



## Status of Business Rescue Proceedings in South Africa June 2015

### 1. Purpose of the Business Rescue Proceedings Report:

The purpose of this report is to provide a statistical overview of the status of business rescue proceedings within South Africa based on applications submitted to the Companies and Intellectual Property Commission.

The report below covers the period of 1 May 2011 (inception of Chapter 6 of the Companies Act, 2008) to 30 June 2015. This report does not provide statistical comparisons with previous years. For the yearly comparisons, refer to March 2015 report.

\*Notes to report:

- For purposes of determining the volume of proceedings started, invalid filings are disregarded since in such instances the proceedings never commenced.
- Practice note 3 of 2014 were issued during July 2014. Such practice note indicates the documentary and content requirements for CoR123.1, CoR125.2 and CoR125.3.

### 2. Business Rescue Proceedings Status:

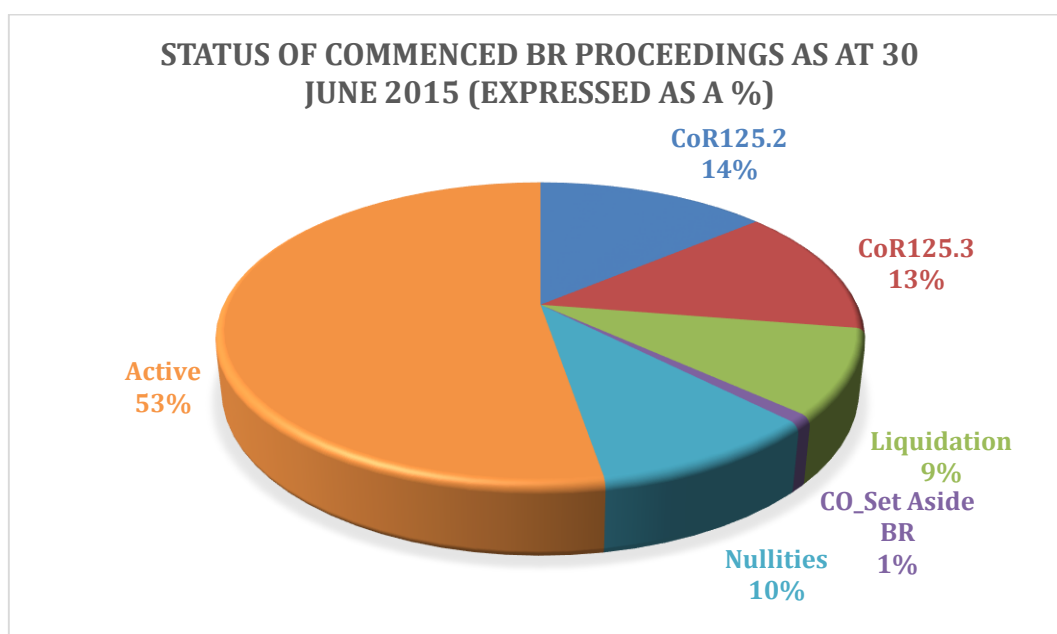
The below table reflects the status of commenced business rescue proceedings from inception of business rescue to 30 June 2015.

Operational BR Proceeding Applications	2011 - 2012	2012 - 2013	2013 - 2014	2014 - 2015	2015- 2016	total
<b>Business Rescue Proceedings Started</b>	<b>384</b>	<b>446</b>	<b>411</b>	<b>414</b>	<b>101</b>	<b>1756</b>
<b>Invalid filings</b>	59	23	21	40	2	145
<b>Business Rescue Proceedings Ended</b>	<b>288</b>	<b>245</b>	<b>194</b>	<b>100</b>	<b>4</b>	<b>831</b>
CoR125.2	64	82	60	36	2	244
CoR125.3	66	86	70	17	0	239
Liquidation	50	45	43	24	0	162
CO_Set Aside BR	3	8	2	2	0	15
Nullities (Proceedings started but was declared a nullity)	105	24	19	21	2	171
<b>Active as at 30 June 2015</b>	<b>96</b>	<b>201</b>	<b>217</b>	<b>314</b>	<b>97</b>	<b>925</b>

From the 1756 cases for which business rescue proceedings commenced:-

- 171 cases became a nullity;
- 244 cases have been terminated by the filing of a Notice of Termination (CoR125.2);
- 239 cases have been substantially implemented by the filing of a Notice of Substantial Implementation (CoR125.3);
- 162 cases ended up directly in liquidation without a Notice of Termination (CoR125.2) being filed;

- 15 cases the court set aside (discontinued) the business rescue proceedings; and
- 925 cases is still in business rescue.

