



Status of Business Rescue Proceedings in South Africa March 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 31 March 2015.

*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 31 March 2015.

Operational BR Proceeding Applications	2011 - 2012	2012 - 2013	2013 - 2014	2014 - 2015	total
Business Rescue Proceedings Started	384	446	411	413	1654
Invalid filings	59	22	21	40	142
Business Rescue Proceedings Ended	282	239	181	69	771
CoR125.2	65	81	58	22	226
CoR125.3	61	83	61	6	211
Liquidation	49	44	41	21	155
CO Set Aside BR	2	8	2	0	12
Nullities (Proceedings started but was declared a nullity)	105	23	19	20	167
Active as at 31 March 2015	102	207	230	344	883

From the 1654 cases for which business rescue proceedings commenced:-

- 167 cases became a nullity;
- 226 cases have been terminated by the filing of a Notice of Termination (CoR125.2);

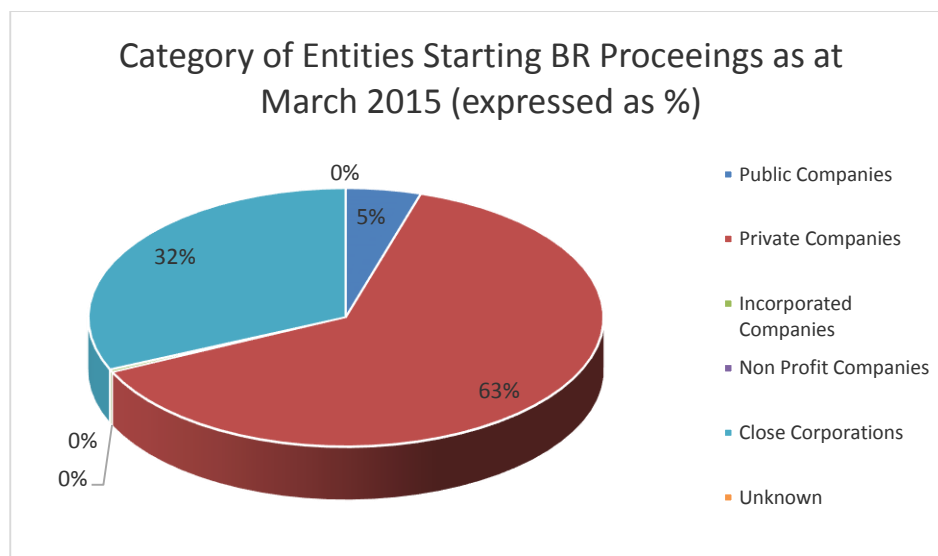
- 211 cases have been substantially implemented by the filing of a Notice of Substantial Implementation (CoR125.3);
- 155 cases ended up directly in liquidation without a Notice of Termination (CoR125.2) being filed;
- 12 cases the court set aside (discontinued) the business rescue proceedings; and
- 883 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
Public Companies	78	53	10	7	8
Private Companies	1047	242	283	259	263
Incorporated Companies	5	0	3	0	2
Non Profit Companies	1	0	0	1	0
Close Corporations	523	89	150	144	140
Unknown	0	0	0	0	0
Total	1654	384	446	411	413

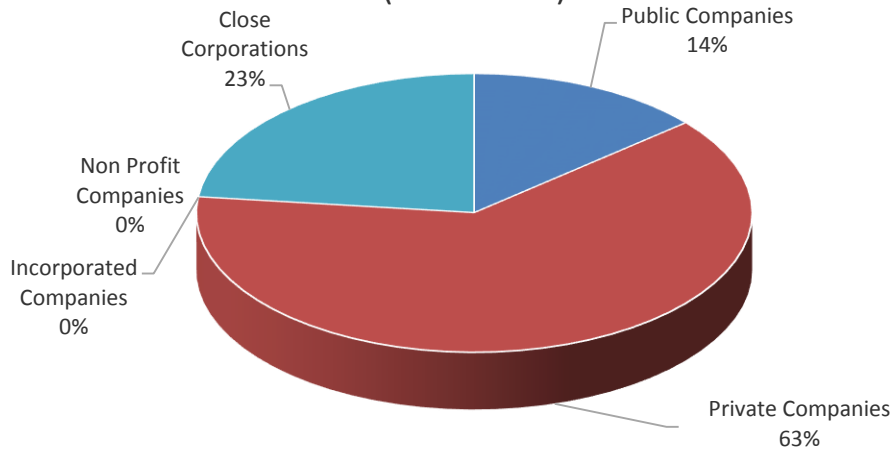
The diagram below indicates the percentage comparison for the different entity categories for commenced business rescues.



