You have developed a domicile in China and habitually reside in China. Since you

return to China after work every day, you are deemed to have a domicile in China as per Notice 89 [1994].

Nevertheless, in an effort to encourage Hong Kong citizens to relocate to the Greater Bay Area, the HKSAR government is in negotiation with the Mainland authorities to grant special tax privileges to this group of individuals. Thus, your tax residency may be deemed differently in the future.

Q3: I am a Hong Kong resident with Canadian passport. My parents live in Hong Kong. I work for an asset management firm in Guangzhou. I bought an apartment in Guangzhou. But I return to Hong Kong every Saturday to check on my parents and hang out with friends. I return to Guangzhou for work on the intercity train every Monday morning. Am I a Chinese tax resident?

A3: Unlikely. You have clearly demonstrated that your centre of life is in Hong Kong. So long that you do this consistently, you may not be deemed to have a domicile in China. However, you must be careful with regards to Canadian tax treatment, which is beyond the scope of this question.

For tailored solutions and consultancies, please contact a Fidnam professional by email.

REFERENCES



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VIETNAM EMPLOYMENT OUTLOOK FOR INVESTORS

In Vietnam, the employment relationship is regulated by Labor Code No. 10/2012/QH13 ('Labor Code'). The Government, with the support of Ministry of Labor, Invalids and Social Affairs, at nationwide level, and the Department of Labor, Invalids and Social Affairs at provincial level, manage labor issues. This article will summarize general information of labor contract,

probation, contract termination, insurance and work permit requirement for investors.

Labor Contract

A labor contract envisages an agreement between the employer and employee in written or oral form. The oral labor contract is applicable for jobs with a term of less than three months, while

for occupations with a term longer than three months employer and employee must enter into a written labor contract under the form of (i) seasonal contract (for job with a term under twelve months); (ii) definite labor contract (for job with a term from twelve months to thirty-six months); or (iii) indefinite labor contract.

The labor contract must include (i) name and address of the employer or the lawful representative of the employer; (ii) full name, date of birth, gender, residence address, identity card number or other lawful documents of the employee; (iii) job and workplace; (iv) terms of the labor contract; (v) wage, form of wage payment, deadline for wage payment, wage-based allowances and other additional payments; (vi) regimes for promotion and wage raise; (vii) working hours and rest hours; (viii) labor protection equipment for the employee; (ix) social insurance and health insurance; (x) training, retraining and occupational skill improvement.

Definite-terms contracts cannot be extended or renewed indefinitely; an employee can only enter into two successive definite term labor contracts with the same employer. After thirty days from the expiration date of a labor contract, employer and employee must sign a new labor contract or extend the term of the old contract. In case the two parties do not sign a new labor contract or extend the term and the employee continues to work for the employer for more than thirty days, the seasonal labor contract becomes definite labor contract, or the definite labor contract becomes indefinite contract.

Probation

Employer and employee can agree on a probation period, however employees of seasonal labor contracts are not subject to a probation period. Each job cannot require more than one probation period,

and the maximum probation period is sixty days for jobs requiring professional and technical qualification of college or higher education level. For jobs which have lower requirement, the probation period can be thirty or six days. During probation period, parties can terminate the probation and hence the labor contract without advance notification. Within three days before the end of the probation period for jobs requiring sixty or thirty days probation, the employer must communicate the probation result to the employee, but for jobs with six days probation, employer can announce the result at the end of the probation term.

Termination of Employment

Employer and employee can terminate the labor contract by (i) mutual agreement; (ii) unilateral termination; or (iii) employer is entitled to lay-off the employee due to structural or technological changes or because of economic reasons, merger, consolidation or division of enterprise.

Unilateral employment termination must have legal basis provided under the Labor Code and satisfy advance notice period. In particular, basis for employer to terminate labor contract include:

- (i) The employee often fails to perform his/her job stated in the labor contract;
- (ii) The employee is sick or has an accident and remains unable to work after having received treatment for twelve consecutive months, in case

he/she works under an indefinite-term labor contract, or for six consecutive months, in case he/she works under a definite-term labor contract, or more than half the term of the labor contract, in case he/she works under a labor contract for a seasonal job or a specific job of under twelve months; When the employee's health has recovered, he/she must be considered for continued entry into the labor contract;

- (iii) If, as a result of natural disaster, fire or another force majeure event as prescribed by law, the employer, though having applied every remedial measure, has to scale down production and cut jobs;
- (iv) Employee is not present at workplace within fifteen days after the labor contract suspension period.

