



This document reports my comments on some specific questions of the Consultation paper “*MIFID complex and non-complex financial instruments for the purposes of the Directive’s appropriateness requirements*”, Section 2, issued by the CESR on May 2009, concerning the classification of complex and non-complex of various types of money market instruments, bonds or other forms of securitized debt.

**Question 11: Do you have any comments on CESR’s view on the treatment of Asset Backed Securities? Question 12: Do you think that this is a point on which MiFID could usefully be clarified?**

Basically, MiFID Level 1 Art. 19(6) suggests that money market instruments, bonds and other forms of securitised debt are ‘non-complex’ instruments for the purposes of the appropriateness requirements, unless they embed a derivative.

Such an interpretation would reach a conclusion that makes these instruments non-complex financial instruments.

In my opinion this is misleading and incoherent.

First, all bonds and other forms of securitised debt implicitly embed a derivative and credit risk so they should all be considered as complex instruments.

Second, this is somehow implicitly stated in paragraph 49 “a number of types of securitised debt structures cannot accurately be described as ‘non-complex’, even where there may be a question as to whether or not they embed a derivative. Some of the examples of structures of Mortgage Backed Securities, Collateralised Debt Obligations, Asset Backed Commercial Paper and other Asset Backed Securities.....However, given the structures of these instruments, the issues that have emerged in the financial markets involving Asset Backed Securities, and the involvement of some retail investors, CESR is of the view that Asset Backed Securities should not be regarded as non-complex instruments for the purposes of MiFID Art.19(6) and should not be transacted for retail clients on a non-advised basis without the appropriateness test being carried out “ so in my opinion the credit derivative component featured by these bonds cannot be questioned.

**Question 17. Do you agree with CESR’s distinction between traditional covered bonds and structured covered bonds? Is there a need for further distinctions in this space?**

The specification of covered bonds and structured cover bonds is also misleading, in par. 61 they are clearly defined as non complex, as corporate bonds they embed credit risk, in addition the structured covered bonds are mentioned in par 62 to be similar to ABS which in par. 48 are classified as complex instruments.

**Question 19: Do you have any further comments on CESR’s consideration of**



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**the position of bonds and other forms of securitised debt?**

In my opinion a bond or securitised debt should be considered as containing a derivative and credit risk so they should be considered as “complex securities”

**Question 20: Are there other specific types of such instruments that should be explicitly mentioned in a list of complex/non-complex financial instruments for the purposes of CESR’s exercise?**

Products including interest rate derivatives (floaters or bonds in which the value of the coupon moves in the same direction as an interest rate) should be explicitly mentioned in the list of complex instruments as bonds with caps and floors.

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