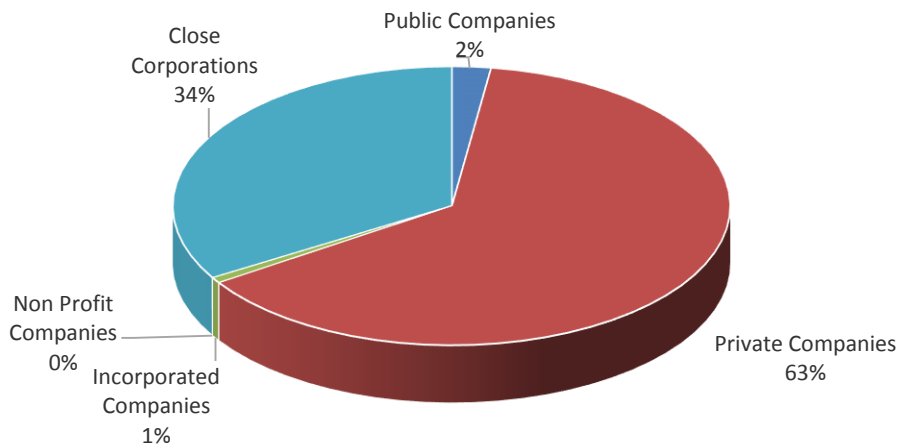
Business rescue is mostly utilised by private companies. 63% of entities applying for business rescue are private companies while only 32% are close corporations. This division between the different categories is similar for each financial from inception of business rescue. Separate diagrams for each financial year is provided below.



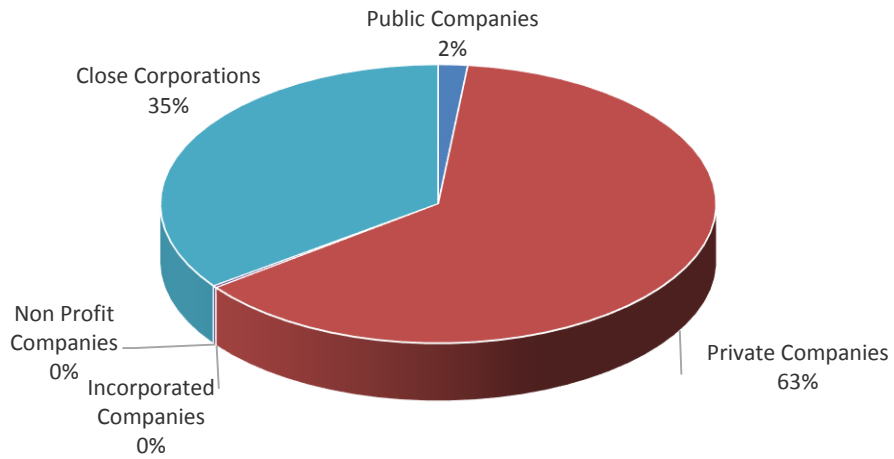
Volume of Entities Starting BR Proceedings (2011-2012)



