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Former HSH executive board all on trial over bank's near failure

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By [Arno Schuetze](#)

HAMBURG (Reuters) - Former directors of bailed-out German lender HSH Nordbank HSH.UL will appear in court on Wednesday in the first case of the entire executive board of a European bank facing trial for actions in the build-up to the financial crisis.

Hamburg prosecutors are charging the six men, who include former chief executive Dirk Jens Nonnenmacher and his predecessor Hans Berger, with breach of fiduciary trust.

Nonnenmacher and former capital markets head Jochen Friedrich face additional charges of accounting fraud.

The defendants have previously said they are not guilty, although in Germany an official plea is only presented at the final stage of a trial.

If found guilty, the former directors could face up to 10 years behind bars, although judges have often handed defendants in similar cases fines rather than jail sentences.

HSH, along with other regional state-owned German lenders known as landesbanks, lost billions of euros on risky investments in the financial crisis, forcing its owners to prop it up with a 3 billion-euro (2 billion pounds) capital injection and an additional 10 billion euros in loan guarantees.

While policy makers have responded to the financial crisis with rafts of new banking rules to prevent taxpayers from having to foot billions of euros in bailout bills, relatively few bank executives have so far been tried.

In Germany, where the second biggest lender Commerzbank (CBKG.DE: [Quote](#), [Profile](#), [Research](#)) and four landesbanks were among those taking state aid - so far only the former CEO of corporate lender IKB has been convicted. He received a 10-month suspended sentence, after being found guilty of market manipulation.

IKB received a 10 billion euro bailout in the crisis.

In Spain, close to 100 former bankers are being investigated following a property market collapse that nearly felled several lenders. One banker, the former CEO of Caja Madrid, now Bankia (BKIA.MC: [Quote](#), [Profile](#), [Research](#)), spent time in custody although the case against him has now been partially dismissed.

In Britain, several former executives - from failed HBOS and bailed-out RBS (RBS.L: [Quote](#), [Profile](#), [Research](#)) - have been banned from taking senior financial positions but they have not faced criminal charges.

Belgium, Austria and Portugal have also seen a few bank executives on trial and Iceland has made some headway dealing with past banking scandals, while not much has happened so far in Ireland, Italy or Greece.

SIDE DEALS

In the HSH case, a main task of the Hamburg court will be to find out whether the bank's managers properly accounted for side deals they struck to absorb risks on real estate assets.

In December 2007, as the financial crisis was building, HSH sold loans tied to real estate assets to BNP Paribas (BNPP.PA: [Quote](#), [Profile](#), [Research](#)), at the same time agreeing to buy structured securities from the French lender - some of them linked to Lehman certificates and Iceland bonds.

Prosecutors have said that the deal, which was arranged through a special purpose vehicle called Omega, freed up equity and made the balance sheet appear leaner ahead of a planned listing on the stock exchange.

The prosecutors have also said that management failed to run the appropriate checks on possible risks.

When markets turned sour the Omega deal forced HSH to take writedowns of 500 million euros and to seek a bailout in 2008. When the Omega deal was unwound two years later, the mortgages had regained some of their initial value but still left HSH with a 158 million euro loss on the assets.

For former CEO Nonnenmacher - a professor in mathematics - more is at stake: if he is found guilty he will not be able to keep a 4 million euro golden handshake that caused public criticism at the time of his departure in 2011 from the bank.

Nonnenmacher has argued in the past that "a false balance sheet is not a falsified one."

A fast decision by the judge Marc Tully is not expected. The court has scheduled 40 hearings until early 2014.

HSH and BNP declined to comment.

(Additional reporting by Sarah White, Kirstin Ridley and Patrick Lannin; Editing by Anthony Barker)



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