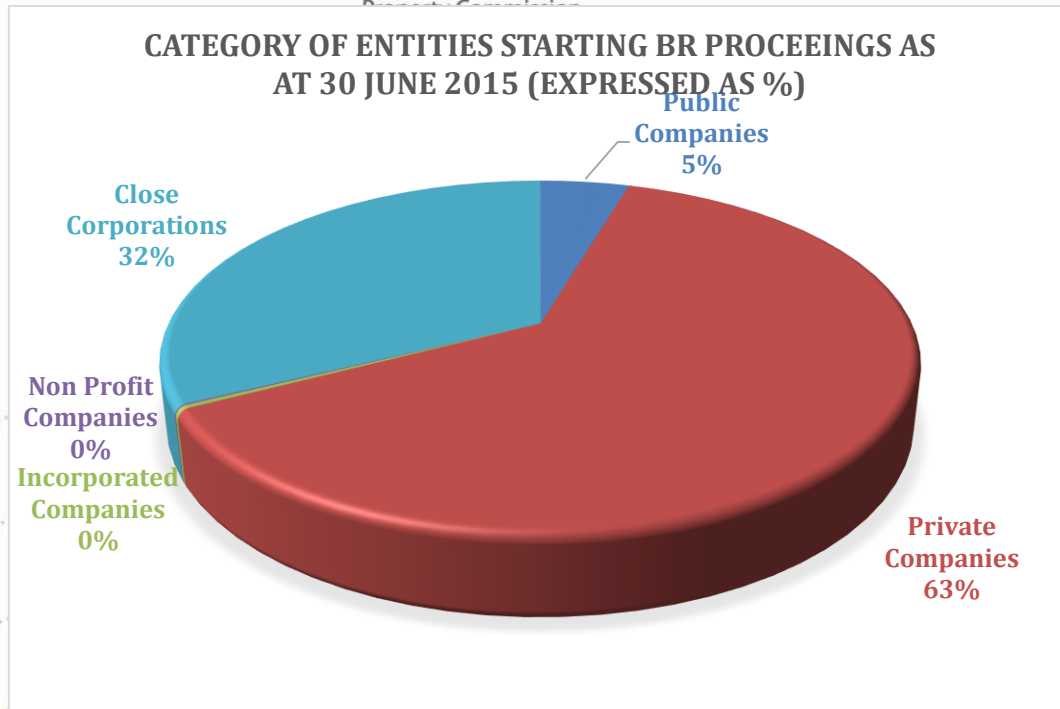


### 3. Business Rescue Proceedings Started Per Category Of Entity:

The below table indicates the volume of commenced business rescues for each entity category. It should be noted that the option of beginning business rescue proceedings are only available to companies and close corporations.

BR proceedings started	Total	2011 - 2012	2012 - 2013	2013 - 2014	2014 - 2015	2015- 2016
Public Companies	80	53	10	7	8	2
Private Companies	1102	242	283	259	263	55
Incorporated Companies	5	0	3	0	2	0
Non Profit Companies	2	0	0	1	0	1
Close Corporations	567	89	150	144	141	43
Unknown	0	0	0	0	0	0
<b>Total</b>	<b>1756</b>	<b>384</b>	<b>446</b>	<b>411</b>	<b>414</b>	<b>101</b>

The diagram below indicates the percentage comparison for the different entity categories of commenced business rescues.