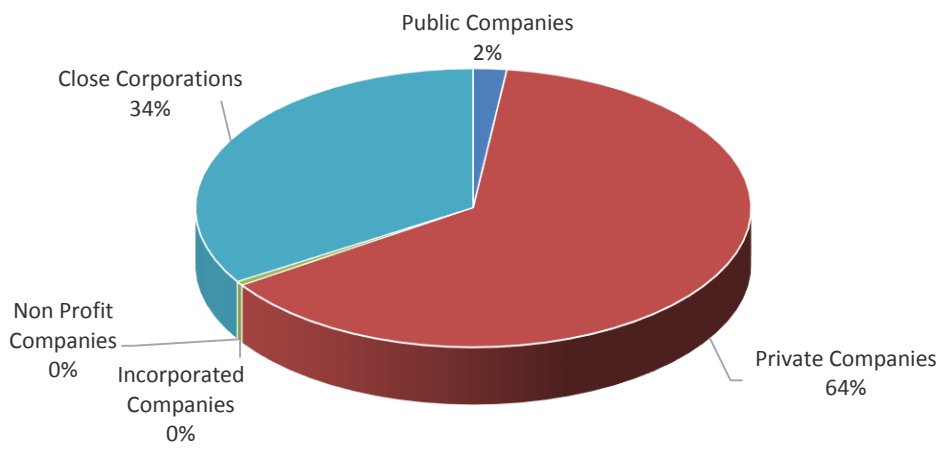
Volume of Entities Starting BR Proceedings (2012-2013)



Volume of Entities Starting BR Proceedings (2013-2014)



Volume of Entities Starting BR Proceedings (2014-2015)



