

WRITTEN BY WENDY WENG

WHAT GUERNSEY CAN OFFER CHINESE HNWS'

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Wendy Weng, Guernsey Finance's China representative, looks at why wealth Chinese clients should use Guernsey trusts.

In September 2015, the Hurun Research Institute published its annual listing of the richest people in China. It showed that IT tycoon Ma Yun had increased his personal fortune during the last year by 500% to \$25 billion and in doing so, had climbed to first position on the list. He had surpassed last year's number one, Wang Jianlin, despite the latter's wealth also growing in the last 12 months.

What the survey highlights in greater detail is how real estate continues to be a big driver of wealth in China, with eight of the top 20 linked to that industry, but more broadly how the growth in the number of high net worth individuals (HNWIs) in China continues to gather pace, with the number of dollar billionaires is up by 39 in the last year to 354, whereas a decade ago there were only three such people.

This rise in the number of HNWIs is consequently driving up demand for private wealth services. For example, a number of Chinese based trust companies are now selling the local family trust product to clients in mainland China. However, concerns have been raised that such wealth could be subject to Inheritance Tax if, as expected, this is introduced in China in the next few years. This is unlikely to be the case though with any assets established in an offshore trust.

Guernsey is an offshore jurisdiction which has significant experience and expertise in establishing trust structures for clients from around the world, including China. They are not subject to any Inheritance Tax and they can also be established for an indefinite period of time, as opposed to the current 50 year limit of the family trust. It is understood that the Chinese trust law will be reviewed later this year and that leaves open the possibility that the 50 year limit may be revoked but nevertheless, there remain compelling reasons why Chinese HNWIs should consider a Guernsey offshore trust instead.

What can Guernsey offer Chinese HNWIs?

Guernsey's wealth management sector is made up of 150 lead corporate licensees, ranging from local, boutique providers to large, multinational organisations. There is extensive experience and expertise in using legally robust and tax efficient structures to manage the wealth and assets of clients, for example for asset protection, investment purposes, tax planning and estate planning. This may be provided through a variety of means, including private banks, trusts, companies, foundations or via partnership family office structures.

Trusts & Companies

The trust concept originates from and has been used successfully for many hundreds of years in common law countries such as the United Kingdom (UK) and the United States (US). It is less familiar in civil law jurisdictions such as China and as such, for many clients, the idea of handing over control of wealth and assets to complete strangers – albeit professionals – who may be half way across the world is an uncomfortable prospect.

Guernsey can address these concerns. Firstly, Guernsey has well-established legislation and supporting legal infrastructure including courts which have many decades of experience in dealing with court matters. Secondly, within the arrangements of a standard Guernsey trust there are special provisions which allow for the Settlor to take control of the wealth or assets. Thirdly, the use of a structure involving a Private Trust Company (PTC) and a purpose trust gives the Settlor greater control – they may sit on the board of the PTC and also be involved of the purpose trust which is the ultimate authority over the PTC board.

It should be stressed though that, aside from the tax implications, there are dangers in the Settlor controlling the wealth or assets, especially if they are not experienced or have particular expertise in managing such affairs. Indeed, trusts have been successfully used for many years in the UK and US precisely because the trustees have been independent financial professionals.

Foundations

We are aware that some advisers and clients still believe that a trust is not the right option for them. Therefore, we have introduced the Guernsey Foundation. It came on-stream at the start of 2013 and we believe that it will be especially attractive to clients from civil law jurisdictions, such as China. In particular, the Guernsey Foundation can be used as an alternative to the PTC and purpose trust arrangements that have traditionally been used to allow Settlers to retain control over assets and wealth.

The early foundation registrations in Guernsey have predominantly been set up for philanthropic purposes. We anticipate that this type of foundation will continue to prove popular going forward and that the Island will also see structures set up for more traditional private wealth management, estate planning purposes and other family arrangements.

Family Offices

With the Family Office increasingly investing through global markets, including in private equity and other alternative asset classes, Limited Partnership Family Office structures can also be utilised. Guernsey has a thriving investment fund and private equity industry with structures that are legally robust and tax efficient. Corporate and limited partnership structures are utilised to hold assets and investments of all types. Guernsey investment platforms manage investments across the globe. Therefore, there is the option to invest in existing Guernsey platforms as well as the option to establish a new or bespoke investment platform for larger Family Offices.