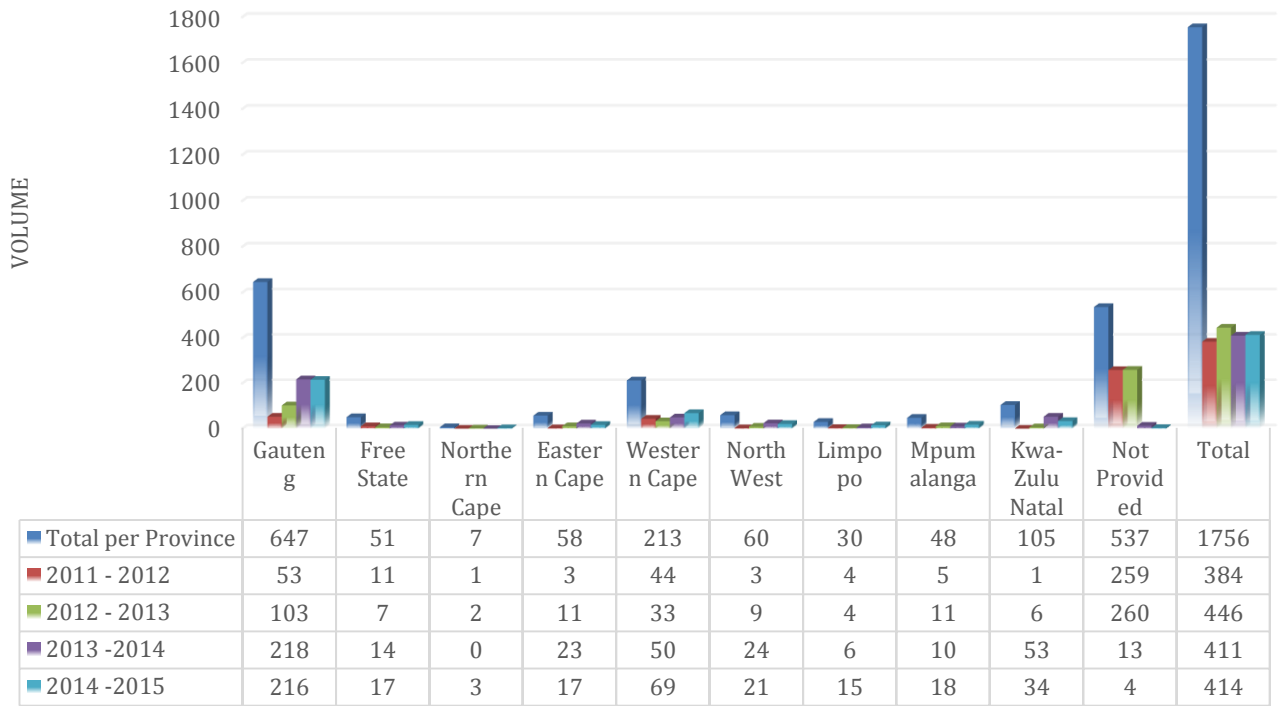
Business rescue is mostly utilised by private companies. 63% of entities applying for business rescue are private companies while only 32% are close corporations.

#### **4. Business Rescue Proceedings Started Per Province:**

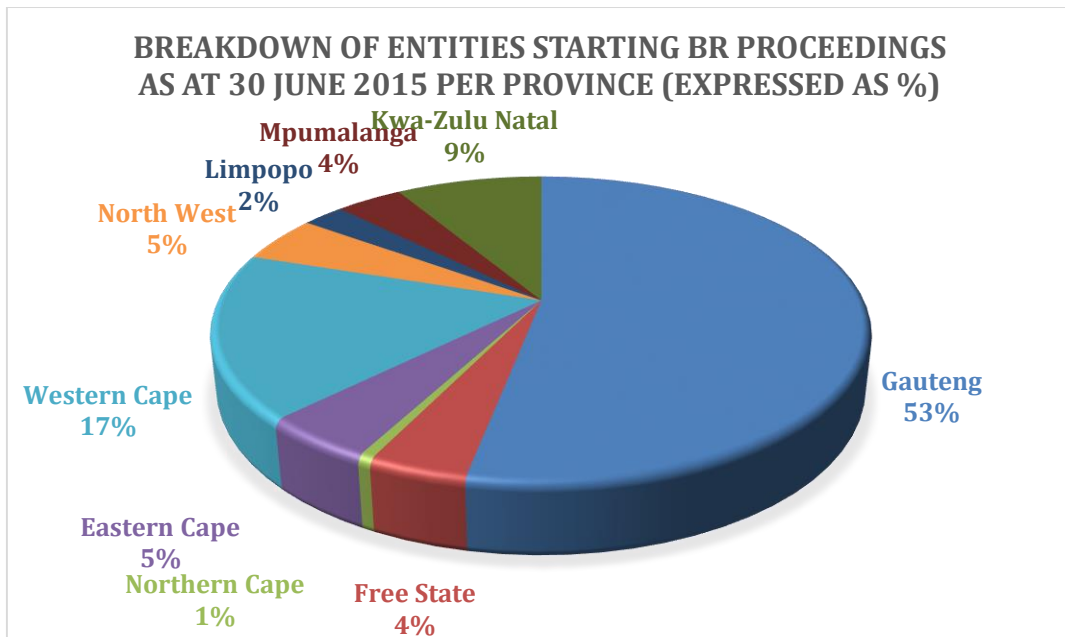
The below table indicates the volume of commenced business rescue proceedings for each of the nine provinces.