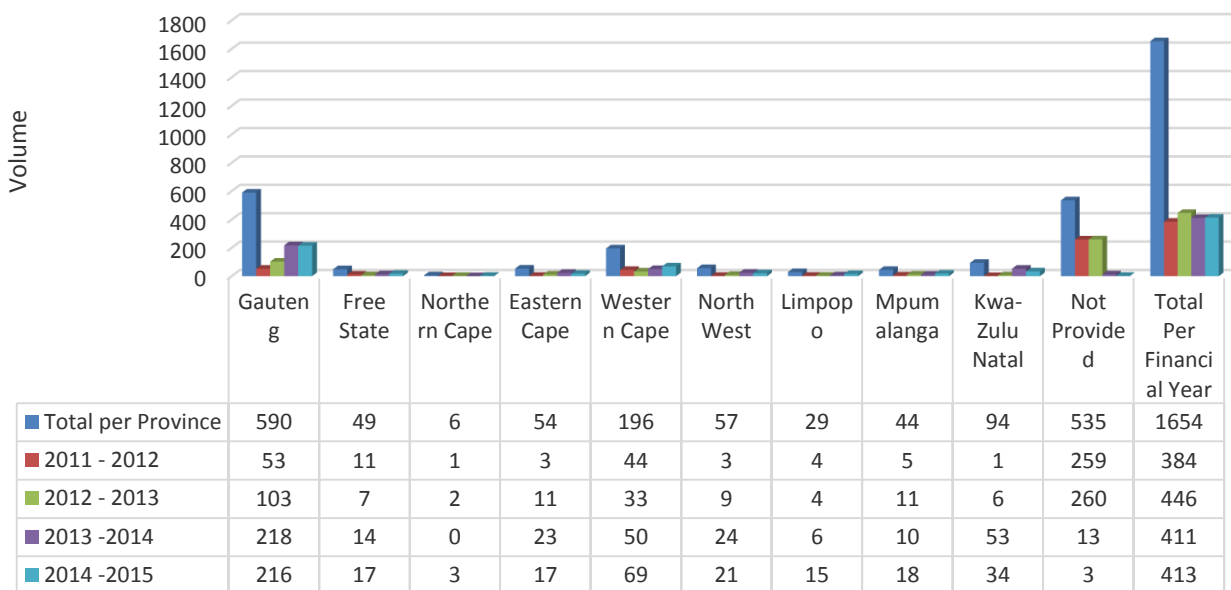


4. Business Rescue Proceedings Started Per Province:

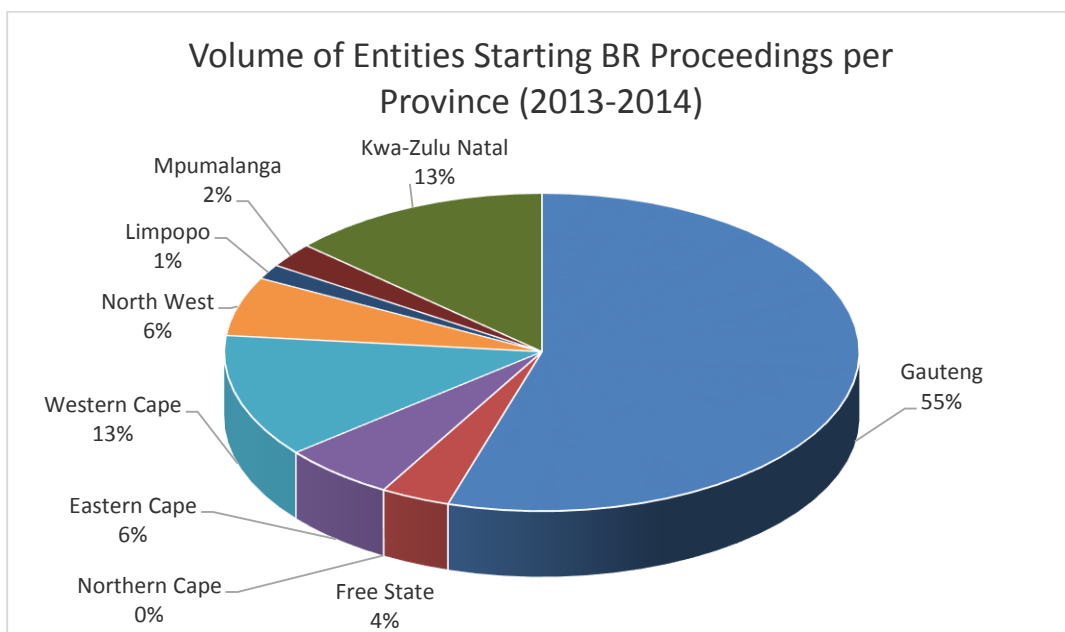
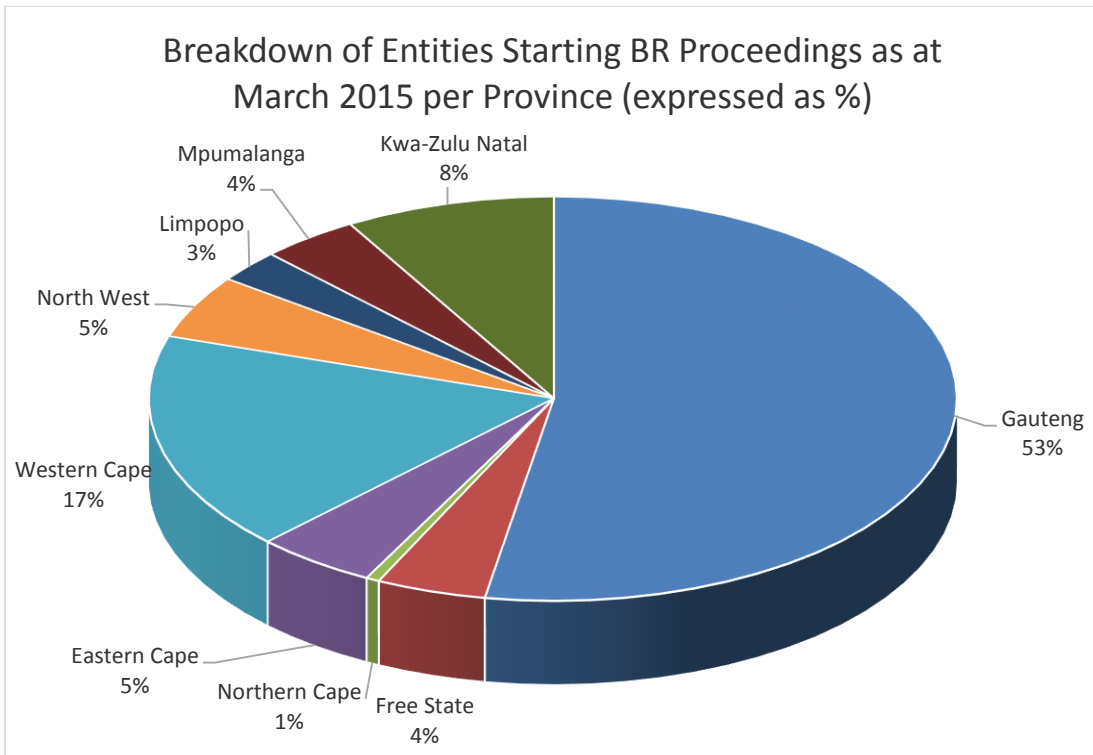
The below table indicates the volume of commenced business rescue proceedings for each of the nine provinces.

