



Status of Business Rescue Proceedings in South Africa September 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 September 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.

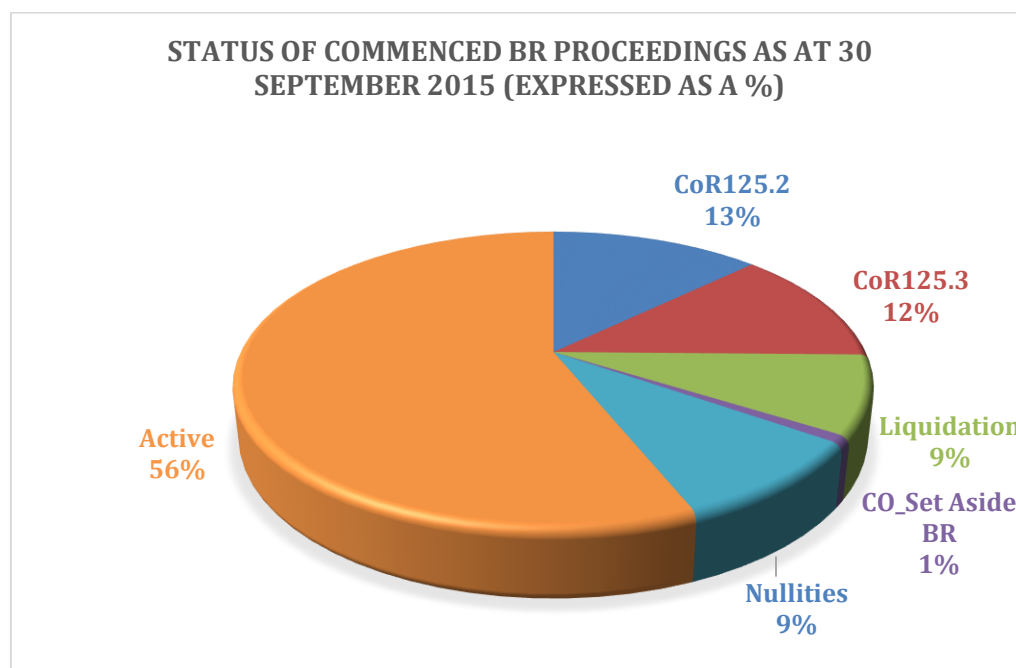
Operational BR Proceeding Applications	2011 - 2012	2012 - 2013	2013 - 2014	2014 - 2015	2015- 2016	total
Business Rescue Proceedings Started	384	446	411	414	256	1911
Invalid filings	59	23	21	40	6	149
Business Rescue Proceedings Ended	289	244	194	103	8	838
CoR125.2	65	81	60	36	3	245
CoR125.3	65	86	70	17	0	238
Liquidation	50	45	43	25	2	165
CO_Set Aside BR	3	8	2	2	0	15
Nullities (Proceedings started but was declared a nullity)	106	24	19	23	3	175
Active as at 30 September 2015	95	202	217	311	248	1073
Active as at 30 June 2015	96	201	217	314	97	925
Active as at 31 March 2015	102	207	230	344	N/A	883

From the 1911 cases (invalid filings are not included since the proceedings never commenced) for which business rescue proceedings commenced:-

- 175 proceedings became a nullity in law;
- 245 proceedings was terminated by way of filing a Notice of Termination (CoR125.2);
- 238 proceedings was substantially implemented by way of filing a Notice of Substantial Implementation (CoR125.3);

- 165 proceedings ended up directly in liquidation without a Notice of Termination (CoR125.2) being filed;
- 15 proceedings the court set aside the business rescue proceedings; and
- 1073 proceedings is still in business rescue.

Diagram 1 indicates the percentage comparison between the different statuses of commenced business rescue proceedings.