Innovation

Guernsey pioneered the Protected Cell Company (PCC) concept and also offers Incorporated Cell Companies (ICCs). They offer the advantage of allowing for legal segregation between assets and liabilities as well as the ability to create cells that are bespoke to individual family members or asset classes (i.e. cells are akin to holding companies).

Guernsey has established 2-REG, the Channel Islands Aircraft Registry, for both local residents and the wealth management sector's clients from overseas. This complements the Guernsey Registry which offers quick and cost-effective company incorporations. Its offering is set to be enhanced by a number of revisions due to be made to the Guernsey Company Law, including provision for companies to be named using any recognised alphabet, including Chinese characters.

The Guernsey Registry is also home to the local Intellectual Property Office, which has launched the world's first image rights legislation and image rights register. Placing image rights on a statutory footing provides individual or corporate brands with a commodity which can be both protected and exploited commercially.

The aim is that this unique offering will be particularly popular with famous individuals, such as sport and entertainment stars, who will then utilise the wider wealth management services available in the Island.

Guernsey: In Brief

- Situated in Europe between the United Kingdom (UK) and France.
- A British Crown Dependency.
- Special relationship with the European Union (EU).
- Population of 60,000 people.
- English speaking.
- Currency: British pound Sterling (GBP).
- Same time zone as the UK.
- Links to both London and Europe.

Banking

Clients can also make use of Guernsey's mature banking sector. It provides products ranging from retail banking and savings through international wealth management and private banking to institutional business and specialist lending. Importantly, it also services the other financial services sectors on the Island.

Guernsey plays host to 31 licensed banks, holding US\$140 billion in deposits. These banks include the international operations of major groups headquartered in the UK, US and Switzerland. However, we believe that there is also significant scope for one or more Chinese banking groups to establish an offshore operation in Guernsey.

Why Guernsey?

Guernsey is not the only offshore jurisdiction which claims to be well-placed to offer wealth management services to Chinese individuals and families. Indeed, it is our experience that many from China use Caribbean jurisdictions, such the

British Virgin Islands (BVI) and Cayman Islands. However, we believe that this is largely down to familiarity and in fact, Guernsey offers not just something different but also, we believe, a better proposition. One of Guernsey's greatest strengths is that it has a 50 year heritage in providing offshore wealth management services. This means that the Island has significant experience and expertise in administering not just the basic but also the most complex of structuring arrangements. It has also helped develop an infrastructure whereby Guernsey is able to provide Chinese clients with a full range of offshore wealth management services, ranging from the traditional to the especially innovative.

Such innovation has been fostered through the approach of the local authorities, including the Guernsey Financial Services Commission (GFSC), which has encouraged creativity while ensuring that the Island is working to leading international standards. Indeed, an IMF report from early 2011 showed that Guernsey was compliant or largely compliant with 47 of the 49 standards set by the Financial Action Task Force (FATF) – the best assessment of any jurisdiction globally.

The Guernsey Government also continues to ensure we adopt leading international standards of tax transparency and exchange of information. Guernsey was within the first wave of territories placed on the Organisation of Economic Cooperation and Development (OECD) 'white list' at the conclusion of the G20 summit in London, April 2009. Today, Guernsey has signed Tax Information Exchange Agreements (TIEAs) with more than nearly 60 jurisdictions, including China.

Guernsey has also signed Double Tax Arrangements (DTAs) with several jurisdictions, including Hong Kong and Singapore, and today the total stands at 25. While Guernsey does not have a Double Taxation Agreement (DTA) with China, we do have a corporate tax regime where all financial products are either taxed at 0% or are tax exempt in Guernsey.

Guernsey's finance industry: An overview

- Banking.
- Wealth management.
- Investment funds.
- Insurance.
- Professional support services e.g. multi-jurisdictional law firms and global accountancy firms.
- The local Channel Islands Securities Exchange (CISE).
- A Guernsey company registry and intellectual property registry.
- Supervision and regulation from the Guernsey Financial Services Commission (GFSC).