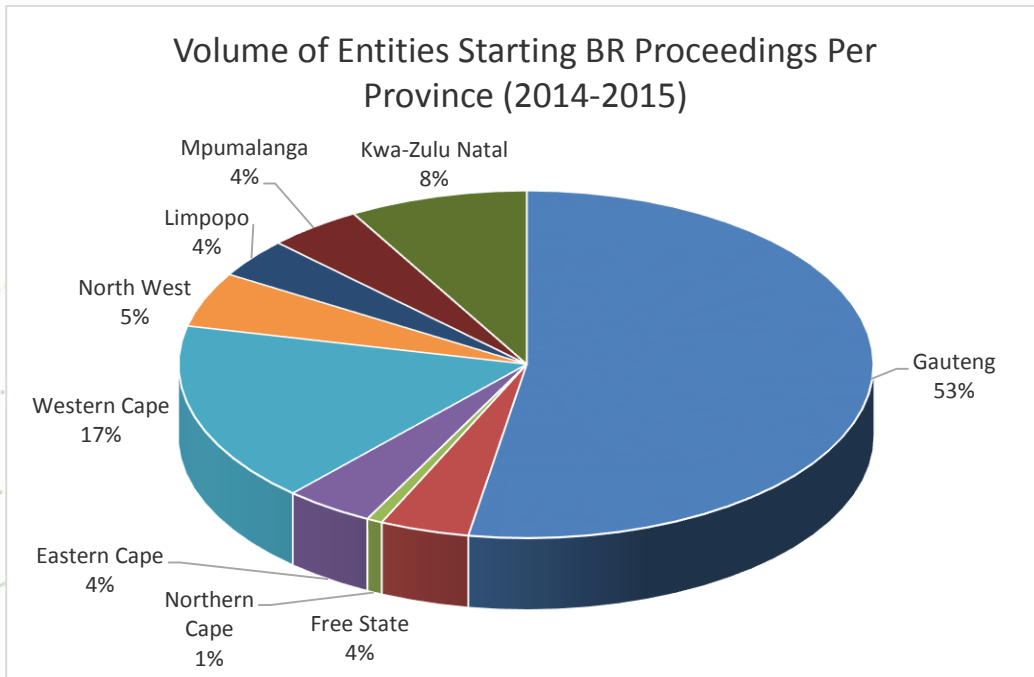
Province (start BR)	Total per Province	2011 - 2012	2012 - 2013	2013 - 2014	2014 - 2015
Gauteng	590	53	103	218	216
Free State	49	11	7	14	17
Northern Cape	6	1	2	0	3
Eastern Cape	54	3	11	23	17
Western Cape	196	44	33	50	69
North West	57	3	9	24	21
Limpopo	29	4	4	6	15
Mpumalanga	44	5	11	10	18
Kwa-Zulu Natal	94	1	6	53	34
Not Provided	535	259	260	13	3
Total Per Financial Year	1654	384	446	411	413

Breakdown of Entities Starting BR Proceedings as at March 2015(expressed in volume) per Province



The diagram below reflects the overall breakdown for each of the nine provinces as from inception of business rescue expressed as a percentage. The diagram is followed by separate diagrams for each of the financial years. 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 (8%).





