



Status of Business Rescue Proceedings in South Africa

December 2018

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 December 2018. This report does not provide statistical comparisons with previous years. For the yearly comparisons, refer to previous reports.

*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.

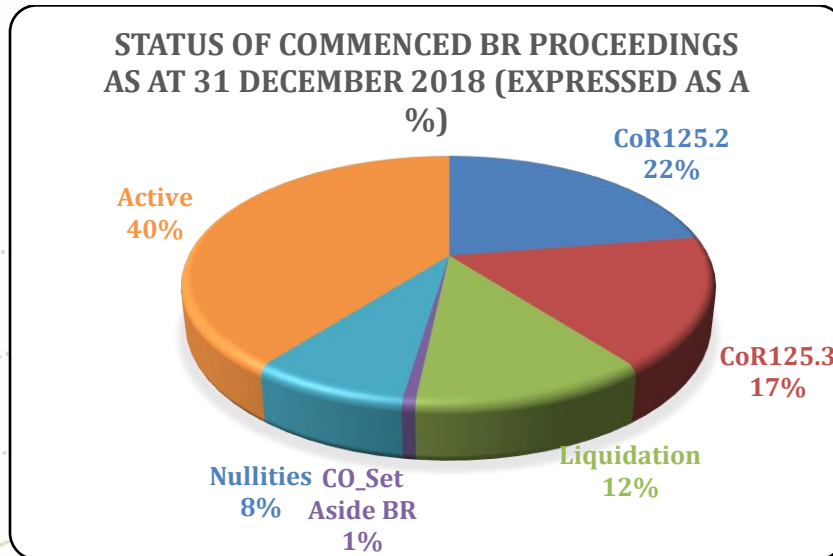
2. Business Rescue Proceedings Status:

The below table reflects the status of commenced business rescue proceedings from inception of business rescue on 1 May 2011 to 31 December 2018.

Operational BR Proceeding Applications	2011 - 2012	2012 - 2013	2013 - 2014	2014 - 2015	2015 - 2016	2016 - 2017	2017 - 2018	2018 - 2019	Total
Business Rescue Proceedings Started	382	440	409	413	481	379	363	240	3107
Invalid filings	61	27	24	42	12	6	5	0	177
Business Rescue Proceedings Ended	322	310	281	272	300	220	146	28	1879
CoR125.2	73	114	88	85	144	97	76	21	698
CoR125.3	82	106	100	88	70	62	25	0	533
Liquidation	57	57	66	69	62	42	22	0	375
CO_Set Aside BR	2	5	6	4	0	2	1	1	21
Nullities (Proceedings started but was declared a nullity)	108	28	21	26	24	17	22	6	252
Active as at 31 December 2018	60	130	128	141	181	159	217	212	1228
Active as at 30 September 2018	61	132	129	147	183	165	230	162	1209
Active as at 30 June 2018	62	138	137	158	192	181	254	79	1201
Active as at 31 March 2018	62	142	140	163	193	195	281	N/A	1176
Active as at 31 March 2017	70	167	169	201	248	286	1141		
Active as at 31 March 2016	86	181	189	250	422	1129	N/A		



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



From the 3107 cases (invalid filings are not included since the proceedings never commenced) for which business rescue proceedings commenced:-

- 252 proceedings became a nullity in law;
- 698 proceedings was terminated by way of filing a Notice of Termination (CoR125.2);
- 533 proceedings was substantially implemented by way of filing a Notice of Substantial Implementation (CoR125.3);
- 375 proceedings ended up directly in liquidation without a Notice of Termination (CoR125.2) being filed;
- 21 proceedings the court set aside the business rescue proceedings; and
- 1228 proceedings is still in business rescue.

3. Business Rescue Proceedings Started Per Category Of Entity:

The below table indicates the volume of commenced business rescue proceedings for each entity category.

BR proceedings started	Total	2011 - 2012	2012 - 2013	2013 - 2014	2014 - 2015	2015-2016	2016-2017	2017 -2018	2018-2019
Public Companies	88	53	9	7	8	5	3	2	1
Private Companies	2011	240	281	257	266	297	241	253	176
Incorporated Companies	9	0	3	0	0	1	2	2	1
Non Profit Companies	8	0	0	2	2	1	2	1	0
Close Corporations	991	89	147	143	137	177	131	105	62
Total	3107	382	440	409	413	481	379	363	240



Chart 2 indicates the percentage comparison between the different categories of entities that commenced business rescue proceedings

