DRN-4308658

The complaint

In July 2014 Mrs G and Mr G ('the complainants') were advised by St. James's Place Wealth Management Plc ('SJP') to invest in an Enterprise Investment Scheme ('EIS') operated by Oxford Capital Partners LLP ('OCP'). They followed the advice and made the investments in August 2014. Mr G invested £100,000 in the EIS and Mrs G invested £17,000 in it.

The complainants have pursued a separate complaint against SJP with regards to its recommendation of the investments. This decision is only about their complaint against OCP in its capacity as operator of the EIS fund they invested in.

The complainants mainly say OCP – mismanaged the fund, leading to its poor performance; placed their investments into companies that breached the terms for usage of short term debt for short term finance needs; mismanaged a conflict of interest arising from a lender to one of the investee companies; mismanaged the priority given to lenders in the EIS with regards to shareholders' assets; charged fees that conflicted with those in the fund's Information Memorandum ('IM'); misrepresented risks in, and potential returns from, the fund; allowed Mrs G's investment, despite it being below the minimum investment level; and mishandled their complaint.

What happened

One of our investigators looked into the complaint and concluded it should not be upheld. His main findings were:

- The complainants' investments were in a fund containing three EIS qualifying investee companies – Sotherton Energy Limited ('SEL') and Corner Energy Limited ('CEL'), both of which specialised in the Anaerobic Digestion ('AD') sector, and Atlas Power Limited ('APL') which specialised in Reserve Power ('RP'). CEL was sold in 2020 and the complainants received a total of around £3,000, but no returns were received from SEL and APL. They have lost around £114,800 (or 97.5%) of their total invested capital.

- OCP acknowledges that the fund's performance was disappointing. In terms of reasons, it has referred to specific events in the relevant sectors and in the markets they were exposed to, to material but unanticipated changes in legislation in the sector, to energy pricing events, to factors that affected the companies' performances and to factors that affected their sale values. All of these were outside its control and could not have been foreseen.

- With regards to the allegation of mismanagement, including the complainants' assertion that OCP's due diligence on the companies was flawed, evidence of the due diligence it conducted shows it was thorough. This supports the conclusion that it conducted sufficient due diligence. Furthermore, when issues arose it reacted quickly to mitigate them.

- Mrs G's investment was below the £25,000 minimum investment level for the fund, but evidence suggests it probably allowed her lower investment upon request from

her adviser. It is also probable that its decision to do this took into account the fact that Mr G was investing £100,000.

- The complainants say they identified a conflict of interests in a loan granted to SEL by a firm registered at the same address as SEL's. OCP has given a fair explanation for this, one that satisfied its conflicts of interests policy.

- Section nine of the Investment Management Agreement ('IMA') set out the associated fees and expenses. The complainants suggest that more fees were deducted from the accounts for the three companies than were allowed. However, the fees they query appear to have been covered, and permitted, by sections 9.5, 9.7, 9.8 and 9.9 of the IMA. OCP has also given a fair explanation to support this conclusion.

- The EIS fund was a risky investment, made to take advantage of tax benefits. The IM's 'Investment Risks' section included warnings about the risks of investors losing their entire investments, of targeted returns not being achieved, of investee companies failing and their associated shares losing value or having no value, and of Government subsidies and initiatives that contribute to the companies' revenues being revised or withdrawn. Other risk warnings were in the IM. The risks were made sufficiently clear, as were the potential returns and potential tax benefits, and neither was misrepresented or overstated.

- The complainants say the absence of debt and the purported asset-backed nature of the investments were highly significant factors in their decision to invest in OCP's EIS, and that they relied on a promotional material for the EIS which included the statement – "No debt mitigates financial risk". The promotional material they refer to is from August 2012. Two updated versions were issued thereafter and before their investment, and the July 2014 version (before their investment) did not include this statement. OCP cannot fairly be held responsible for SJP presumably giving them an outdated version. That version nevertheless made clear that investment decisions should only be made on the basis of the IM for each fund. The IM for the fund they invested in said no long-term debt will be undertaken, but it confirmed discretion/capacity to take on debt/financing for short and medium term financing needs. All three companies in the fund took on such debt.

- They have also referred to what they consider to be a long-term debt undertaken by SEL, contrary to the prohibition in the IM. OCP has explained that this was construction and working capital start-up finance undertaken on a short-term basis, with a plan to subsequently move to lower rates, to a medium-term debt and then to repayment (with funds from projected cashflows).