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

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

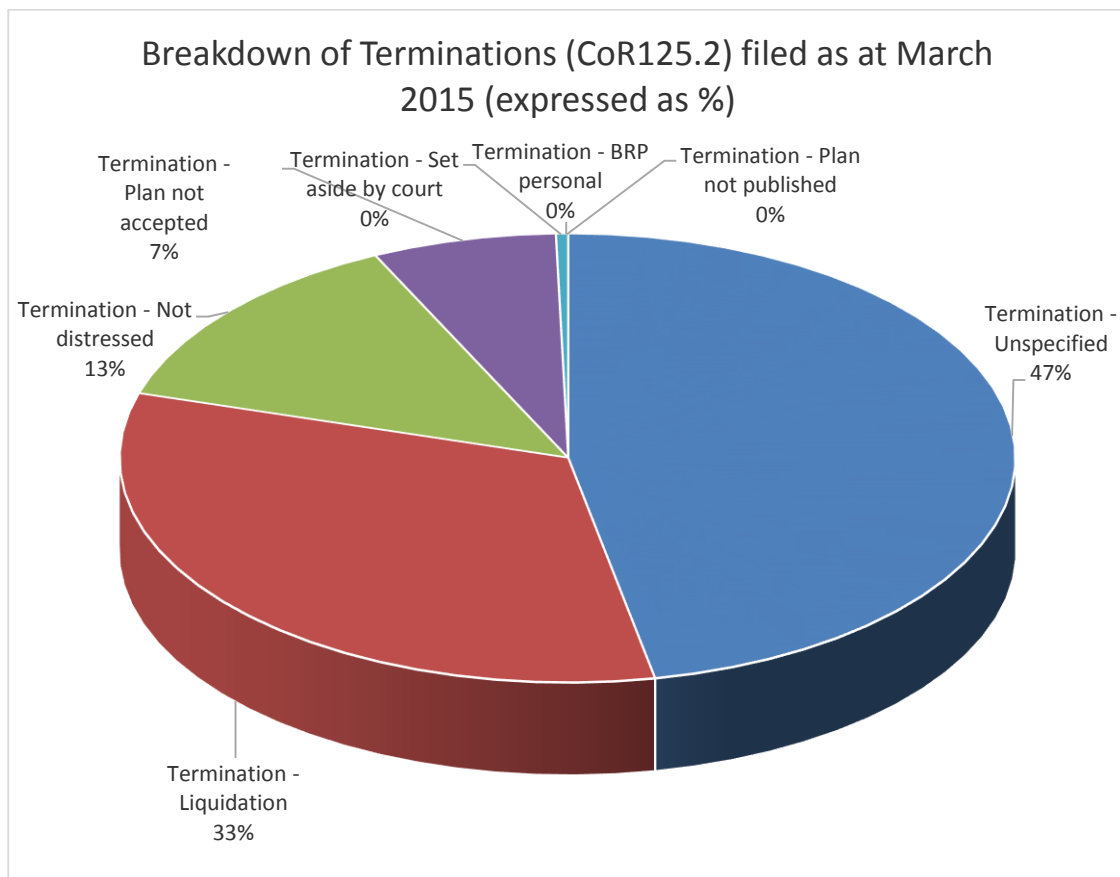
The below table indicates the volume of CoR125.2 filed for commenced business rescue proceedings. It should be noted that a CoR125.2 may be received during a specific financial year but the filing of the document will be recorded against the year for which the business rescue proceedings commenced. Example, 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
Termination - Unspecified	106	41	25	24	16
Termination – Liquidation (intention to apply for liquidation)	74	17	34	19	4
Termination - Not distressed	30	3	17	9	1
Termination - Plan not accepted	15	3	5	6	1
Termination - Set aside by court	1	1	0	0	0
Termination - BRP personal	0	0	0	0	0
Termination - Plan not published	0	0	0	0	0

Total Terminations filed as at 31 March 2015	226	65	81	58	22
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***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



The majority of terminations do not clearly specify the reason for termination. The reason for such is that the CoR125.2 form itself only makes provision for termination where the BRP believes that the entity is no longer financial distressed. The Companies Act, 2008 clearly indicates other grounds for termination or discontinuing the proceedings.

