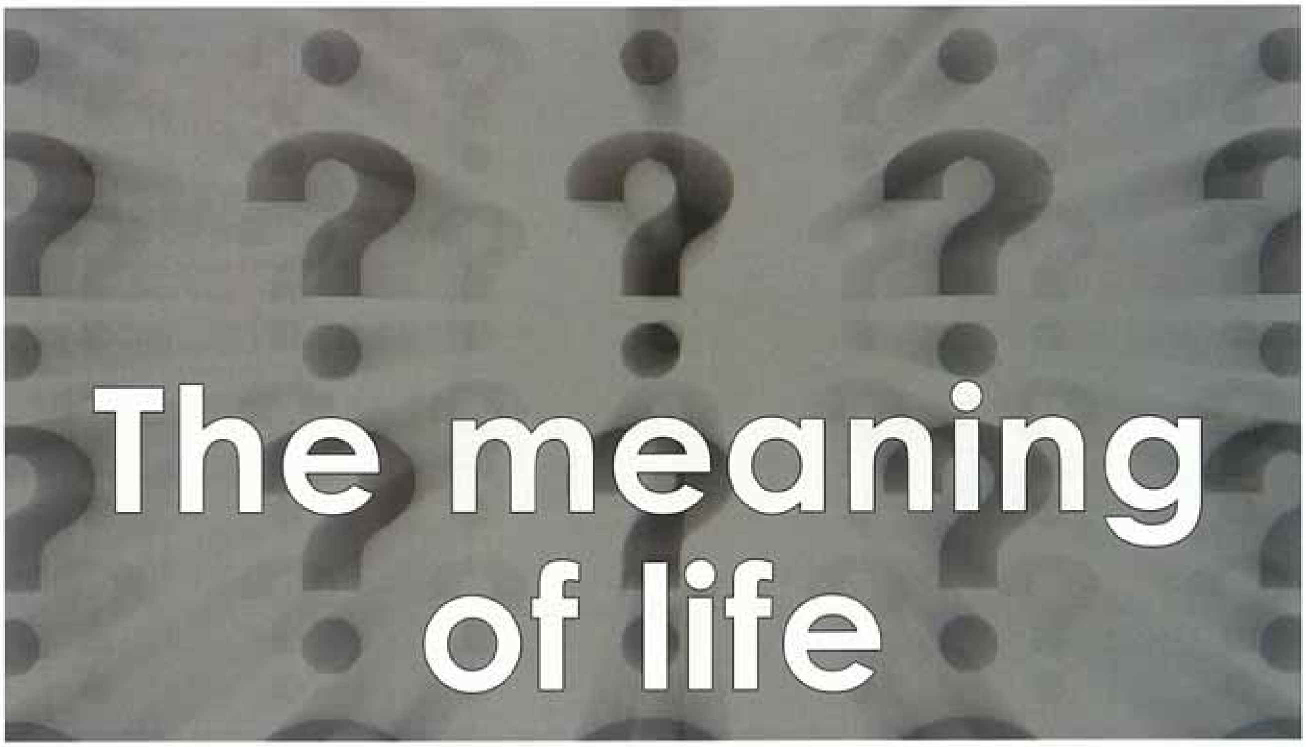

# The meaning of life

Mark Helyar of Bedell Cristin discusses the different investment-wrapper options that the Guernsey captive jurisdiction is able to offer to investors interested in the jurisdiction

Guernsey's captive management sector is often pigeon-holed into representing only pure captive business. In reality, a broad range of insurance activity is managed by insurance managers including true insurance and reinsurance business, quota share and life. The majority of the primary skills required of insurance managers are equally applicable to all types of companies, including those which provide life or 'long term' cover.

There has been something of a resurgence in interest in two main life-related areas in the past 12 months, including life insurance as an investment wrapper as an alternative to traditional trust arrangements, and in the field of trading of longevity risk.

## Offshore wrappers

Anti-avoidance legislation has made traditional tax structures, like the offshore trust, far less attractive to international investors in recent years. The use of an offshore life company to 'wrap' investments, which are transferred to the insurance company to provide an investment or bond with which to underwrite life-based risks is not a new one, but it is being revisited in light of growing taxation demands in many onshore jurisdictions facing substantial fiscal deficits. There remain many misconceptions about insurance wrappers or bonds, however the reality is as follows:

- Almost any type of asset can be transferred into an insurance wrapper, but certain jurisdictions have rules which limit the types which can qualify for tax advantages.
- A wrapper is viewed in many jurisdictions as a non income-producing asset so can be used to defer taxation depending on the rules of the domicile where the insured is resident.
- Some types of wrapper can be exceptionally useful for individuals wishing to structure their personal estates: this is particularly relevant for families which live in jurisdictions with rules of forced heirship in relation to real property,