- Overall, the IM was not misleading about the terms for undertaking debt, and the complainants had the option to seek clarity about this at the time.

The complainants disagreed with this outcome.

They made a number of submissions about what they consider to be new facts disclosed in the investigator's findings relevant to their case against SJP, and about raising a new complaint against SJP on that basis.

With regards to the case against OCP, and the debt exposure issue, they mainly said – the investigator and OCP have misdirected themselves on the distinction between short-term debt, on the one hand, and debt for short to medium-term financing needs, on the other; it

was only the latter, and not the former, that was permitted by the IM; however, it was the former (for the purpose of serving long-term needs), not the latter, that the fund wrongly allowed in its underlying companies; that constituted breach of the IM.

They also said the investigator did not address their complaint that the IM permitted lenders' priority over shareholders' assets only in liquidation-based distributions of assets, but OCP granted lenders such priority in essentially all circumstances. They consider that it acted outside the IM in this respect, with detriments to the shareholders (reducing the funds available for distribution to them).

The complainants also referred to wrongdoings they allege against OCP in terms of its handling of their complaint, and said this issue has not been appropriately addressed.

In order to clarify the documentation related to the fund the investigator made additional enquiries, and OCP gave clarification mainly as follows –

- The complainants made their investments based on the IM dated 2 September 2013.

- There were two updates to the IM in July 2014, before their investments. The changes were minor and not of a material nature.

- The promotional document from which the complainants have quoted "No debt mitigates financial risk" was an Oxford Capital Infrastructure EIS document (the 'Infrastructure document'). It was for promotional purposes only. The IM had precedent over it and the IM was what the fund gave explicit and important notice, to investors, that all investment decisions should be made upon. The version of the Infrastructure document with the above quote was produced in August 2012, however it was then superseded by updated versions in November 2012, January and November 2013, and July 2014, with material content changes amongst them. The contents of the August 2012 version were accurate at the time, but from the November 2012 version onwards the above quote was entirely removed, and this remained the case up to the July 2014 version and up to when the complainants invested in August 2014. All its updated promotional materials, including the Infrastructure document, were immediately available on its systems and shared with its channel partners (including SJP).

The matter was referred to an Ombudsman.

What I've decided – and why

I've considered all the available evidence and arguments to decide what's fair and reasonable in the circumstances of this complaint.

Having done so, I have reached the same conclusion expressed by the investigator. The complaint is not upheld.

Complaint Handling

First, I briefly address the complainants' dissatisfaction with OCP's handling of their complaint.

My remit includes the determination of complaints about regulated activities. Complaint handling, in isolation, is not a regulated activity. It is also not an ancillary activity connected to the conduct of a regulated activity. Sometimes a complaint to a firm and its alleged

mishandling of it might form a part of the substantive case. If so, addressing the firm's complaint handling might then be a necessary part of determining the overall complaint.

The present complaint is not that type of case. The complainants invested in 2014. By the time of their complaint in 2022, all the main events related to their complaint issues had happened. They had essentially concluded by the time of the complaint, and before the complaint went through OCP's complaint handling process. Therefore, its complaint handling is an isolated matter that is outside my remit.

Matters related to SJP

No such matters will be addressed in this decision. OCP is the respondent to the complaint that has been referred to me and, as stated at the beginning of this decision, the complainants have pursued a separate complaint about SJP. Only the issues related to OCP will be determined in this decision.

The 'debt' related issues

The first of these issues is about the statement in the Infrastructure document that the complainants say they relied upon. I am satisfied with evidence that this matter is remote to OCP and beyond its responsibility. It updated the versions of the Infrastructure document as summarised in the background above and it made the updated versions immediately available on its systems and to the third-party firms engaged in promoting and/or advising on the EIS.

The complainants relied on the outdated August 2012 version with regards to their August 2014 investments. There were four updated versions during the intervening period which do not appear to have used the statement they have cited. The version that was updated shortly before their investment was available in July 2014 and that did not use the statement they have cited. OCP bears no fault for any reliance they placed on the outdated version (and statement). It did not provide the document to them. The claim that the statement was a misrepresentation by OCP, or that it is responsible for the statement misleading the complainants, has not been established.