Employer must deliver the notice to employee at least (a) forty-five days in advance for indefinite labor contract; (b) thirty days for definite labor contract; (c) three days for seasonal labor contract and for employee in case (ii) above.

Insurance

The employer and the employee must participate in the social insurance, health insurance and unemployment insurance scheme. The social insurance also covers 0.5% of the labor accident insurance.

The insurance rate contribution on monthly salary must conform with the following table.

INSURANCE	CONTRIBUTED BY EMPLOYER	CONTRIBUTED BY EMPLOYEE	TOTAL
Social Insurance	17.5%	8%	25.5%
Health Insurance	3%	1.5%	4.5%
Unemployment Insurance	1%	1%	2%
TOTAL	21.5%	10.5%	32%

For foreign employees, unemployment insurance is not applicable. From December 1, 2018 to December 31, 2021, the employer of foreign employees, who work in Vietnam with work permit, practice certificate or practice license, with indefinite labor contract or definite labor contract with term from one year and above, shall start contributing 3.5% to the social insurance. From January 1, 2022, qualified foreign employees and employers start contributing 8% and 17.5%, respectively.

Beside compulsory insurance, the employer must submit 2% of trade union fee on salary fund which are used as the basis for social insurance for employee.

Work Permit

Foreign employees must obtain a work permit to be allowed to work in Vietnam. The term of the work permit is two years; it is issued by the Department of Labor, Invalids and Social Affairs of the province where the employee intends to work. Nevertheless, employees in the following cases shall be exempted from work permit:

1. capital-contributing members or owners of limited liability companies;
2. members of the Board of Directors of joint-stock companies;
3. chiefs of representative offices and directors of projects of international organizations or non-governmental organizations in Vietnam;

4. those who stay in Vietnam for under three months to offer services for sale;
5. those who stay in Vietnam for under three months to deal with complicated technical or technological problems that adversely impact or are at risk of exerting adverse impacts on production and business activities and these problems cannot be handled by Vietnamese and foreign experts who are currently in Vietnam;
6. foreign lawyers possessing a professional practice license in Vietnam in accordance with the Law on Lawyers;
7. those who stay in Vietnam in accordance with a treaty to which Vietnam is a contracting party;
8. those who are studying and working in Vietnam, provided that the employer shall notify their employment to the provincial-level state management agency of labor seven days in advance; and
9. other cases provided by the Government.

For foreign employees who are not requested to have a work permit in Vietnam, the employer must request the Department of Labors, Invalids and Social Affairs to issue a certificate of work permit exemption, if applicable.



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BUSINESS RELOCATION TO VIETNAM

Since the implementation of the open-door (Doi Moi) policy in 1986, the government of Vietnam has been encouraging foreign investments into the country by creating a favorable legal environment (Foreign Investment Law 1988) and infrastructure. If in 1986 there were around 335 hectares dedicated to industrial parks, today Vietnam boasts 80,000 hectares.

Industrial Parks (IPs), Economic Zones (EZs) and Export Processing Zones (EPZs) have made the essential contribution to attracting investment, creating jobs and improving the economic growth of Vietnam for the past 32 years.

According to Decree 82, an industrial park is an area with a defined geographical boundary, specializing in the production of industrial goods and services for industrial production. It includes export processing zones, supporting industrial parks, and eco-industrial parks.

In 2017, the government planned to open three special economic zones which are the Northern, Central and Southern key

economic zones. The number of industrial parks in Vietnam continues to rise as foreign investment pours in.

According to the latest news from Ministry of Planning and Investment of Vietnam (MPI), by the end of June 2018, there were 325 industrial zones established nationwide with a total natural land area of nearly 95,000 hectares.

Among these, 231 industrial parks were put into operation and 94 industrial parks are in the stage of clearance and compensation to be ready for operation. Occupancy reached 51.5% overall, and 73% at operating industrial parks.