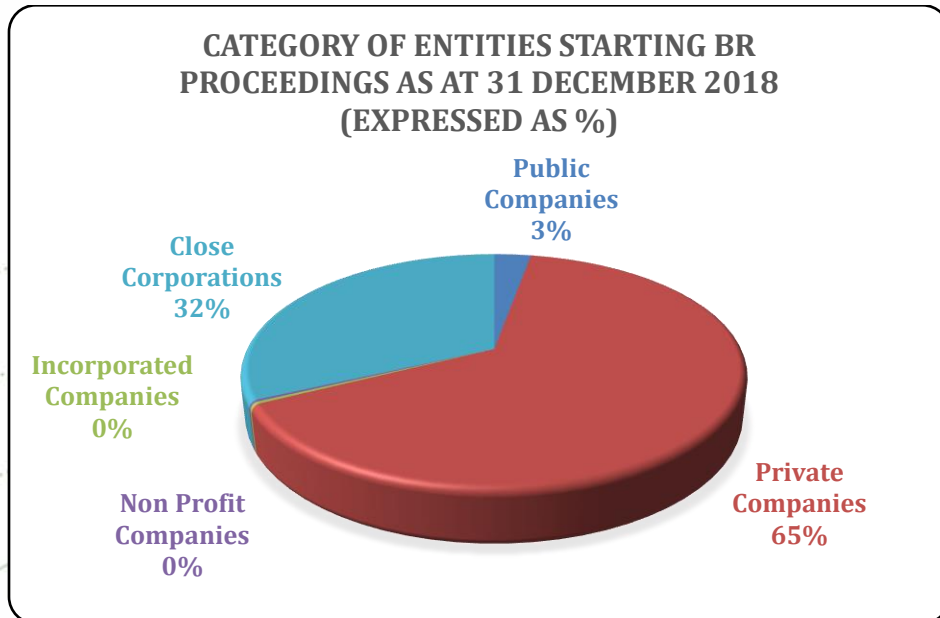


Chart 2 reflects that business rescue is mostly utilised by private companies. 65% of entities applying for business rescue are private companies while only 32% are close corporations.

4. Business Rescue Proceedings Started Per Province:

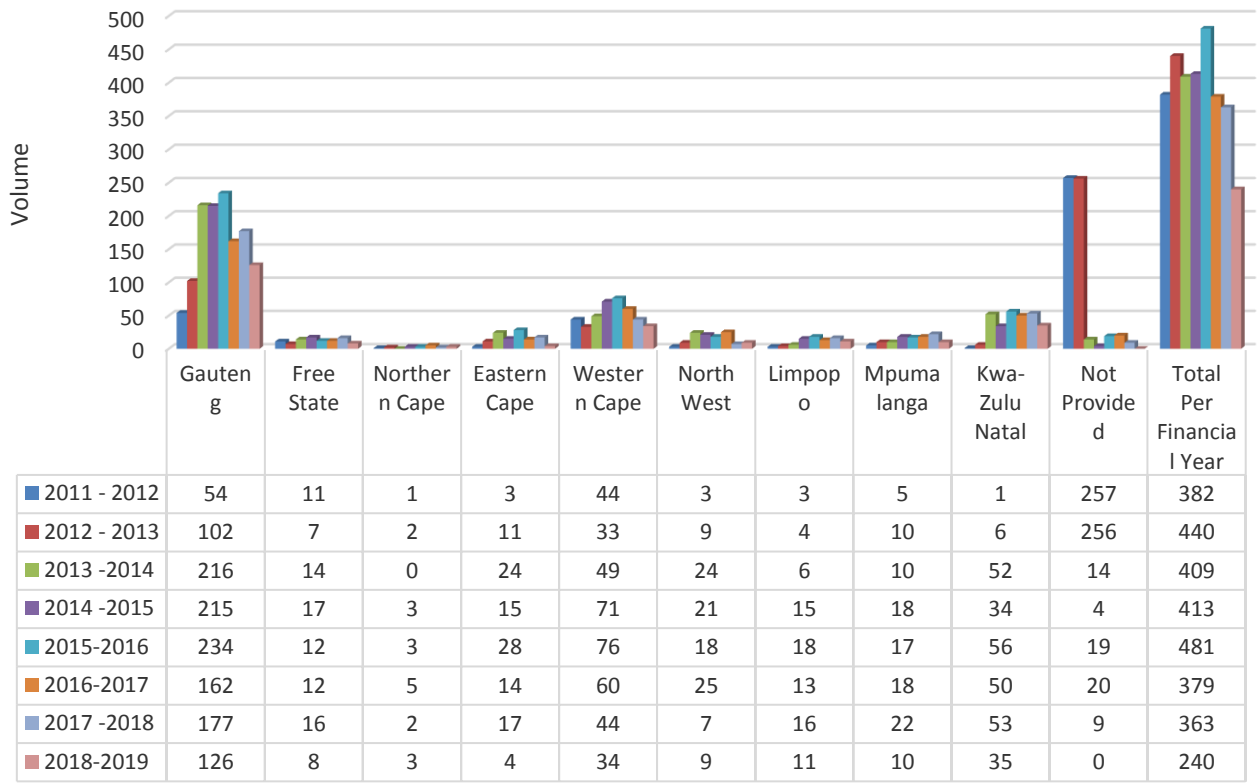
The below table indicates the volume of commenced business rescue proceedings for each of the nine provinces.