Guernsey relations with China

- Guernsey opened an office in Shanghai at the end of 2007.
- The Guernsey Government has signed a TIEA with XIAO Jie, Commissioner of the State Administration of Taxation for the Chinese Government.
- The Guernsey Government has signed a Memorandum of Understanding (MoU) for exchange and cooperation with FAN Yongjin, Deputy Director General of the Shanghai Municipal Financial Services Office.
- Guernsey's Chief Minister has both visited and hosted TU Guangshao, Vice-Mayor of Shanghai; Dr FANG Xinghai, Director General of the Shanghai Municipal Financial Services Office; and Madam FU Ying, formerly Chinese Ambassador to the UK and now Chair of the Foreign Affairs Committee of the National People's Congress.
- Guernsey has developed a special relationship with Madam FU Ying's home town of Hohhot in Inner Mongolia, including a student exchange programme, presentations on matters of mutual interest related to dairy farming and initial discussions related to offshore financial services.
- Guernsey has received approval for companies incorporated in the Island to be listed on the Hong Kong Stock Exchange (HKEx) and we have developed strong ties with the Shanghai Stock Exchange (SSE) and the Shenzhen Stock Exchange (SZSE).
- The Guernsey Financial Services Commission (GFSC) has signed a Statement of Cooperation with the China Banking Regulatory Commission (CBRC) and a Memorandum of Understanding (MoU) with the China Securities Regulatory Commission (CSRC).
- LIU Xiaoming, the Chinese Ambassador to London, UK, visited Guernsey in April 2013 – following a Guernsey delegation meeting him in London in October 2012 – and a number of initiatives are now being jointly pursued.

In addition, it is our understanding that while the initial, upfront costs of doing business in Caribbean jurisdictions may be less than when using Guernsey, in fact, over the longer term, the expense is likely to be broadly comparable. Yet, clients also have the security of using a jurisdiction which is not just within the very top tier for standards of corporate governance, regulation and tax transparency but also politically stable and economically

secure.

Another major advantage that Guernsey has over Caribbean jurisdictions is that it is located in between the UK and Europe. This means that it offers quick and easy access to both London and European markets and being in the same time zone as the UK enables business to be conducted with both Asia and the Americas in the same day. The Island is also situated in an area free from natural disasters and with a temperate climate so that business continuity is ensured.

It is these factors which mean that Guernsey consistently outperforms the BVI and Cayman in rankings of global IFCs. However, where we are really able to distinguish ourselves from other jurisdictions is through our efforts to build and develop relationships in China.

Guernsey as a finance centre: Quick facts

- OECD/G20 'whitelist'.
- IMF endorsed – No.1 under FATF standards.
- No. 3 specialist finance centre (The Banker, October 2014).
- 31 licensed banks with US\$140 billion worth of deposits.
- Some 50 firms providing investment funds services of US\$450 billion.
- 150 fiduciaries employing more than 2,000 people.
- The No. 1 captive insurance domicile in Europe; fourth in the world.

Guernsey and China

Guernsey has taken a number of steps to show our commitment to the Chinese market, raise our profile and put the right building blocks in place to facilitate business flows (see box 4).

As we have invested time and resources in building these strong relationships so a number of Guernsey-based firms have developed their own presence in the region. Law firm Ogier has offices in Hong Kong and Shanghai and Mourant Ozannes is now established in Hong Kong.

Wealth managers Louvre, Nerine and Newhaven have established offices in Hong Kong and Richmond Fiduciary Group has opened an office in Shanghai. Richmond is an independent Guernsey wealth management firm with a core business of providing traditional trust and corporate services to clients around the globe.

Perhaps not surprisingly, given the number of Guernsey based firms establishing a presence in either mainland China or Hong Kong, figures from the GFSC show that wealthy Chinese individuals and families are becoming an increasingly important market for Guernsey's wealth management community.

Dominic Wheatley, Chief Executive of Guernsey Finance, said: "Chinese clients and their advisers have traditionally chosen to use offshore wealth management services provided from Caribbean jurisdictions. However, Guernsey provides a different proposition and one which has many advantages compared to our Caribbean counterparts. Chinese clients and their advisers need to make a choice between an option which has worked in the past and one which will work in the future. We can see that more are now choosing the latter, they are choosing Guernsey and therefore they are more in tune with the future direction of the global financial services industry."

Guernsey opened a representative office in Shanghai in 2007 and it is available as a first port of call for clients or their advisers who want to join the growing numbers who want to know more about offshore wealth management services from Guernsey.

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WE ARE GUERNSEY is the brand under which Guernsey Finance promotes the island's financial services sector internationally. Guernsey Finance - the promotional agency for the island's finance industry internationally - is a joint industry and Government initiative responsible for the promotion of Guernsey. Under the leadership of Chief Executive Rupert Pleasant, the agency ensures that the core values and competencies of the island's finance sector are accepted and respected by the global community and that financial business development flows are enhanced.

PO Box 655, St Peter Port,
Guernsey, GY1 3PN

+44 (0)1481 720071

INFO@WEAREGUERNSEY.COM