South Korea is one of the biggest investors, especially with the case of Samsung that has reportedly invested over 17 billion dollars into Vietnam; Taiwan and Japan are the following. Moreover, under the circumstances of US-China trade war, there is a number of interested manufacturing companies looking to relocate their productions into Vietnam and, as a consequence of this, there has been an increase in the

industrial property market demand and supply in Vietnam including industrial lands, ready-built factories, warehouses, and logistics properties.

Northern industrial parks in Vietnam:

The North key economic zone is made up of seven cities and provinces which are Hanoi, Hai Phong, Bac Ninh (where the first Samsung factory located), Hai Duong, Hung Yen, Vinh Phuc and Quang Ninh. The majority of industrial parks are developed by local groups and developers; There are a few selected foreign developers in the region such as VSIP (Vietnam Singapore Industrial Park), Thuan Thanh 2 (Taiwan) or Nomura (Japan).

The economic triangle of Hanoi – Hai Phong – Quang Ninh is one of the key economic zones of the country. Hai Phong is considered a transportation hub of the northern coast where there is a deep-sea port that helps sea transportation advantaged. Computers, Electronic and Optical Products' are the more common occupiers with 25%, then there are 'Machinery and Equipment' with 15% and 'Fabricated metal Products' with 12%.

Central industrial parks in Vietnam:

The Central key economic zone comprises five provinces: Thue Thien Hue, Quang Nam, Quang Ngai, Da Nang and Binh Dinh. The majority of the development activity is concentrated in Da Nang and Quang Nam.

Even though the economic zone in central area is considered at the infancy stage, there are upcoming noticeable development with both reputable local and foreign developers. For instance, Saigon Investment Group, VSIP, Ky Ha Chu Lai, Hoang Thinh Dat Group, etc.

Da Nang – located in the Southern Central Coast, has been known as one of the top tourist cities in Vietnam with an infrastructure and transportation system and a port that are giving benefits to the industrial and commercial activities. All the transportation system is convenient with all 4 means of transportation: roadway, railway, seaway and airway. The main industries in the region focus on light industry projects, such as food processing industry (16%), fabricated metal products and non-metallic mineral products. Furthermore, there are opportunities of cheap labor cost and good quality of infrastructure, but, however, the challenging factor is to find skilled labor workforce in this Central region.

Southern industrial parks in Vietnam:

The Southern key economic zone is leading the industrial development of the whole country.

The more common and traditional sectors of the region are rubber and plastic as well as textile and apparel industries. These are the industries that reflect the backbone of Vietnam's core industrial market.

There are 17 cities and provinces in the South of Vietnam, 8 of which are the key economic zones. These are Ho Chi Minh City, Binh Duong, Dong Nai, Long An, Ba Ria-Vung Tau, Binh Phuoc, Tay Ninh and Tien Giang. The Southern Key Economic Zone is dedicated to the development of commerce, exports, technology, services, and telecommunications.

The majority of the industrial parks were developed by local group of developers with reputable names such as Becamex IDC, Sonadezi and Vietnam Rubber Group. Some foreign developers which are VSIP (a joint venture of Singapore and Vietnam); Amata (Thailand), for instance. The southern region centered around Ho Chi Minh City, Binh Duong and Dong Nai province, is considered the most active economic zone across the country.

The opportunities of the southern economic zones come from several factors such as a developed transport infrastructure network with full transportation by sea, railway, road and airway; numerous modern facilities and especially well-trained labor workforce; above all of this the South is considered the most favorable destination for new brands to penetrate Vietnam market thanks to Ho Chi Minh City, the country's largest city.

The key occupiers by sectors in the industrial parks of Southern Vietnam are 'Machinery and Equipment', 'Textile and apparel', 'Fabricated Metal Products', 'Rubber & plastic' 'Chemicals - Chemical products' and 'Food Processing'.

For a foreign investor there are several factors that must be considered in order to decide where to locate operations, such as the geographic location, land, labor, infrastructure, industry, business environment and incentives. Foreign investors looking to establish operations in an industrial park should also consider the types of industries already existing in the area to understand the potential benefits to their own operations. For instance, it would be difficult for a low-end manufacturing company to minimize labor costs in an area with many hi-tech firms.

Fidinam is present in Vietnam with a network of local partners and industrial parks such as Becamex IDC, VSIP, Long Hau IP, etc.

