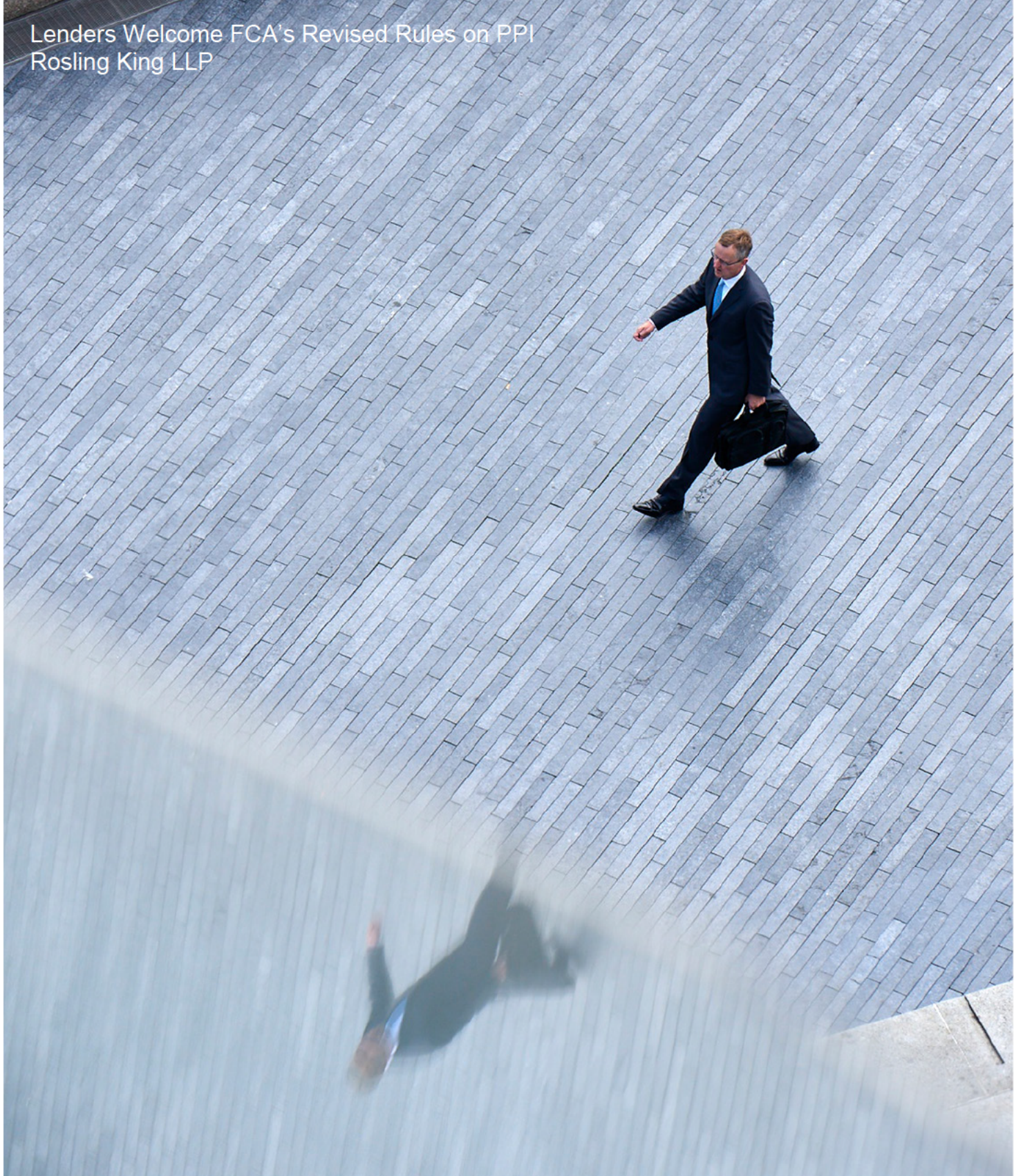


Lenders Welcome FCA's Revised Rules on PPI  
Rosling King LLP



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**Lenders Welcome FCA's Revised Rules on PPI**

The Financial Conduct Authority's much awaited consultation on how financial institutions should handle Payment Protection Insurance (PPI) complaints has led to a new set of guidelines. Simon Hough, Partner at Rosling King LLP, examines why lenders are welcoming the revised rules.

The review was in response to the ruling made by the Supreme Court in November 2014 in the matter of *Plevin v Paragon Personal Finance Limited* ("Plevin"), whereby it was decided that, under section 140A, failure by a lender to disclose commission received from a PPI sale that constituted 71.8% of the PPI premium constituted an "unfair relationship" between a lender and borrower.

As the payment of commission was widespread, this significant ruling opened the doors for a potential deluge of complaints and thus the case represents yet another hurdle for financial institutions.

The FCA's new guidelines reflect the decision of the Supreme Court to hold firms and lenders accountable for failing to disclose commission paid in relation to a PPI sale to borrowers. However, the FCA's calculation of the amount that will be payable to a borrower in these circumstances favours lenders, compared with the award made by the Court following the decision in Plevin.

Following the Supreme Court's guidance, the Manchester County Court decided that Mrs Plevin was entitled to a refund of the whole of the commission paid in relation to the PPI. In a significant departure from the Court's method of calculation, the FCA has directed that the first 50% of the commission paid should be deducted from the redress payable to a borrower. This represents a significant saving for lenders, who will not have to fork out for the whole of the commission.

The FCA's take on Plevin is not all welcome news for lenders. In Plevin, the Supreme Court had ruled that a commission of 71.8% of the premium created an unfair relationship and there was hope in the industry that such a high percentage would be rare and that this would act as a chill on claims. However, the FCA has directed that a commission of 50% will be sufficient to tip the balance in favour of a borrower and, as this level of commission was common in the market, we are likely to see a further wave of redress claims.

The FCA also consulted on the imposition of a deadline by which consumers must lodge their PPI complaints if they wish to have them assessed by the Financial Ombudsman Service. They suggest a cut-off date of two years from the date the proposed rule comes into force, which means that consumers will have the right to bring a complaint until at least 2018.

It is hoped that the introduction of a deadline will encourage all those consumers who have not yet complained to do so and thus bring the PPI debacle to a conclusion and ultimately allow for the rebuilding of public trust in the financial sector.