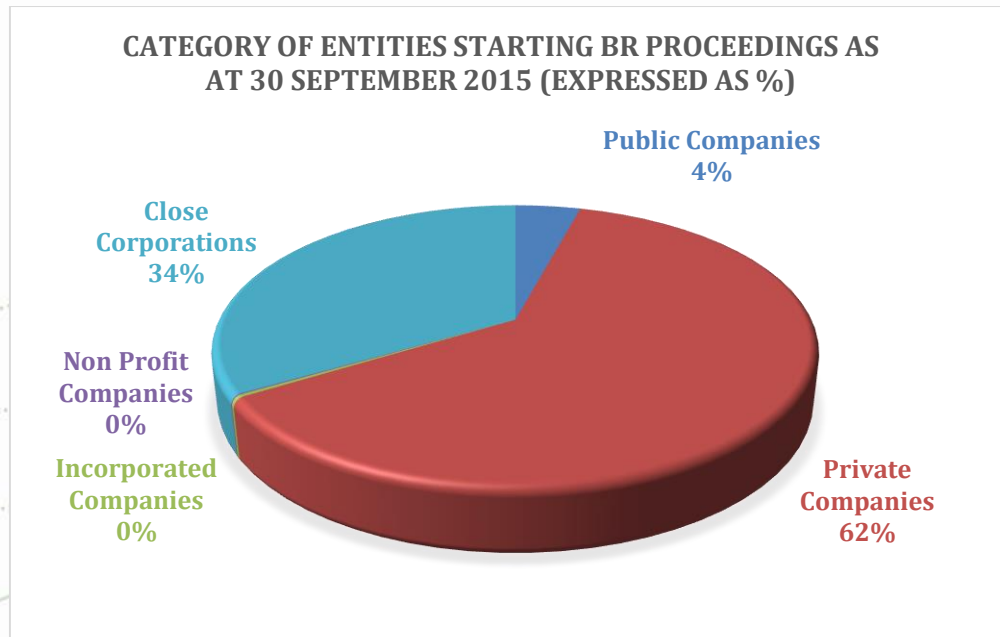
3. Business Rescue Proceedings Started Per Category Of Entity:

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	1186	242	283	259	263	139
Incorporated Companies	5	0	3	0	2	0
Non Profit Companies	2	0	0	1	0	1
Close Corporations	638	89	150	144	141	114
Unknown	0	0	0	0	0	0
Total	1911	384	446	411	414	256



Diagram 2 indicates the percentage comparison for the different entity categories of commenced business rescues.



Business rescue is mostly utilised by private companies. 62% of entities applying for business rescue are private companies while only 34% 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	710	53	103	218	216	120
Free State	57	11	7	14	17	8
Northern Cape	9	1	2	0	3	3
Eastern Cape	72	3	11	23	17	18
Western Cape	248	44	33	50	69	52
North West	65	3	9	24	21	8
Limpopo	36	4	4	6	15	7
Mpumalanga	54	5	11	10	18	10
Kwa-Zulu Natal	118	1	6	53	34	24
Not Provided	542	259	260	13	4	6
Total Per Financial Year	1911	384	446	411	414	256