We are able to assist the client from the researching to the visiting and decision-

making stage ensuring that our investor can select the most suitable industrial park to locate their operation.

There has been a substantial demand and request from Europe, China and Hong Kong to relocate the productions and manufacturing facilities to Vietnam and it is undeniable that this is the strategic time to start investing into Vietnam for a number of foreign investors from diversified product segments and industries.



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THE FRENCH DESK OF FIDINAM HONG KONG IS PROUD TO GET INVOLVED IN THE ASIAN ADVENTURE OF ONLY LYON

Our French Desk Manager, Sarah Meriguet, is the new correspondent of the ambassador network Only Lyon in Hong Kong.

The community has been officially launched in May 2018, with the presence of the delegation from Lyon including Mr. Alain Galliano, Vice-President of Lyon City, in charge of the Public Relationships, and the French General Consul of Hong Kong and Macao, Eric Berti.

Fidinam is already involved in the Auvergne-Rhône-Alpes region, particularly through our partnership and clients' base, which has been growing in recent years.

Only Lyon is a brand and the territorial program of the City of Lyon, dedicated to the promotion of Lyon's renowned and competitiveness all over the world. Lyon is France's second business and cultural capital (after Paris). Thanks to its strategic location and dynamic economy, it is considered as one of the most attractive regions in Europe, especially for entrepreneurship opportunities. In 2017, it ranked fifth richest region in Europe in terms of foreign investment.

Under the responsibility of Invest in Lyon (Lyon Area Economic Development Agency) and with 28 institutional private partners, Only Lyon's final objective is to attract international talents, companies and investors in the city.

This organization already plays an

important role in China, which is one of Lyon's oldest and most important economic partners. Indeed, more than 160 companies from Rhône-Alpes are already established in China whereas 15 Chinese companies are located in Lyon.

More particularly, Lyon has entertained strong ties with Guangzhou, and the two cities have just celebrated 30 years of twinning relationship this year.

Regarding its relationship with Hong Kong, the latter organized its first light festival in 2017 in partnership with Fête des Lumières de Lyon (the largest light festival in the world). This event marked the beginning of a fruitful cooperation between the 2 cities.

The Only Lyon Hong Kong network will contribute to further strengthen the bonds between Lyon and Hong Kong.

The city of Lyon has also developed closer collaboration with the economic capital of Vietnam, Hô-Chi-Minh City, through their town twinning arrangements. In that respect, the two cities signed in October 2018 a cooperation agreement for 2018-2020 during a reception to which Fidnam was invited to attend.

Thanks to our experience, and with our firmly established network, we can assist Asian investors willing to develop their activity and collaborative projects in Lyon and the region of Auvergne-Rhône-Alpes.



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NEW HEAD OF FINANCE AT FIDINAM SINGAPORE

Profile

We are delighted to announce that Ms. Daniela Radrizzani has joined the Italian Desk of Fidnam Singapore. Daniela is an Italian Chartered Accountant and Auditor, she practiced for 6 years in Milan (Italy) as consultant for international clients in tax-related matters, and three years ago she moved to Singapore, gaining a significant experience in assisting international and local clients in tax, corporate and accounting matters. Daniela deals with international taxation, tax planning for corporations and individuals, tax treaties, Italian tax law and Singapore tax law, accounting and corporate compliance, related to local and cross-borders investment and interests.

Daniela holds a master degree in Business Administration and Economics, she is member of the Italian CNDCEC (Consiglio Nazionale Dottori Commercialisti ed Esperti Contabili) since 2013 and member of the ICAEW (Institute of Chartered Accountants in England and Wales) since 2017.

Daniela is starting her career in Fidnam Group as Head of Finance in Fidnam

Singapore; she may be contacted via email at daniela.radrizzani@fidnam.com.sg and by phone at +65 6909 0073.

Singapore

Singapore is a city state of 5.7 million inhabitants, including an estimated half a million expats. Acknowledged as a global financial center, Singapore is constantly ranked n.1 in the world by the World Bank in its "Ease of doing business" ranking.

Singapore is the business hub for Southeast Asia, featuring developed infrastructure, political stability, open business policies, a skilled workforce, the use of English as the main working language, a legal system based on English common law system and respect for intellectual property rights.