Province (start BR)	Total per Province	2011 - 2012	2012 - 2013	2013 - 2014	2014 - 2015	2015- 2016
Gauteng	647	53	103	218	216	57
Free State	51	11	7	14	17	2
Northern Cape	7	1	2	0	3	1
Eastern Cape	58	3	11	23	17	4
Western Cape	213	44	33	50	69	17
North West	60	3	9	24	21	3
Limpopo	30	4	4	6	15	1
Mpumalanga	48	5	11	10	18	4
Kwa-Zulu Natal	105	1	6	53	34	11
Not Provided	537	259	260	13	4	1
<b>Total</b>	<b>1756</b>	<b>384</b>	<b>446</b>	<b>411</b>	<b>414</b>	<b>101</b>

### BREAKDOWN OF ENTITIES STARTING BR PROCEEDINGS AS AT 30 JUNE 2015 PER PROVINCE (EXPRESSED IN VOLUME)



The diagram below reflects the overall breakdown for each of the nine provinces as from inception of business rescue expressed as a percentage. It is clear from the diagrams that over 53% of businesses commencing business rescue, resides with Gauteng. Gauteng is followed by the Western Cape (17%) and then Kwa-Zulu Natal (9%).





## 5. Terminations (CoR125.2) Filed:

### 5.1. Breakdown Of Notice of Termination (CoR125.2) Filed:

The below table indicates the volume of CoR125.2 filed for commenced business rescue proceedings. It should be noted that a CoR125.2 may be received during a specific financial year but the filing of the document will be recorded against the year for which the business rescue proceedings commenced. Example, the CoR125.2 may be filed January 2015 but the proceedings commenced during the 2011-2012 financial year and therefore the CoR125.2 will be recorded against the 2011-2012 financial year in the below table.

Termination Type	total	2011 - 2012	2012 - 2013	2013 - 2014	2014 - 2015	2015- 2016
Termination - Unspecified	111	42	25	24	20	0
Termination - Liquidation	75	16	34	19	6	0
Termination - Not distressed	41	3	18	10	8	2
Termination - Plan not accepted	15	3	5	6	1	0
Termination - BRP personal	2	0	0	1	1	0
Termination - Plan not published	0	0	0	0	0	0
<b>Total</b>	<b>244</b>	<b>64</b>	<b>82</b>	<b>60</b>	<b>36</b>	<b>2</b>

#### \*Notes:

Termination – Unspecified = reason for termination not specified

Termination – Liquidation = BRP terminates proceedings and indicates that the court will be approached to discontinue business rescue proceedings and placing the entity in liquidation

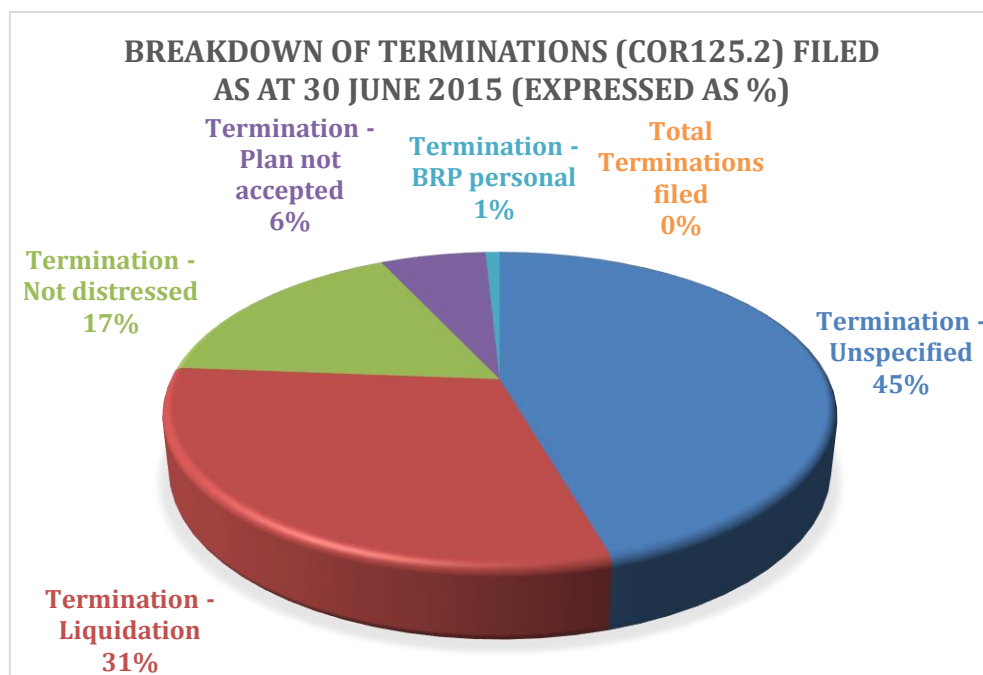
Termination – Not distressed = BRP terminates proceedings due to the fact that entity is not financially distressed