The next relevant issues are about the type of debt the EIS' IM said its investee companies could undertake and the type of priority creditors could have over the companies' assets. The relevant passage – in the 'Investment Risks' section of the IM – is as follows:

"*The Oxford Capital Infrastructure EIS does not take on long-term bank debt. However, debt or other types of finance may be considered by investee companies for short and medium term financing needs. In some circumstances, providers of finance may have priority over shareholders in the event of a distribution of assets because of a liquidation. Other funds managed by us may also invest in a company alongside the Oxford Capital Infrastructure EIS. Debt may also be considered after acquisition to facilitate the return of capital to investors.*"

The IM declared, quite clearly at its outset, that its purpose was to provide information about the EIS in order to seek investment subscriptions to the EIS. It also stated that all potential investors were to make their own investment decisions independently, and it stressed that they should take independent investment advice (from a specialist in the type of investments featured in the IM) in doing so.

The statement quoted above about debt related risks was essentially basic information about the approach the EIS intended its investee companies to take towards debt. It is also noteworthy, that the statement applied to the EIS as a whole and to all the investee

companies that would operate within it.

The statement is quite generic. Other than the explicit undertaking that no long-term bank debt will be undertaken in the EIS, I do not consider that the statement created the sort of restriction(s) that the complainants have argued – in terms of *debt for short or medium term financing needs*. I can assure them that I understand the distinction they have drawn between *debt for short or medium term needs* and short-term debt and, in theory, I agree it is a distinction worth making. However, for the reasons I address below, I also consider that, in practice and given the realities of infrastructure/construction project financing, it is a distinction that could quite legitimately be blurred.

The statement said investee companies 'may' consider debt or finance for short or medium term needs. Such needs arguably define the terms of the debt/financing, so in this respect a short-term need for financing could result in a short-term debt. The complainants' point is essentially that undertaking short-term debt without a short (or medium) term financing need is a different matter, which sits outside the statement. In theory, this is true, the statement clearly requires establishment of a short or medium term financing 'need' to justify the undertaking of debt.

However, it must be noted that the IM did not give a specific definition of what would, or would not, constitute a *short or medium term financing need* in practice. This is not a criticism and I do not say or suggest that it should have done so. It was probably one of the aspects of the IM that prospective investors were encouraged, expressly or implicitly, to take advice on. Advice might have led to enquiries and insight into what such a definition was likely to be, in practice, or what it was generally considered to be in the relevant infrastructure sectors.

For the sake of clarity, the above statements only seek to illustrate a point. I make no finding about what sort of advice the complainants should have been given by SJP about what constituted *short or medium term financing needs* in the context of the EIS or in the context of the relevant infrastructure projects. I repeat what I said above – I do not address issues related to SJP.

The point is that the IM gave a basic statement in this respect, which I consider to have been sufficient, but which did not provide a specific or full definition. If the complainants wanted to know more about what *short or medium term financing needs* actually and fully meant in practice that was a matter beyond the information given in the IM, for which advice might have helped. It would have been arguably impractical for the IM to go into details on all relevant infrastructure project management aspects of the EIS' investee companies' activities. What it did was set out the basic descriptions and remits of the EIS, which included the ability of investee companies to undertake debt for *short and medium term financing needs*.

The blurred distinction I mentioned above could exist, for example, in short-term debt undertaken in a project for the sake of efficiency or convenience. It could be argued that such a purpose does not automatically establish a short-term 'need' for financing, instead the debt is undertaken simply because it is deemed efficient or convenient at the time. However, infrastructure projects involve a succession of stages and phases, so debt undertaken to aid a particular stage – and applied to that stage – could then be defined by any identifiable and existing short-term financing needs of that stage. In other words, in the absence of a definitive and comprehensive definition in the IM of what *short or medium term financing needs* meant, it could be argued to have meant a range of things. On this basis, I consider it unsafe to impose any particular definition in the absence of evidence that such a definition was intended for the EIS and the IM.

The complainants highlighted a part of OCP's complaint response that said the IM permitted the use of debt for operational needs. OCP has explained to us that its earlier comment in this regard was a mistake. It made the comment based on the September 2014 version of the IM, instead of the September 2013 version that the complainants used for their investment.

The above analysis of the IM's reference to the use of debt for *short or medium term financing needs* can be applied to the complainants' arguments about the IM's statement that "*In some circumstances, providers of finance may have priority over shareholders in the event of a distribution of assets because of a liquidation*".

