

# Law & Regulation News

## Alternative to bond - form B67

If, following incorporation, a company applies for and is granted a certificate from the registrar of companies that the company has a real and continuous link with one or more economic activities that are in carried on in the State, that company will be exempted from the requirement to have at least one EEA resident director from the date of the certificate, as long as the certificate remains in force.

Application for this certificate is made on Form B67 and must be accompanied by a statement from the Revenue Commissioners made within two months of the date of the application by a statement that the Revenue Commissioners have reasonable grounds to believe that the company has such a link.

## What happens if the UK leaves the European Union without a deal in place?

If the UK leaves the European Union without any deal in place, companies which have only UK resident directors will be required to comply with section 137 Companies Act 2014. This is the requirement to have at least one EEA-resident director. This requirement does not apply to any company which for the time being holds a bond, in the prescribed form, in force to the value of €25,000 and which provides that in the event of a failure by the company to pay the whole or part of a fine imposed on the company in respect of

an offence under the Companies Act 2014 or under the Taxes Consolidation Act 1997, there shall become payable under the bond a sum of money for the purpose of same being applied in discharge of the whole or part of the company's liability in respect of any such fine or penalty.

The bond must have a minimum period of validity of two years, commencing no earlier than the occurrence of the event giving rise to the requirement for the bond. The surety under the bond must be a bank, building society, insurance company or credit institution. Leaflet 17 on the cro website has further details <https://www.cro.ie/Publications/Publications/Information-Leaflets>

## EU Fifth Anti-Money Laundering Directive (5AMLD)

EU Directive 2018/843, the EU's Fifth Anti-Money Laundering Directive (5AMLD), was adopted by the Council of the EU on 14 May 2018 and came into force on 9 July 2018 with an 18-month transposition period. The Department of Finance has advised that it is considering the implications of 5AMLD for the RBO and will provide a further update in the near future.

Queries in relation to 5AMLD can be sent to [aml@finance.gov.ie](mailto:aml@finance.gov.ie)

Source: [www.cro.ie](http://www.cro.ie)

## ESMA Q&As clarify Prospectus Directive and Transparency Directive rules in case of no-deal Brexit

The Q&As clarify the application of certain provisions in these Directives in case the UK withdraws from the European Union (EU) on 29 March 2019 with no withdrawal agreement in place (no-deal Brexit). These Q&As will only apply in case of a no-deal Brexit.

The Q&As provide the following clarifications in the event of a no-deal Brexit:

- When issuers of equity securities and non-equity securities below €1,000 who currently have the UK as their PD home Member State choose a new home Member State, they should choose between the EU27 Member States / EEA EFTA States in which they have activities after 29 March 2019 (either offers/admissions made after the withdrawal or admissions

made before the withdrawal which continue after the withdrawal).

- Issuers admitted to trading on a regulated market within EU27 / EEA EFTA who currently have the UK as their TD home Member State should choose and disclose their new home Member State without delay following 29 March 2019.
- As the UK will be a third country, prospectuses and supplements approved by the UK FCA before 29 March 2019 cannot be used in EU27 / EEA EFTA after a no-deal Brexit.

The purpose of the Q&As is to promote common supervisory approaches and practices in the application of the PD and TD in case of a no-deal Brexit.