Termination – Plan not accepted = BRP terminates since the business rescue plan was not accepted and no further action was taken by an affected person to extend the proceedings

Termination – Set aside = BRP terminates together with a court order setting aside the business rescue proceedings

Termination – BRP personal = BRP terminates due to poor co-operation from the entity and its role-players or for other personal reasons

Termination – Plan not published = BRP terminates since the business rescue plan was accepted but was not published in time



### **5.2. Age analysis on Notice of Termination (CoR125.2) Filed:**

The average period for the filing of a CoR125.2 is 7 months. 31% of terminations are filed within 2 months; 4 % in the third month, 11% in the fourth month, 6% in the fifth month and 49% in month six or thereafter.

### **5.3. Liquidation Status of Business Rescue Proceedings Terminated (CoR125.2):**

An analysis was conducted on the liquidation status of business rescue proceedings for which a CoR125.2 was filed. 18% of the entities went into liquidation and 38% is either in annual return deregistration (“in deregistration process”) or finally deregistered (“final deregistered”) for non-compliance with annual returns. Only 41% has an “in business” status.

- 34% - AR Deregistration;
- 5% – AR Final Deregistration;
- 1% – Provisional Liquidation;
- 6% – Final Liquidation;
- 7% – Voluntary Liquidation; and
- 3% – Dissolved

## **6. Liquidations:**

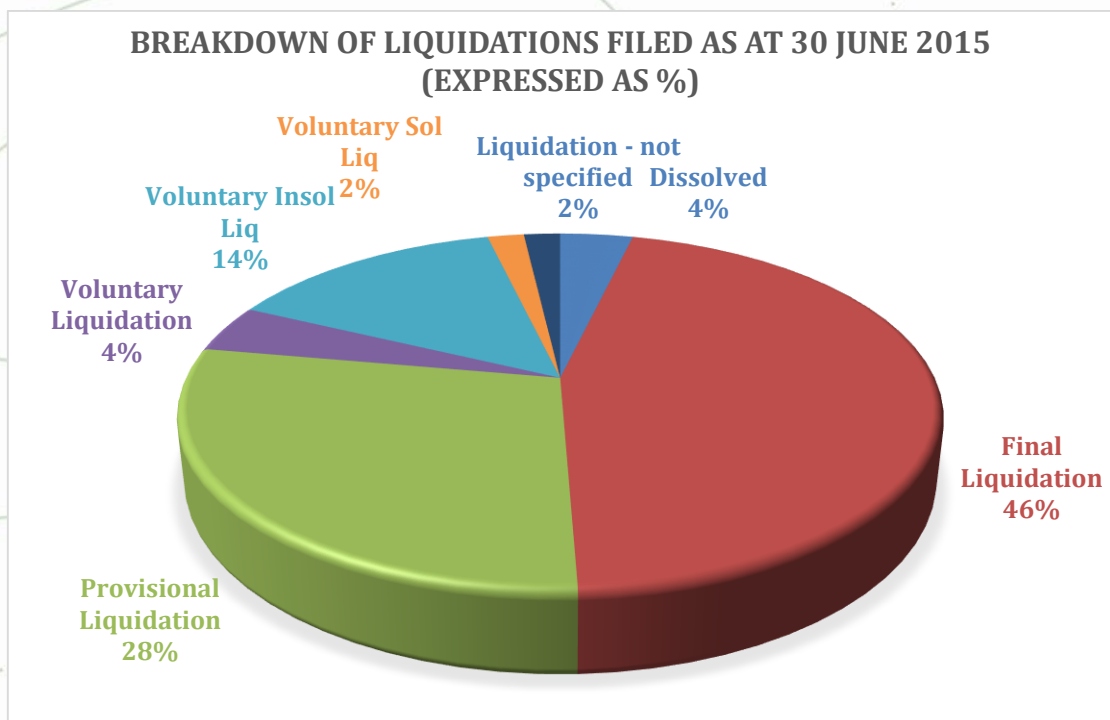
### **5.1 Breakdown of Liquidations Filed:**