Province (start BR)	Total	2011 - 2012	2012 - 2013	2013 -2014	2014 -2015	2015-2016	2016-2017	2017 -2018	2018-2019
Gauteng	1254	54	102	216	215	234	162	177	94
Free State	93	11	7	14	17	12	12	16	4
Northern Cape	19	1	2	0	3	3	5	2	3
Eastern Cape	115	3	11	24	15	28	14	17	3
Western Cape	402	44	33	49	71	76	60	44	25
North West	115	3	9	24	21	18	25	7	8
Limpopo	82	3	4	6	15	18	13	16	7
Mpumalanga	107	5	10	10	18	17	18	22	7
Kwa-Zulu Natal	280	1	6	52	34	56	50	53	28
Not Provided	579	257	256	14	4	19	20	9	0
Total	3046	382	440	409	413	481	379	363	179

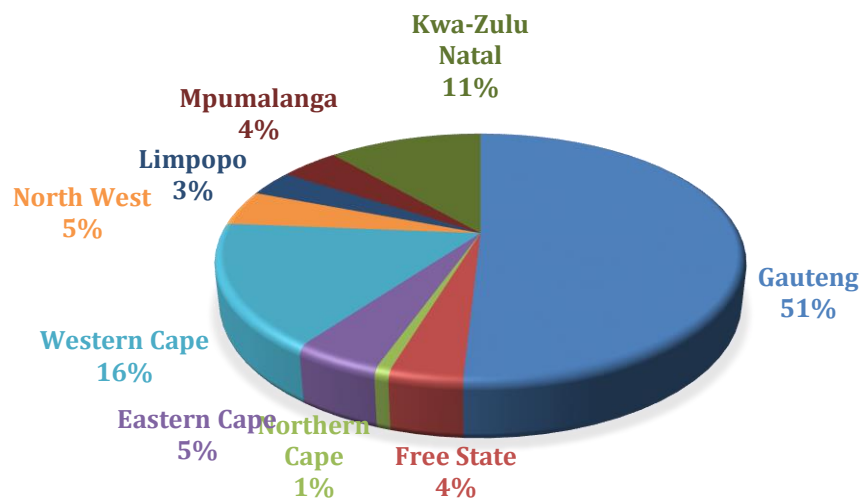


Graph 1 and Chart 3 indicate the volume and percentage of business rescue proceedings per province

Breakdown of Entities Starting BR Proceedings as at 31 December 2018 Per Province (expressed in volume)



BREAKDOWN OF ENTITIES STARTING BR PROCEEDINGS AS AT 31 DECEMBER 2018 PER PROVINCE (EXPRESSED AS %)



It is clear from the above that 51% of entities commencing business rescue, are located with Gauteng. Gauteng is followed by the Western Cape (16%) and then Kwa-Zulu Natal (11%). This percentage breakdown has been relatively stable since inception of business rescue.

5. Notice of Termination (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	2016-2017	2017 - 2018	2018-2019
Termination - Unspecified	31	18	6	2	1	0	1	3	0
Termination - Liquidation	220	19	50	29	18	44	27	25	8
Termination - Not distressed	415	33	53	48	60	95	67	46	13
Termination - Plan not accepted	25	3	5	7	1	5	2	2	0
Termination - BRP personal	5	0	0	1	4	0	0	0	0
Termination - Plan not published	2	0	0	1	1	0	0	0	0
Total as at 31 December 2018	698	73	114	88	85	144	97	76	21
Total as at 30 September 2018	674	72	113	88	84	143	94	68	12
Total as at 30 June 2018	634	71	108	83	83	139	86	60	4
Total as at 31 March 2018	602	71	106	82	82	138	79	44	
Total as at 31 March 2017	471	72	96	74	72	120	37	N/A	
Total as at 31 March 2016	319	69	88	68	58	36	N/A	N/A	

***Notes:**

Termination = reason for termination not specified

Termination – Liquidation = BRP terminates proceedings in order for entity to start liquidation proceedings

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

Termination – Plan not accepted = BRP notifies CIPC that plan was not accepted and no further action was taken by an affected person to extend the proceedings

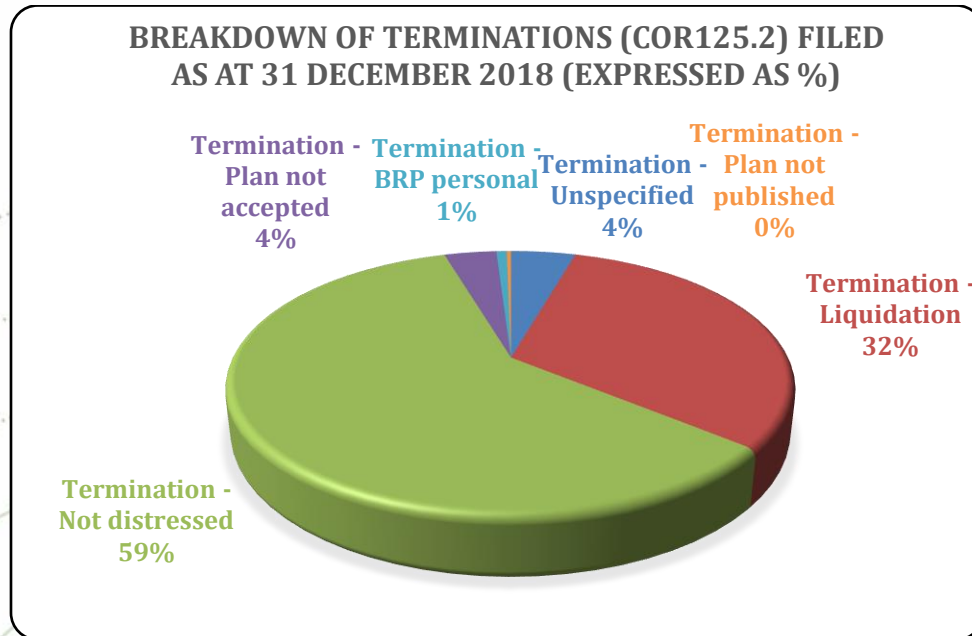
Termination – person = BRP notifies CIPC that he is removing/resigning himself from the matter due to personal reasons