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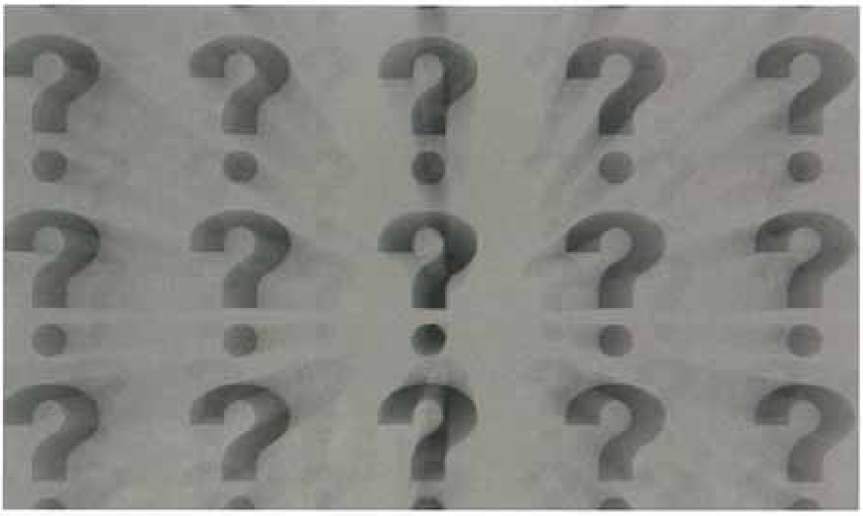

"There has been an increased interest in the creation of private-life wrapper or bond companies in Guernsey in the past nine months because of the increased need to shelter private wealth"

> but which do not recognise traditional Anglo-Saxon trusts, as the concept of life insurance is well established and understood.

There has been an increased interest in the creation of private-life wrapper or bond companies in Guernsey in the past nine months because of the increased need to shelter private wealth, particularly for families who may face taxation in more than one jurisdiction. One US client who recently came to visit us, for example, was paying an effective tax rate over 80% because of his US citizenship, despite being resident in the UK. While onshore politicians are often keen to deride the offshore world as a conglomeration of 'tax havens', the reality is that many individuals and companies seek the certainty of the offshore world as a place where they will not have to pay taxes twice on the same assets, or in ways which they believe to be excessive, or in some cases, perverse.

Guernsey's insurance managers have the relevant skills to be able to manage life insurance companies, and protected cell and incorporated cell companies are ideal structures through which to achieve economies of scale while providing for insolvency protection. Guernsey is therefore well placed to take advantage of renewed interest in this type of structure.

## Longevity risk

We are experiencing an extended period of low returns for traditional investment classes preferred by pension trustees, while at the same time increasing longevity predictions from the actuarial profession, creating a perfect storm of potential shortfall for the pension industry. The issue of trading longevity risk has seen a number of false starts, but there is increasing interest in ways in which pension trustees can trade their risks and liabilities with one another rather than focus exclusively on increasing the income deriving from their assets.

What does this mean in simple terms? If you imagine a defined benefit pension scheme for a well-established engineering company with a significant 'bubble' of workers aged 45-50, then in 15 years time that defined benefit scheme may come under serious pressure to fund payments if its fund has not kept up with inflation and grown to take account of the coming bubble. Conversely, you may have a relatively new IT company in another part of the country which has a workforce of predominantly young people aged 25–35 which will not have to start funding payments for another 30 years.

These two entirely separate schemes have age/risk profiles which are of potential benefit to the other, and which can be commoditised using the same techniques used for securitisation in the capital markets but using longevity of the respective risks as a measure. When you expand these risks across the whole market, it is potentially possible for the peaks and troughs experienced by different types of scheme to be evened out.

As the pressure created by increased longevity and diminishing investment returns continue, there are renewed efforts to create a platform to enable trading of risk and to introduce capital to support a problem which is only going to increase in the next decade.

Guernsey, because of its long political and fiscal stability, neutral tax regime and advanced regulatory environment, is an ideally situated location to locate structures for trading longevity risk and for introducing new capital to this market. Instruments which are correlated to longevity term are usually classified as life insurance for Guernsey law purposes. There is a wealth of insurance management experience, along with legal, accounting and banking infrastructure to enable the management of private or corporate structures created to trade such risk, as well as the benefits of the Channel Islands Stock Exchange. Guernsey is well placed to take advantage of these developing initiatives.

Mark Helyar is the managing partner of Bedell Cristin in Guernsey. Mark's primary areas of practice lie in open and close ended funds and the insurance and reinsurance sectors. He also has a specialisation in the use of segregated cell companies for structuring purposes.