This statement does not create the restriction they have argued. It does not say that a creditor's priority over shareholders is limited only to asset distribution following liquidation. It says 'in some circumstances' such priority 'in the event' of liquidation 'may' be the case. It did not say the priority applied 'only' in the event of liquidation. A statement intended to limit the priority to *only* liquidation related circumstances would have clearly said so. The above statement does not. I understand that the statement has been interpreted as the complainants have argued, but I consider that to be their choice of interpretation, as opposed to the statement being presented in a way that was unclear and/or encouraged their interpretation. I do not consider that the statement was unclear or that it needed further clarification, but if they considered the opposite, this is perhaps another area in which advice at the time might have helped.

Overall, on balance and for the above reasons, I do not find that the breaches and misrepresentations alleged in the complaint's 'debt' related issues have been established.

The performance and investment mismanagement allegations

We do not determine matters of investment performance in isolation, because such performance is rarely ever guaranteed, is often (if not always) unpredictable and beyond anyone's control and can be subject to factors which are also often (if not always) unpredictable and beyond control.

However, in cases of alleged investment mismanagement, as in the present case, we can address the alleged issues of mismanagement.

For the above reason, I do not make any findings on the performance, in isolation, of the complainants' investment. Instead, I address their overall allegation that OCP's EIS was mismanaged.

The grounds they have presented for this allegation mainly relate to due diligence conducted on the investee companies and their associated projects, the quality of the projects' underlying infrastructure assets, competency of project management in the EIS, and problems related to environmental containment, operational management and quality standards mainly in SEL's underlying project (including OCP's reporting on the problems). These grounds also feature a number of specific sub-issues the complainants have highlighted and queried.

I have considered what the complainants have presented, available evidence and OCP's very detailed submissions (initially to the complainants and then its additional submissions to us) on the issues and sub-issues in the mismanagement allegations.

OCP has given enough details about the due diligence applied to the EIS for me to conclude, on balance and as the investigator did, that there was no failing in this respect.

Those details confirm, amongst other things, its application of technical, legal and financial due diligence on aspects of the EIS, in some cases conducted by third-party experts; bespoke financial modelling, depending on the sector, conducted prior to investments; consideration of competencies and risks of failures with regards to the technologies that were essential in the projects; due diligence on contractors and logistics; and a legal due diligence report produced by its solicitors.

OCP has also provided reasonably detailed information about how the EIS was operated/managed and how its investments were managed. This decision will be published, and I am unsure about the extent to which the information shared in this respect might be commercially sensitive, so I will not set it out. However, I confirm my consideration of it and that I am persuaded, on balance, it does not depict the flawed management (or mismanagement) that has been alleged.

OCP has also given us direct responses to specific enquiries raised by the complainants within the sub-issues. They are too lengthy to include in this decision. Overall, it says it is unclear about some of the enquiries but it has attempted to answer them all, and its answers broadly illustrate, and support, the investigator's finding that, in the main, OCP reacted quickly to address and mitigate any problems that arose in the EIS' underlying projects, and that those problems were largely unpredictable and beyond reasonable control.

It should not be forgotten that the EIS was OCP's to operate and manage at its discretion. The regulator's 'Principles' – at Principles 2, 3 and 6 – meant, in broad terms, it was obliged to do so with due skill, care and diligence; to make reasonable efforts to manage and control its affairs responsibly and effectively; and to uphold its customers' interests and treat them fairly. Furthermore, and arising from the regulator's Conduct of Business Sourcebook ('COBS'), it was bound by COBS 2.1.1R and the *client's best interests rule* within it. However, within the context, it still had discretion on the operation of the EIS.

I mention the above because it is not enough to allege mismanagement only or mainly based on what OCP might or could have done differently in the EIS. This seems to be what underlines the arguments the complainants have made in this allegation. It is not a criticism against them. I can understand how investors who exposed a significant total sum of their capital to the EIS, as they did, could consider it reasonable to take views on what OCP could have done differently and/or better in its management.

However, the balance of available evidence shows that, given the nature of the particular EIS that OCP operated and in the context of the inherent high risks and uncertainties in it, OCP operated the EIS, its investments and its numerous components in a way that does not appear to have breached the afore mentioned Principles, or the best interests of investors like the complainants.

There were certainly problems in the EIS, and I have noted particular points made by the complainants about how better foresight, anticipation and forward planning could have been, or was, expected from OCP to avoid some or most of them. These claims can be debated, and I have given equal attention to OCP's rebuttals to the complainants' points.