Termination – Plan not published = BRP notified CIPC that the plan was not published in order for it to be considered for approval

Diagram 4 reflects the overall breakdown of the main reasons for terminations being submitted.



Chart 4 indicates the percentage breakdown between the different reasons for filing a CoR125.2



59% of proceedings for which a CoR125.2 was filed indicated the reason for termination as section 141(2)(b) but comparing such with the age analysis of filed CoR125.2's it creates the assumption that some entities maybe traded out of business rescue rather than following the legislative process. No research on this assumption has been conducted.

5.2. Age analysis on Terminations (CoR125.2) filed:

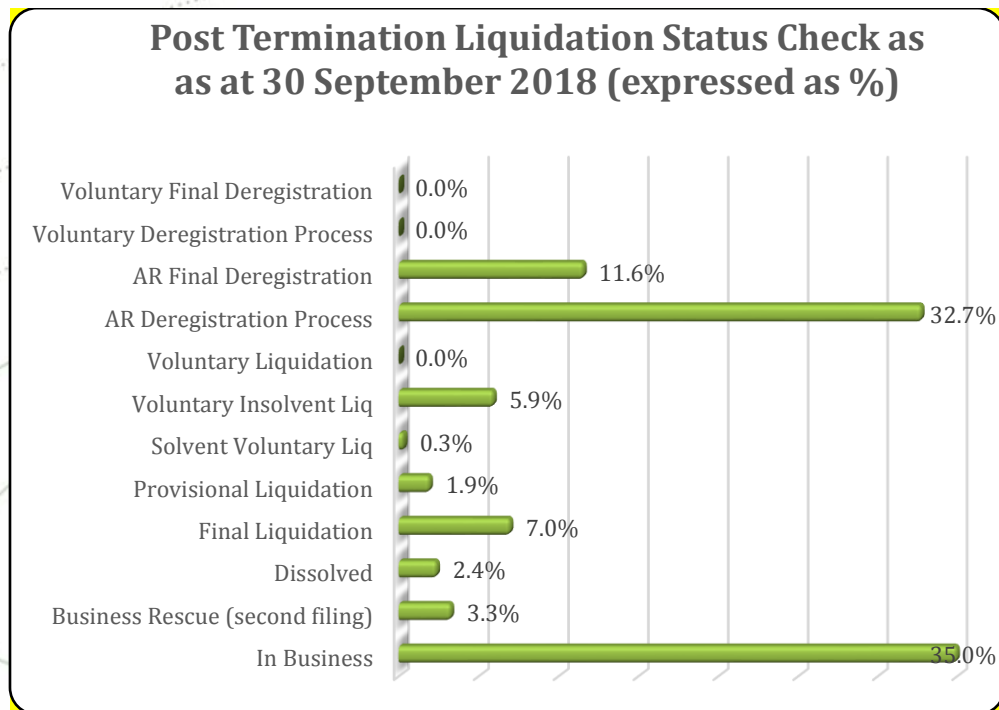
Age Analysis	Average Period	2 Months	3 Months	4 Months	5 Months	6+ Months
As at 31 December 2018	12.35 months	24.50%	5.30%	6.73%	6.45%	57.02%
As at 31 September 2018	12.14 months	25.16%	5.61%	6.89%	7.05%	55.29%
As at 30 June 2018	11.18 months	26.67%	5.41%	7.57%	7.21%	53.15%
As at 30 September 2017	5.87 months	14.85%	3.95%	49.81%	4.89%	26.50%
As at 30 August 2017	10.73 months	25.24%	5.01%	7.71%	7.51%	54.53%
As at 31 July 2017	9.85 months	25.85%	5.21%	8.02%	7.82%	53.11%
As at 30 June 2017	9.63 months	26.41%	5.24%	8.06%	7.86%	52.42%
As at 31 March 2017	9.29 months	26.29%	5.33%	8.10%	7.89%	52.45%
As at 31 December 2016	9.29 months	26.49%	4.86%	8.17%	7.95%	52.54%
As at 31 October 2016	8.15 months	28.08%	4.93%	8.87%	8.13%	50.00%
As at 30 September 2016	8.15 months	28.14%	5.03%	8.79%	8.29%	49.75%
As at 30 June 2016	8.16 months	26.37%	4.40%	9.34%	9.07%	50.82%
As at 31 March 2016	8.23 months	29.02%	4.73%	9.15%	8.83%	48.26%
As at 31 December 2015	7 months	32%	4%	10%	5%	49%