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

The average period for the filing of a Notice of Termination on commenced business rescue proceedings is 7 months. 31% of terminations are filed within 2 months of the proceedings commencing while 47% is filed within 4 months.

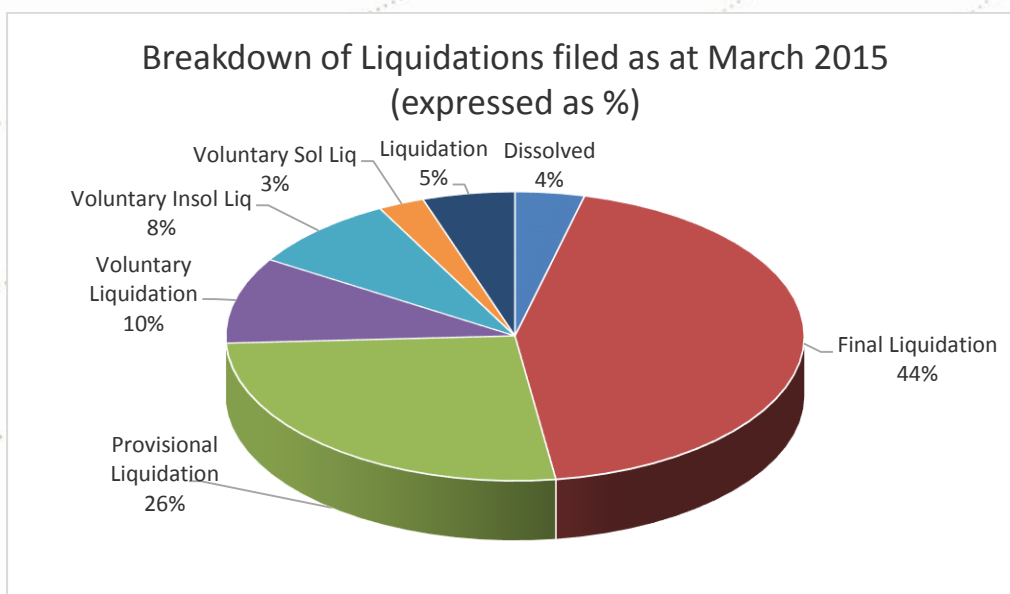


6. Liquidations:

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
Dissolved	6	2	4	0	0
Final Liquidation	68	17	13	35	3
Provisional Liquidation	41	8	11	4	18
Voluntary Liquidation	15	9	6	0	0
Voluntary Insolvent Liquidation	13	11	0	2	0
Voluntary Solvent Liquidation	4	1	3	0	0
Liquidation	8	1	7	0	0
Total Liquidations as at 31 March 2015	155	49	44	41	21