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

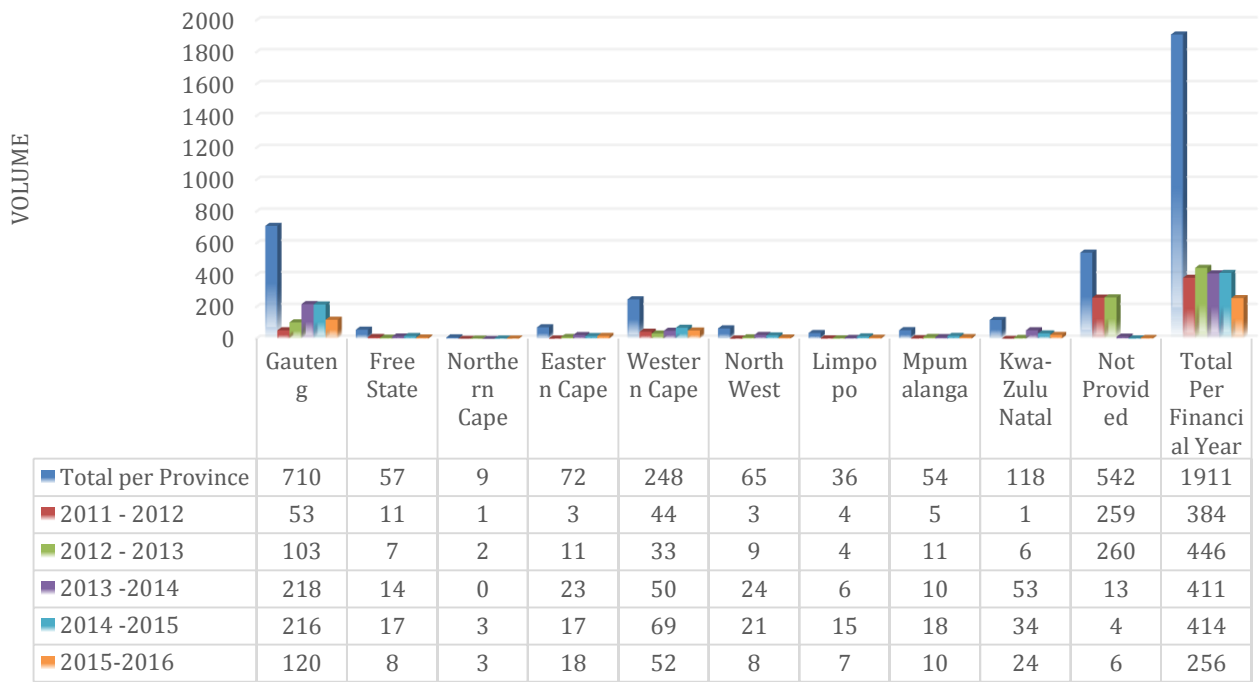
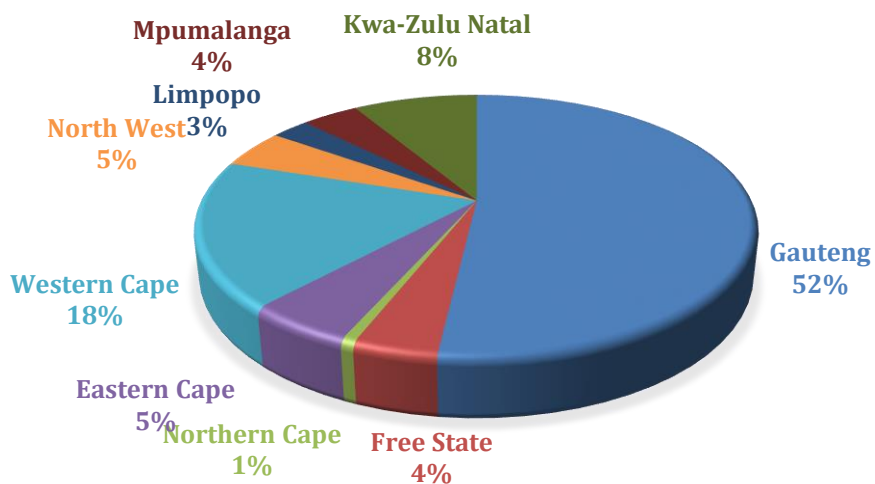


Diagram 3 reflects the overall breakdown for each of the nine provinces as from inception of business rescue expressed as a percentage. It is clear from the diagrams that 52% of businesses commencing business rescue, resides with Gauteng. Gauteng is followed by the Western Cape (18%) and then Kwa-Zulu Natal (8%).

BREAKDOWN OF ENTITIES STARTING BR PROCEEDINGS AS AT 30 SEPTEMBER 2015 PER PROVINCE (EXPRESSED AS %)





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	113	43	25	24	20	1
Termination - Liquidation	75	16	34	19	6	0
Termination - Not distressed	41	3	18	10	8	2
Termination - Plan not accepted	14	3	4	6	1	0
Termination - BRP personal	2	0	0	1	1	0
Termination - Plan not published	0	0	0	0	0	0
Total Terminations filed as at 30 September 2015	245	65	81	60	36	3
Total Terminations filed as at 30 June 2015	244	64	82	60	36	2
Total Terminations filed as at 31 March 2015	226	65	81	58	22	N/A