5.3. Liquidation Status of Business Rescue Proceedings Terminated (CoR125.2) (as at 30 September 2018):

An analysis was conducted on the liquidation status of business rescue proceedings for which a CoR125.2 was filed during September 2018. Of the 674 proceedings ending in Termination (as at 30 September 2018), 17.48% of the entities went into liquidation and 44.30% is either in annual return deregistration (“in deregistration process”) or finally deregistered (“final deregistered”) for non-compliance with annual returns. Only 34.96% has an “in business” status.

Graph 2 indicates the percentage breakdown between the different reasons for filing a CoR125.2



6. Substantial Implementations (CoR125.3) filed:

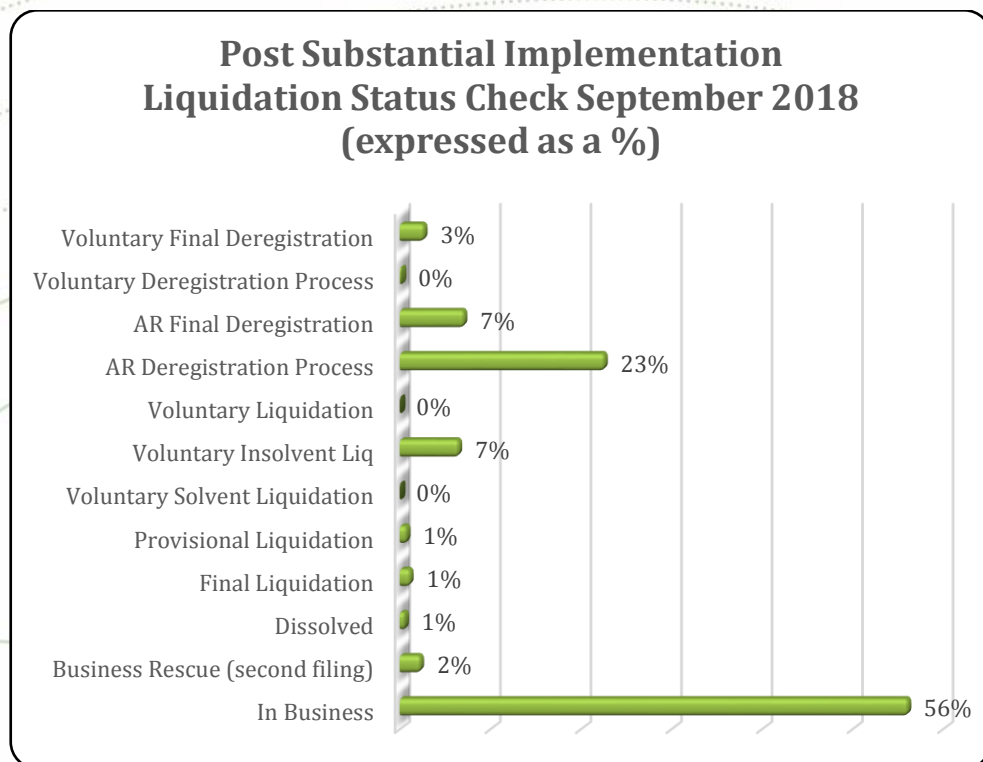
6.1. Age analysis on Substantial Implementations (CoR125.3) filed:

Age Analysis	Average Period	2 Months	3 Months	4 Months	5 Months	6+ Months
As at 31 December 2018	15.91 months	6.35%	3.27%	3.65%	4.81%	81.92%
As at 30 September 2018	15.52 months	6.54%	3.46%	3.65%	5.00%	81.35%
As at 30 June 2018	15.34 months	6.80%	3.60%	3.60%	5.20%	80.80%
As at 30 September 2017	14.06 months	7.27%	3.86%	3.86%	5.23%	79.77%
As at 30 August 2017	13.94 months	7.42%	3.94%	3.94%	5.10%	79.42%
As at 31 July 2017	13.95 months	7.35%	3.79%	4.03%	5.21%	79.62%
As at 30 June 2017	13.93 months	7.67%	3.84%	4.08%	5.28%	79.14%
As at 31 March 2017	13.55 months	7.83%	4.04%	4.29%	5.56%	78.28%
As at 31 December 2016	13.58 months	8.05%	3.64%	3.90%	5.71%	78.70%
As at 31 October 2016	13.91 months	8.24%	3.85%	4.12%	5.49%	78.30%
As at 30 September 2016	13.83 months	8.12%	3.92%	4.20%	5.60%	78.15%
As at 30 June 2016	13.31 months	7.41%	3.70%	4.63%	4.94%	79.32%
As at 31 March 2016	12.31 months	9.39%	4.21%	4.85%	5.50%	76.05%
As at 31 December 2015	12 months	10%	5%	5%	5%	76%

6.2. Liquidation Status of Business Rescue Proceedings On Proceedings Substantially Implemented (CoR125.3) (as at 30 September 2018):

An analysis was conducted on the liquidation status of business rescue proceedings for which a CoR125.3 was filed. Of the 523 proceedings ending in substantial implementation (as at 30 September 2018), 9.0% of the entities went into liquidation and 29.7% is either in annual return deregistration (“in deregistration process”) or finally deregistered (“final deregistered”) for non-compliance with annual returns. 56.1% has an “in business” status.