A key consideration is that the effects of problematic events and/or circumstances in the underlying projects which were unpredictable or unforeseeable and were beyond reasonable control do not automatically give grounds to find mismanagement. The same applies to the effects of matters that arguably might or could have been handled differently or, perhaps, better. They too do not automatically establish mismanagement. More usually needs to be established. Meaningful levels of incompetence, recklessness, evidently poor decision making, breaches of mandates or instructions, and/or significant process failures are examples of the sorts of main grounds that support a finding of mismanagement. Overall and

on balance, I am not persuaded that such grounds have been proven in this complaint.

Management Charges

The complainants have presented reasonably detailed submissions about this issue. It is clear their concern about potentially unpermitted charges in the EIS has resulted from considerable research they have conducted into the matter.

However, it also must be said that they have not cited a specific and identifiable charge(s) that should not have been made. Instead, their concern is that the figures they have researched and considered do not appear to match the fees and charges they understood to be due in the EIS. Therefore, they believe unpermitted charges were probably made – or, in their words, they "*believe there is strong indication*" that "*fees have been in excess of those permitted by the IM*".

I understand the complainants' submissions on this issue and I can see why, based on the information they have looked into, they hold their concern. However, as they have conceded in their complaint, the information they considered was inherently limited and, in contrast, OCP would have access to more detailed information about, and financial records relevant to, the EIS.

It is one thing to determine a complaint about a specific and identifiable charge(s) that, allegedly, should not have been made in the EIS, but it is an entirely different matter to resolve a suspicion about the possibility (or even probability) of unpermitted charges in the EIS. With relevant evidence and enquiries about specific a disputed charge(s), the former can potentially be done, but without a full audit of the EIS' finances the latter is arguably impossible. It is beyond my and this service's remit to conduct such a financial audit.

OCP has confirmed in its evidence that its Finance Director twice conducted full reviews of the EIS' fees/charges, before and after receipt of the complaint, and nothing wrong was found. It has also stated the following to us –

"*It is important to note that all accounts (including fee charging) were professionally and independently audited by Grant Thornton, an established and well-respected UK accountancy and audit company. As the public accounts note, "no emphasis of matter was added to the auditor's report" on inspection of the accounts*."

I have not seen cause to doubt the above statement, and it suggests that the sort of audit (on the EIS' finances) that neither the complainants nor this service are capable of conducting, that neither of us have done, and that is required to properly address their concern, has already been professionally conducted by an independent third party – with a result that does not support their concern.

I also echo, and incorporate into this decision, the investigator's finding that specific terms within the IMA (as mentioned in the background above) appear to cover and validate the fees/charges applied to the EIS.

For all the above reasons, I do not consider that the complainants' concern in this issue has been established.

The conflict of interests issue

The regulator has 'Principles' that all regulated firms must comply with. Under Principle 8, "*A firm must manage conflicts of interest fairly, both between itself and its customers and between a customer and another client.*" [my emphasis]

Therefore, the existence of a conflict of interest is not automatically prohibited. Instead, it is the firm's obligation to 'manage' the conflict of interest 'fairly'. Additional rules and guidance are in the Systems and Controls ('SYSC') section of the regulator's *Handbook*. SYSC 10.1.3R says firms must either *prevent* or *manage* a conflict of interest. The obligation to manage a conflict of interest, where it has not been prevented, is as follows – "*A firm must maintain and operate effective organisational and administrative arrangements with a view to taking all reasonable steps to prevent conflicts of interest as defined in SYSC 10.1.3 R from adversely affecting the interests of its clients.*" [SYSC 10.1.7R]

Where firms cannot be sure that conflicts of interests do not affect their clients' interests SYSC 10.1.8R obliges them to disclose to clients the relevant conflict(s) of interests and what they have done to mitigate their effects upon the clients. The IM has a section disclosing seemingly generic potential conflicts of interests, but as I address below the complainants' concern is quite specific. The IMA also has a section related to conflicts of interests, which refers to OCP's conflicts policy and which is more relevant to the complainants' concern, as I shall quote below.

Their concern is mainly about SEL receiving a loan from a third-party ('X') – which is not disputed – and about X sharing a registered address with SEL. OCP has explained that X was a loan making company that was one of the Oxford Capital Estate Planning Service ('OCEPS') holding companies, so it issued loans from an OCP controlled fund. It says this was in line with its conflicts policy. I have also noted that section 12 of the IMA, in broad terms, permitted it to offer management "or other" services to investee companies without having to account to investors and to have a material interest in such an arrangement, provided that, essentially, any conflict is properly managed and fair treatment to the investors is maintained.

