



Committee of the European Securities Regulators  
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## **RESPONSE TO CESR CONSULTATION ON COMPLEX AND NON-COMPLEX FINANCIAL INSTRUMENTS (Ref: CESR/09-295)**

The Federation of Finnish Financial Services (“FFFS”) is a trade body that represents the financial industry in Finland. Our members include banks, investment firms and insurance companies offering structured investment products to retail customers.

### **Subscription rights**

In our view, subscription rights to shares that are considered non-complex should not be treated differently from such shares. Same rules should apply to non-complex products and the rights deriving from non-complex products. Therefore, the subscription rights to non-complex shares should also be considered as non-complex. As CESR recognises, treating the subscription rights as complex products is not in the interests of the shareholder, given the usually very short timeframe within which it is necessary to make an investment decision regarding the rights. Appropriateness testing would, as CESR states, risk slowing down or obstructing the shareholder’s response, and it may also be disproportionate to require an appropriateness test in circumstances where the shareholder has received the rights free of charge.

### **Products embedding a derivative**

According to CESR’s interpretation, instruments that would be considered non-complex fall into the complex category if they embed a derivative. We find the new interpretation clear but at the same time unfortunate. It leads to a situation where products issued as securities are treated differently from financial instruments with similar risk profile and structure but different form.

All the retail structured products that have grown to be very popular investments in Finland would be complex products according to the new interpretation. Yet, for example investment funds can, if allowed in their rules, use derivatives, but units in such investment funds would still not be considered as complex products.

## **FEDERATION OF FINNISH FINANCIAL SERVICES**