Graph 3 indicates the percentage breakdown between the different reasons for filing a CoR125.2



7. Liquidation Documents Filed:

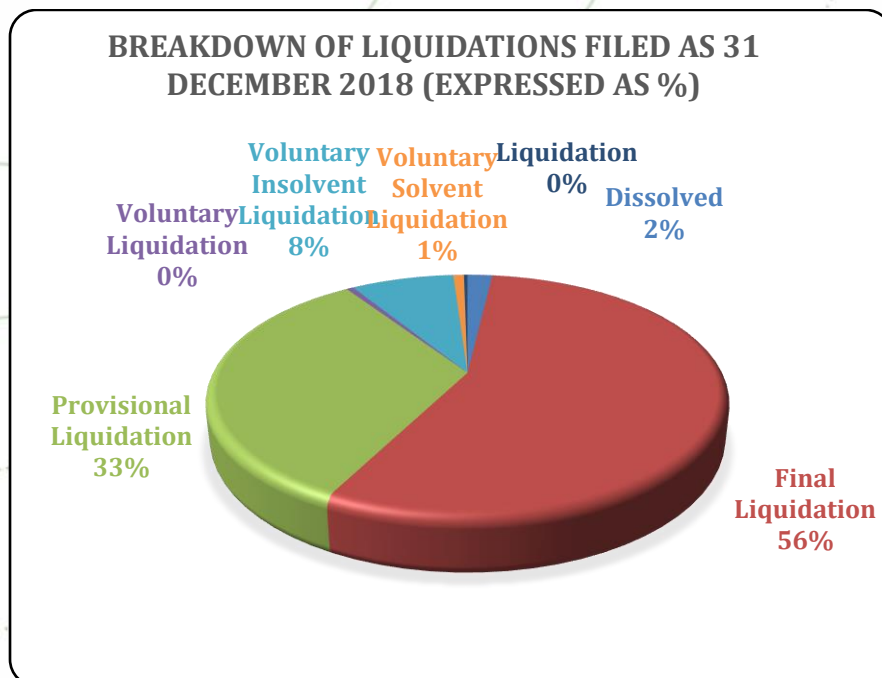
7.1. Breakdown of Liquidations Filed:

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	2016-2017	2016 - 2017	2018-2019
Dissolved	7	3	4	0	0	0	0	0	0
Final Liquidation	205	23	27	48	38	37	23	9	0
Provisional Liquidation	123	10	15	14	27	25	19	13	0
Voluntary Liquidation	2	1	1	0	0	0	0	0	0
Voluntary Insolvent Liquidation	29	17	10	2	0	0	0	0	0
Voluntary Solvent Liquidation	3	3	0	0	0	0	0	0	0
Liquidation	1	0	0	1	0	0	0	0	0
Total as at 31 December 2018	370	57	57	65	65	62	42	22	0
Total as at 30 September 2018	370	57	57	65	65	62	42	22	0
Total as at 30 June 2018	357	57	57	64	62	59	40	18	0
Total as at 31 March 2018	352	57	56	63	61	59	40	16	
Total as at 31 March 2017	259	54	46	53	44	42	20		
Total as at 31 March 2016	197	50	47	52	34	14	N/A		

Chart 5 reflects the overall breakdown of the main liquidation statuses for entities which commenced business rescue proceedings.



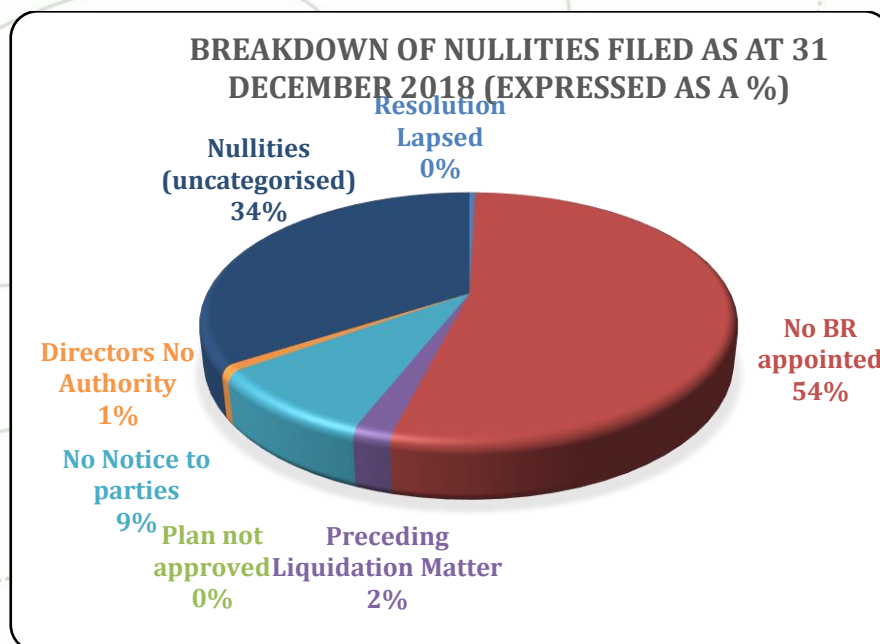
8. Nullities filed:

