

## Untrue statements and omissions in prospectus: criminal liability

1357. (1) Where a prospectus is issued and—

(a) includes any untrue statement; or

(b) omits any information required by EU prospectus law to be contained in it;

any person who authorised the issue of the prospectus (not being the competent authority designated under Irish prospectus law) shall be guilty of a category 2 offence unless he or she proves—

(i) as regards an untrue statement, either that the statement was, having regard to the circumstances of the case, immaterial or that he or she honestly believed and did, up to the time of the issue of the prospectus, believe that the statement was true; or

(ii) as regards any information omitted, either that the omission was, having regard to the circumstances of the case, immaterial or that he or she did not know it; or

(iii) that the making of the statement or omission was otherwise such as, having regard to the circumstances of the case, ought reasonably to be excused.

(2) Without prejudice to the generality of section 865 (1), summary proceedings in relation to an offence under this section may be brought and prosecuted by the competent authority designated under Irish prospectus law.

(3) If at a trial for an offence under this section or an offence created by Irish prospectus law, the judge or jury has to consider whether the defendant honestly believed a particular thing or was honestly mistaken in relation to a particular thing, the presence or absence of reasonable grounds for such a belief or for his or her having been so mistaken is a matter to which the judge or jury is to have regard, in conjunction with any other relevant matters, in considering whether the defendant so believed or was so mistaken.