Singapore is also a founding member and at the heart of ASEAN, the Association of South East Asian Nations, which includes Indonesia, Malaysia, Philippines, Thailand, Vietnam, Cambodia, Brunei, Laos and Myanmar. Singapore is the entry point into, and operational base for, Southeast Asia for most foreign groups, including European corporates and financial institutions.

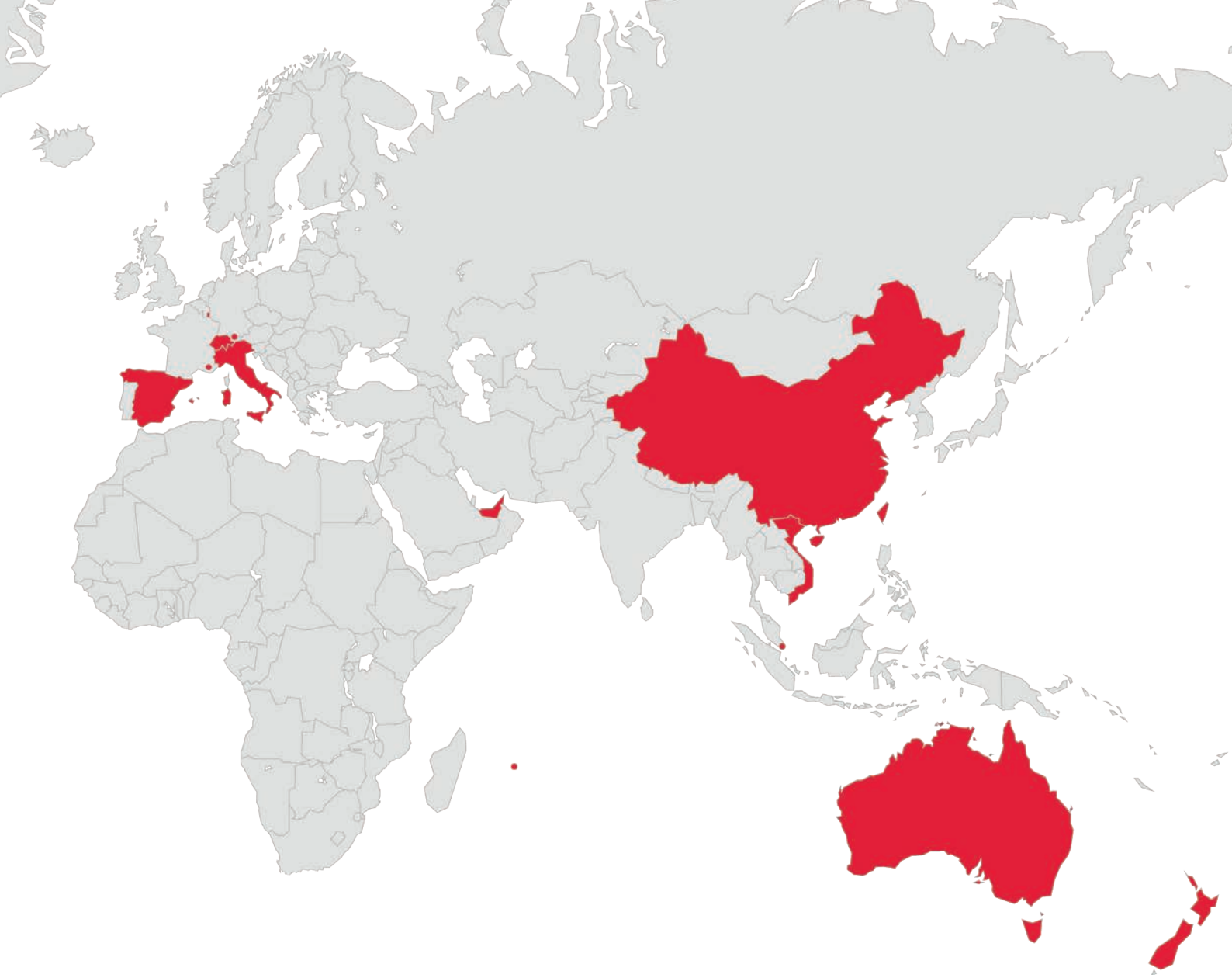


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