7. Substantial Implementations (CoR125.3) Filed:

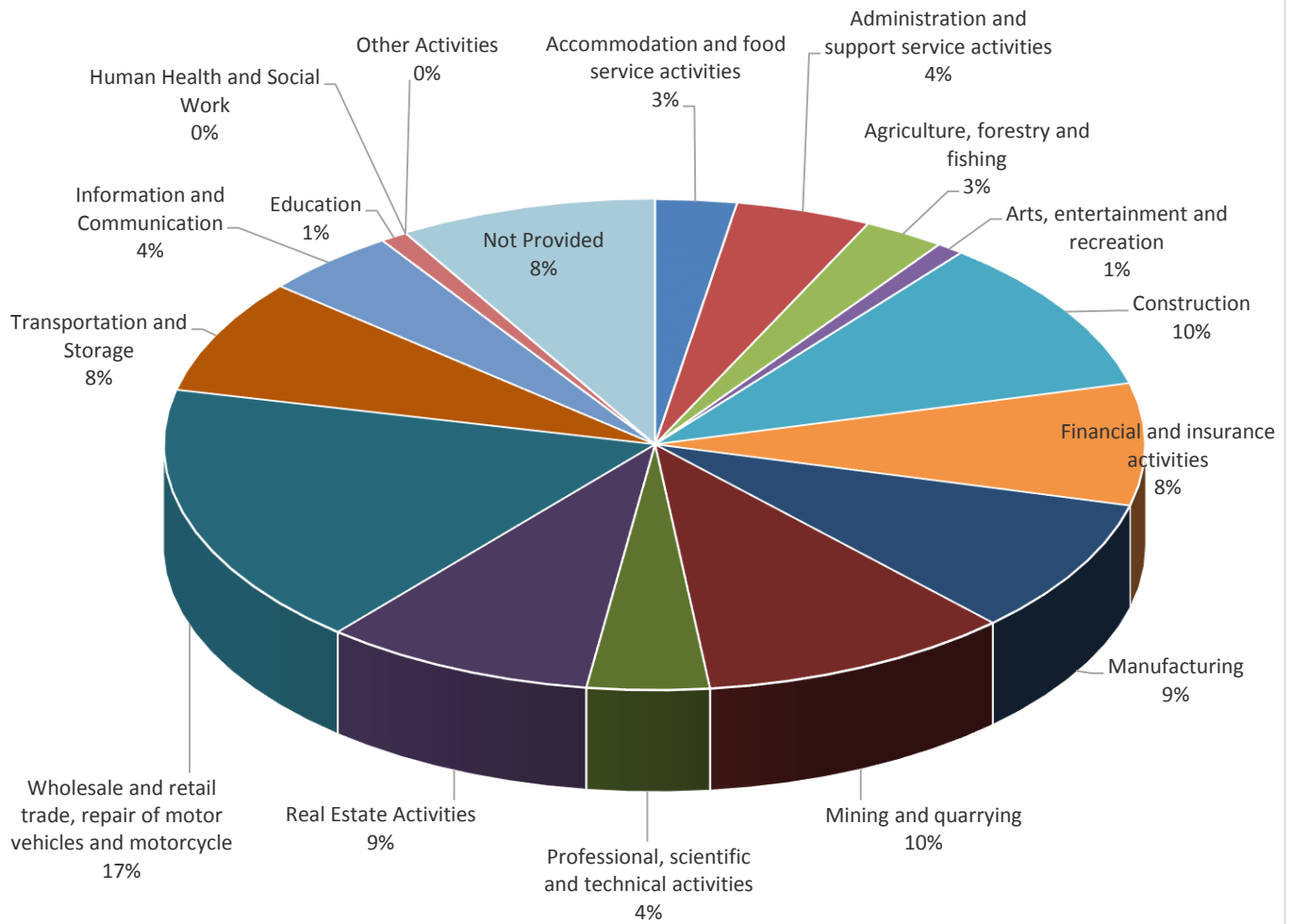
The average period for the filing of a Notice of Substantial Implementation on commenced business rescue proceedings is 10 months. 3% of substantial implementations are filed within 1 month, 10% is filed within 2 months and 20% is filed within 4 months.

8. 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	%
Accommodation and food service activities	6	3
Administration and support service activities	10	4
Agriculture, forestry and fishing	6	3
Arts, entertainment and recreation	2	1
Construction	23	10
Financial and insurance activities	18	8
Manufacturing	20	9
Mining and quarrying	23	10
Professional, scientific and technical activities	9	4
Real Estate Activities	20	9
Wholesale and retail trade, repair of motor vehicles and motorcycle	39	17
Transportation and Storage	17	8
Information and Communication	10	4
Education	2	1
Human Health and Social Work	0	0
Other Activities	0	0
Not Provided	19	8
Total	224	100

Breakdown of Entities Starting BR Proceedings as at March 2015 per Industry (expressed as %)



***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.