OCP says the loans were competitive in the market and no fees were charged by OCEPS for them. I have not seen evidence to the contrary. It says X shared the same registered address as SEL because that address was also used by a firm to which OCP outsourced administrative/secretarial functions for all the investee companies within the EIS (including SEL).

Therefore, available evidence is that X had a connection with OCEPS and, it appears, OCP; but that did not breach OCP's conflicts policy and was in line with the IMA; in the absence of evidence that a conflict of interests in this arrangement was mismanaged, it also appears that it did not breach the regulatory requirements mentioned above; and the registered address shared between X and SEL has been competently explained.

Minimum Investment Level

Mrs G's £17,000 investment was below the £25,000 minimum investment level stated in the IM. However, the complainants clearly invested jointly or in concert with each other. Mr G's investment was £100,000. They invested a combined total of £117,000. OCP has explained to us that as the EIS was its EIS, it had discretion to consider their adviser's request to allow Mrs G's investment amount; that it was within its gift to grant the request – which it did – in the context of the total amount the couple would be investing; and that such decisions are not uncommon in the industry.

I am satisfied with OCP's position in this issue and I do not consider that there has been any wrongdoing on its part.

The complainants presented a joint total amount of capital to invest that was more than twice the value of what they could have invested if they limited themselves, individually, to the

£25,000 minimum only. Had they done that, they would have invested £50,000, but instead they were jointly seeking to invest £117,000. OCP clearly had a commercial incentive to allow a concession to Mrs G's investment amount, and it had the discretion to do so. It is quite possible that even if it had declined the request, the complainants could, perhaps with advice, have simply re-divided their total capital to ensure that neither fell below the minimum investment level. Overall, I do not consider that any harm was caused by OCP exercising its discretion to allow the capital investment split, as it was, between the complainants.

Representation of Risks and Potential Rewards

The IM was the document that OCP presented to prospective investors for their use in making their investment decisions. It began, after the contents page, with an 'Important Notice' section that included the following statements –

"*The Oxford Capital Infrastructure EIS will invest in unquoted securities. Such investments can be more risky than investments in quoted securities or shares and market-makers may not be prepared to deal in them. Unquoted securities may be subject to transfer restrictions and may be difficult to sell. It may be difficult to obtain information as to how much an investment is worth or how risky it is at any given time. Investing in private companies may expose you to a significant risk of losing all the money invested. Before investing, you are strongly recommended to consult an authorised person specialising in advising on investments of the kind described in this Memorandum.*"

"*By receiving this Memorandum you agree to be bound by the foregoing conditions and restrictions. Investing in the Oxford Capital Infrastructure EIS is speculative and involves significant degree of risk. The attention of the prospective investors is drawn to the contents of the section in this document entitled "Risk Factors".*"

The IM's 'Investment Risks' section repeated notice that prospective investors should take professional advice, then it proceeded to summarise the risks to capital, liquidity risks, investment exit risks and operational and financing risks associated with the investment. The section also includes explanations that past performance must not be viewed as an indication of future performance and that potential tax relief benefits in the investment are not guaranteed.

Overall, I am satisfied that the IM made it reasonably clear, in simple language, that the investment was a high-risk venture with a number of important high-risk components and uncertainties, that prospective investors needed to be mindful of this and that they should take competent investment advice in this regard. Of course, OCP played no role in advising such investors, and did not advise the complainants, but its IM made clear that investors should take advice on the investment and especially on risk.

The complainants have referred to risk descriptions given outside of the IM, and that appear to have been presented to them by SJP. It stands to reason that OCP cannot fairly be held responsible for those additional descriptions that it was not party to, and it should not have to respond to any queries the complainants have about them.

For the above reasons, I do not find that OCP misrepresented investment risks to the complainants. The IM's explanations of the EIS' high risks was relevant context for the 'targeted' returns it referred to and for its overall contents about the financial and tax benefits that could be achieved in the investment. Neither of those benefits were guaranteed and the descriptions of the EIS' high risks made reasonably clear that investments could potentially yield no benefits and total loss of capital. As such, I also do not find that OCP misrepresented the potential rewards from the investment.

Conclusion

The sum of the above findings is that the complainants' allegations have not, on the balance of probabilities, been proven or established, so their complaint cannot reasonably be upheld.

My final decision

For the reasons given above, I do not uphold the complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mrs G and Mr G to accept or reject my decision before 29 April 2024.

Roy Kuku
Ombudsman