*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

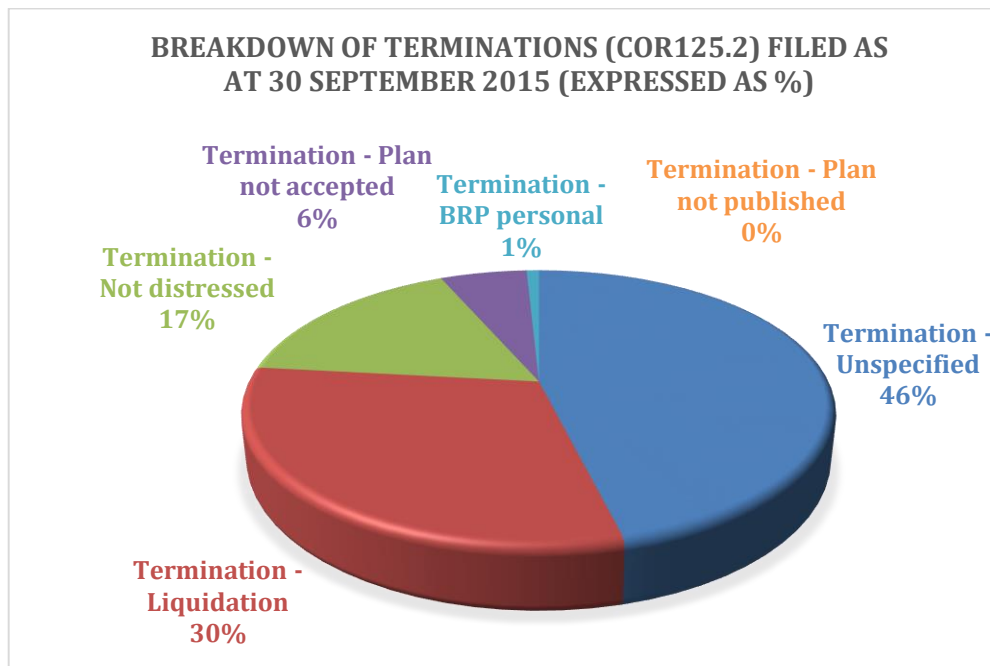
Termination – Plan not accepted = BRP terminates since the business rescue plan was not accepted and no further action was taken by an affected person to extend the proceedings

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

Diagram 5 reflects the overall breakdown of the main reasons for terminations being submitted.



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.

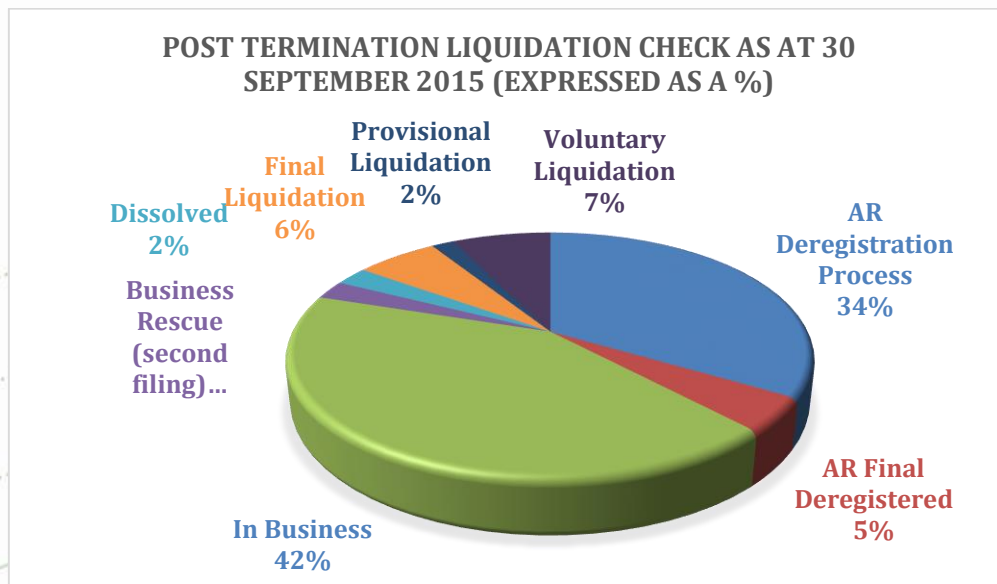
5.3. Liquidation Status of Business Rescue Proceedings Terminated (CoR125.2):

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 42% has an “in business” status.

- 34% - AR Deregistration;
- 5% – AR Final Deregistered;
- 2% – Provisional Liquidation;
- 6% – Final Liquidation;
- 7% – Voluntary Liquidation; and
- 2% – Dissolved



Diagram 6 reflects the current status of proceedings which were terminated.