The below table indicates the volume of liquidation applications (voluntary solvent liquidation and voluntary insolvent liquidations) and liquidation court orders filed without it being preceded by a Notice of Termination or Notice of Substantial Implementation. The CIPC currently requires that the commenced business rescue proceedings must first be terminated or ended before an



application commencing voluntary liquidation is processed. This is not required in instances where the court ordered the discontinuation of business rescue proceedings and placing the entity into provisional or final liquidation.

Liquidation Type	total	2011 - 2012	2012 - 2013	2013 - 2014	2014 - 2015	2015- 2016
Dissolved	6	2	4	0	0	0
Final Liquidation	74	18	16	36	4	0
Provisional Liquidation	46	9	12	5	20	0
Voluntary Liquidation	7	1	6	0	0	0
Voluntary Insolvent Liquidations	23	17	4	2	0	0
Voluntary Solvent Liquidations	3	3	0	0	0	0
Liquidation – specifics unknown	3	0	3	0	0	0
<b>Total Liquidations</b>	<b>162</b>	<b>50</b>	<b>45</b>	<b>43</b>	<b>24</b>	<b>0</b>



## **7. Substantial Implementations (CoR125.3) Filed:**

### **7.1. Age Analysis on Substantial Implementations (CoR125.3) filed:**

The average period for the filing of a CoR125.3 on commenced business rescue proceedings is 12 months. 8% of substantial implementations are filed within 2 months, 4% in the third month, 5 % in the fourth month, 4% in the fifth month, and 79% in the sixth month or thereafter.

### **7.2. Liquidation Status of Business Rescue Proceedings On Proceedings Substantially Implemented (CoR125.3):**

An analysis was conducted on the liquidation status of business rescue proceedings for which a CoR125.3 was filed. 6% of the entities went into liquidation and 24% is either in annual return deregistration (“in deregistration process”) or finally deregistered (“final deregistered”) for non-compliance with annual returns. 68% has an “in business” status.

- 22% - AR Deregistration;
- 2% – AR Final Deregistration;
- 0% – Provisional Liquidation;
- 1% – Final Liquidation;
- 5% – Voluntary Liquidation; and
- 0% – Dissolved

## **8. Business Rescue Proceedings Started Per Industry:**

The below table indicates the volume of commenced business rescue proceedings for each of the classified industries.

<b>Industry</b>	<b>Total</b>	<b>2014-2015</b>	<b>2015-2016</b>	<b>%</b>
Accommodation and food service activities	25	15	10	6%
Administration and support service activities	12	12	0	3%
Agriculture, forestry and fishing	9	6	3	2%
Arts, entertainment and recreation	3	2	1	1%
Construction	51	34	17	13%
Financial and insurance activities	26	24	2	7%
Manufacturing	37	25	12	10%
Mining and quarrying	30	26	4	8%
Professional, scientific and technical activities	19	13	6	5%
Real Estate Activities	34	26	8	9%
Wholesale and retail trade, repair of motor vehicles and motorcycle	57	45	12	15%
Transportation and Storage	26	21	5	7%
Information and Communication	11	5	6	3%
Education	2	2	0	1%
Human Health and Social Work	1	0	1	0%
Public Administration and defense services	5	0	5	1%
Other Activities	4	4	0	1%
Not Provided	34	25	9	9%
<b>Total</b>	<b>359</b>	<b>285</b>	<b>74</b>	<b>100%</b>





**\*Notes:**

As from 1 August 2014 the primary industry within which the entity is conducting business is also recorded. No information available on industry prior to such date.