

Chapter 8

Waiver and modification of rules



8.4 Reliance on waivers

Application of waived rules

8.4.1

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If the *appropriate regulator* gives a *firm* a *waiver*, then the relevant *rule* no longer applies to the *firm*. But:

- (1) if a *waiver* directs that a *rule* is to apply to a *firm* with modifications, then contravention of the modified *rule* could lead to *appropriate regulator* enforcement action and (if applicable) a right of action under section 138D of the *Act* (Actions for damages); and
- (2) if a *waiver* is given subject to a condition, it will not apply to activities conducted in breach of the condition, and those activities, if in breach of the original *rule*, could lead to *appropriate regulator* enforcement action or such a right of action.

The effect of rule changes on waivers

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Substantive changes to the *rules* (this would not include simple editorial changes) in the *Handbook* may affect existing *waivers*, changing their practical effect and creating a need for a change to the original *waiver*. The *appropriate regulator* will consult on proposed *rule* changes. A *firm* should note proposed *rule* changes and discuss the impact on a *waiver* with its appropriate supervisory contact.