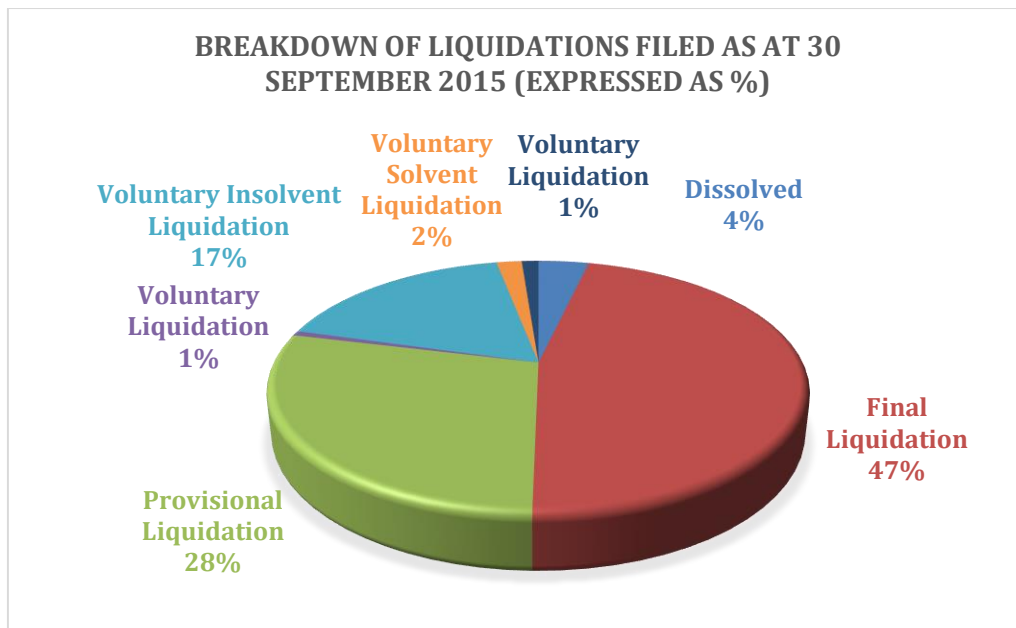
6. Liquidations:

6.1. Breakdown of Liquidations Filed:

The below table indicates the volume of liquidation applications and court orders filed for entities which commenced business rescue proceedings without the proceedings being terminated or business rescue plan being substantially implemented. It should be noted that a liquidation application or court order 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 liquidation application may be filed January 2015 but the proceedings commenced during the 2011-2012 financial year and therefore the liquidation application will be recorded against the 2011-2012 financial year in the below table.

Liquidation Type	total	2011 - 2012	2012 - 2013	2013 - 2014	2014 - 2015	2015- 2016
Dissolved	6	2	4	0	0	0
Final Liquidation	77	18	17	36	4	2
Provisional Liquidation	47	9	12	5	21	0
Voluntary Liquidation	1	1	0	0	0	0
Voluntary Insolvent Liquidation	29	17	10	2	0	0
Voluntary Solvent Liquidation	3	3	0	0	0	0
Voluntary Liquidation	2	0	2	0	0	0
Total Liquidations as at 30 September 2015	165	50	45	43	25	2
Total Liquidations as at 30 June 2015	162	50	45	43	24	0
Total Liquidations as at 31 March 2015	155	49	44	41	21	0

Diagram 8 reflects the overall breakdown of the main liquidation statuses for entities which commenced business rescue proceedings.



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 17 months. 11% of substantial implementations are filed within 2 months, 5% in the third month, 8% in the fourth month, 5% in the fifth month, and 80% in the sixth month or thereafter.

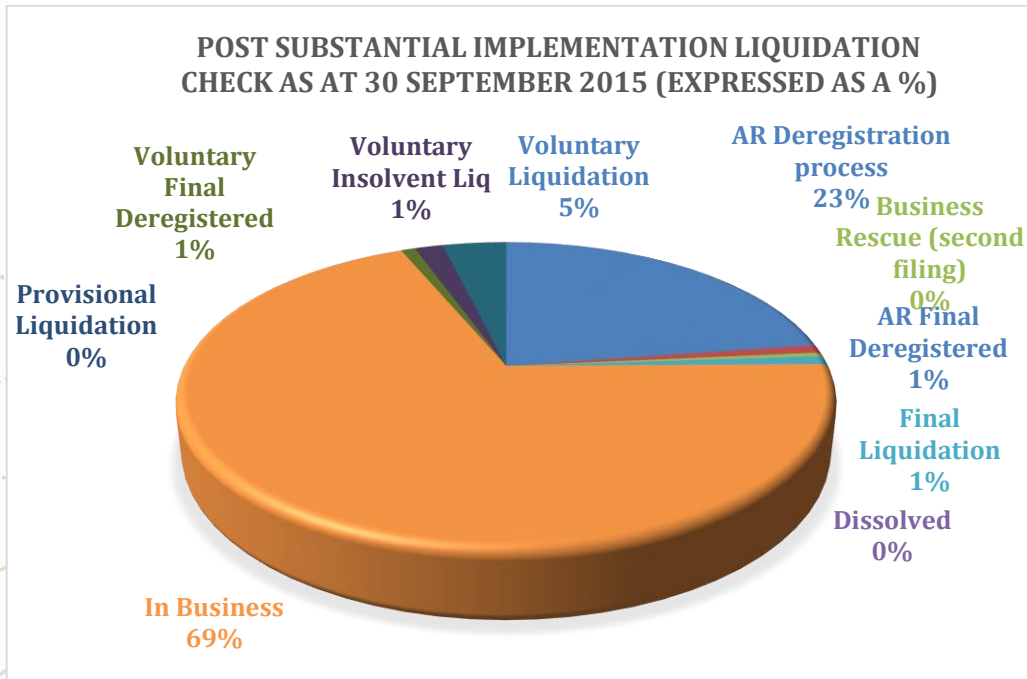
7.2. Liquidation Status of Business Rescue Proceedings On Proceedings Substantially Implemented (CoR125.3):

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. 69% has an “in business” status. It is interesting to note that only 1 entity refiled for business rescue after the previous proceedings was substantially implemented.

- 23% - AR Deregistration;
- 1% – AR Final Deregistration;
- 0% – Provisional Liquidation;
- 1% – Final Liquidation;
- 5% – Voluntary Liquidation; and
- 0% – Dissolved



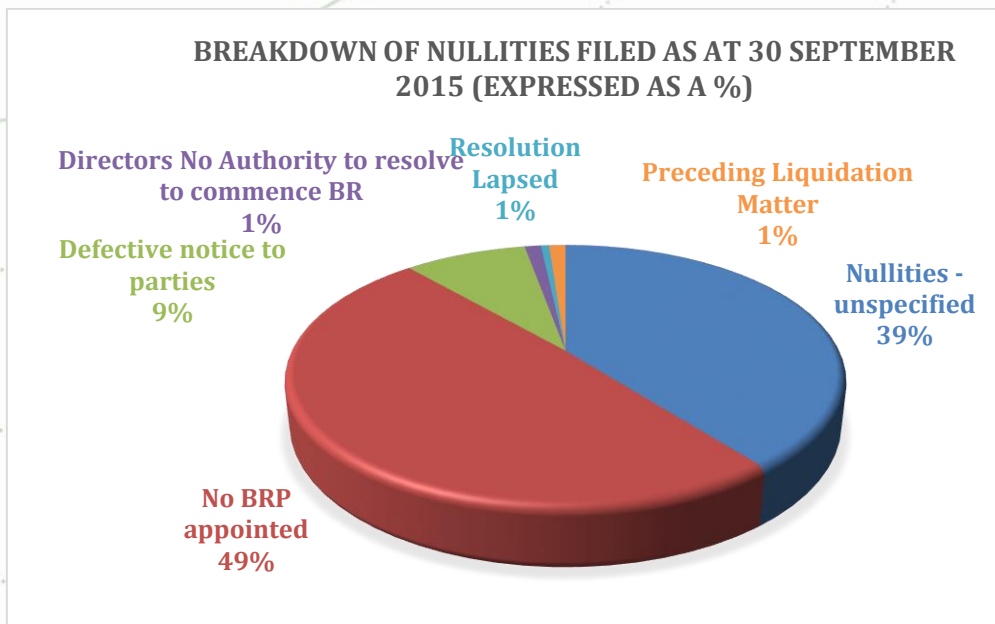
Diagram 7 reflects the current status of proceedings which were substantially implemented.



8. Nullities filed:

From the 1911 business rescue proceedings which commenced, 175 was declared a nullity. Therefore, 9.2% of all commenced proceedings ended in a nullity.

Diagram 9 reflects the overall breakdown of the main reasons for proceedings becoming a nullity.



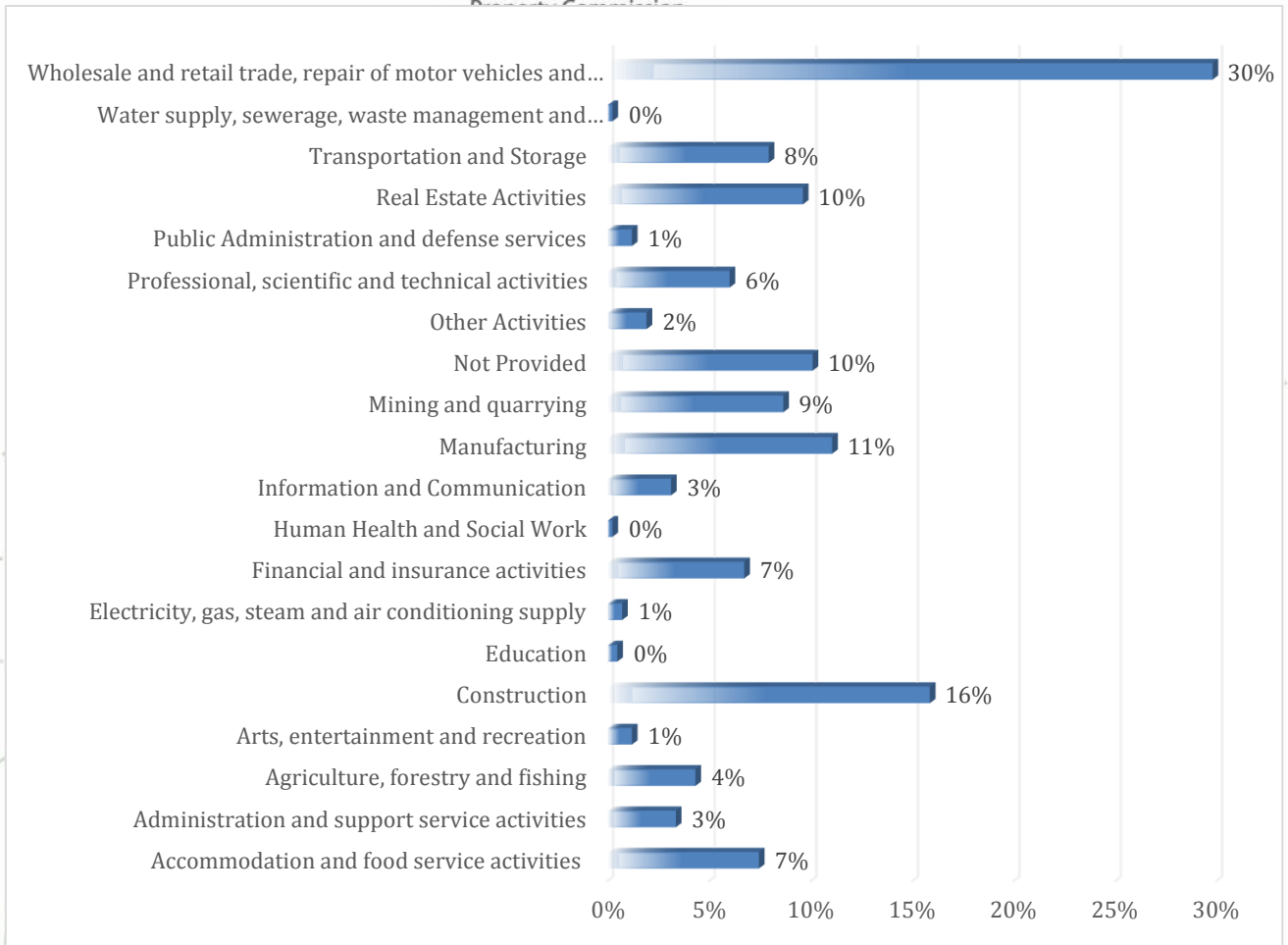
9. Business Rescue Proceedings Started Per Industry:

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

Industry	Total	2014-2015	2015-2016	%
Accommodation and food service activities	31	15	16	7%
Administration and support service activities	14	12	2	3%
Agriculture, forestry and fishing	18	6	12	4%
Arts, entertainment and recreation	5	2	3	1%
Construction	66	34	32	16%
Education	2	2	0	0%
Electricity, gas, steam and air conditioning supply	3	0	3	1%
Financial and insurance activities	28	24	4	7%
Human Health and Social Work	1	0	1	0%
Information and Communication	13	5	8	3%
Manufacturing	46	25	21	11%
Mining and quarrying	36	26	10	9%
Not Provided	42	25	17	10%
Other Activities	8	4	4	2%
Professional, scientific and technical activities	25	13	12	6%
Public Administration and defense services	5	0	5	1%
Real Estate Activities	40	26	14	10%
Transportation and Storage	33	21	12	8%
Water supply, sewerage, waste management and remediation activities	1	0	1	0%



Companies and Intellectual



***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.