From the 3107 business rescue proceedings which commenced, 252 was declared a nullity. Therefore, 8.1% of all commenced proceedings ended in a nullity.



Nullities	Total	2011-2012	2012-2013	2013-2014	2014-2015	2015-2016	2016-2017	2017-2018	2018-2019
Nullities (uncategorised)	86	39	14	6	15	4	6	2	0
No BR appointed	135	68	10	7	3	14	11	16	6
Plan not approved	0	0	0	0	0	0	0	0	0
No Notice to parties	23	1	4	6	6	4	0	2	0
Directors No Authority	2	0	0	2	0	0	0	0	0
Resolution Lapsed	1	0	0	0	1	0	0	0	0
Preceding Liquidation Matter	5	0	0	0	1	2	0	2	0
Total	249	69	14	8	11	20	11	20	4

Chart 6 indicates the percentage breakdown between the different reasons for business rescue proceedings being declared a nullity





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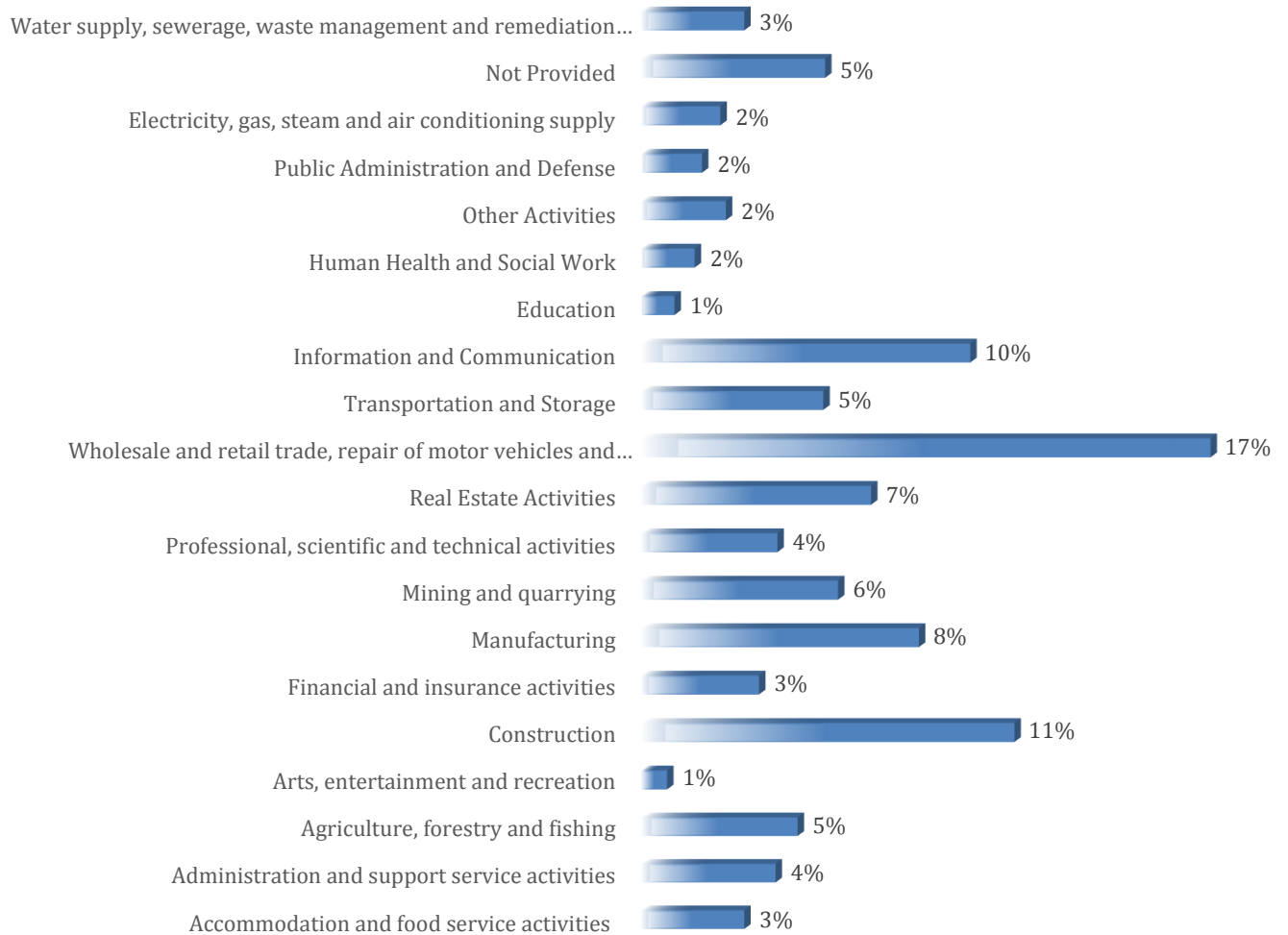
9. Business Rescue Proceedings Started Per Industry:

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

Industry	Total	2014-2015	2015-2016	2016-2017	2017 - 2018	2018-2019
Accommodation and food service activities	56	4	1	17	22	12
Administration and support service activities	73	18	26	13	6	10
Agriculture, forestry and fishing	85	6	24	25	16	14
Arts, entertainment and recreation	14	2	4	4	3	1
Construction	203	34	64	39	42	24
Financial and insurance activities	64	2	20	16	17	9
Manufacturing	151	0	43	35	41	32
Mining and quarrying	107	24	25	11	36	11
Professional, scientific and technical activities	74	0	26	18	23	7
Real Estate Activities	125	0	33	35	36	21
Wholesale and retail trade, repair of motor vehicles and motorcycle	310	28	114	84	60	24
Transportation and Storage	99	26	25	18	14	16
Information and Communication	179	146	13	8	5	7
Education	18	7	2	5	1	3
Human Health and Social Work	29	13	3	2	9	2
Other Activities	46	0	7	11	2	26
Public Administration and Defense	33	26	5	1	1	0
Electricity, gas, steam and air conditioning supply	43	21	6	2	2	12
Not Provided	100	0	36	33	23	8
Water supply, sewerage, waste management and remediation activities	56	45	4	2	4	1
Total	1865	402	481	379	363	240



Graph 4 indicates the percentage breakdown between the different industries (SIC description) for entities commencing business rescue



***Notes:**

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



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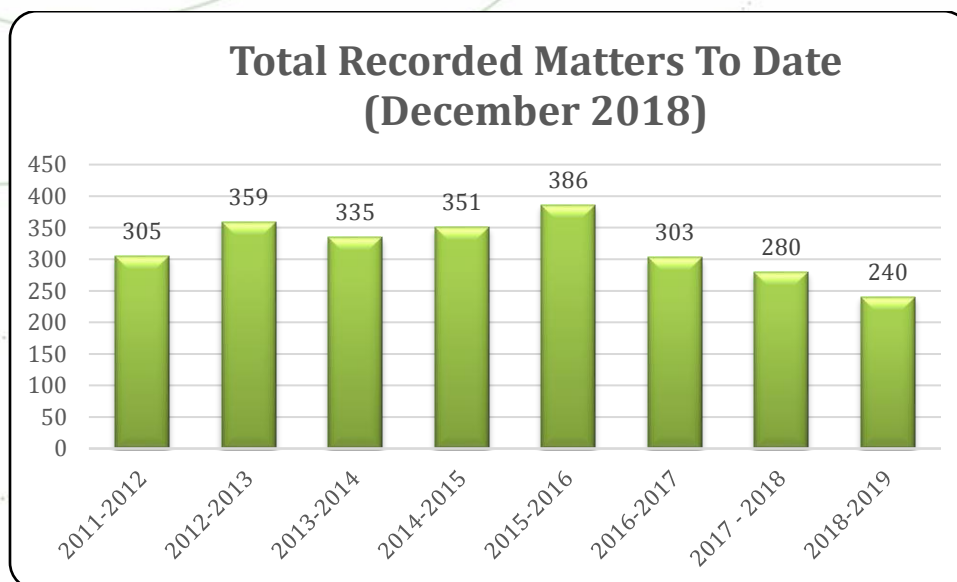
10. Volume of Recorded Proceedings:

10.1. Volume of Recorded Proceedings per month:

The below graph reflects the volume of commenced business rescue proceedings from inception of business rescue up until 31 December 2018.

Month	2011-2012	2012-2013	2013-2014	2014-2015	2015-2016	2016-2017	2017 - 2018	2018-2019
April	N/A	30	39	24	42	25	16	18
May	5	45	50	39	33	40	27	40
June	28	26	37	34	21	36	43	27
July	25	23	47	43	67	40	23	39
August	38	59	49	66	56	45	33	30
September	81	55	26	42	34	29	41	28
October	27	47	45	44	57	34	32	22
November	42	56	28	34	55	32	47	18
December	59	18	14	25	21	22	18	18
January	67	14	35	31	22	23	25	0
February	43	44	31	24	47	28	32	0
March	28	50	32	49	38	31	30	0
Total for year	443	467	433	455	493	385	367	240
Total to December 2018	305	359	335	351	386	303	280	240

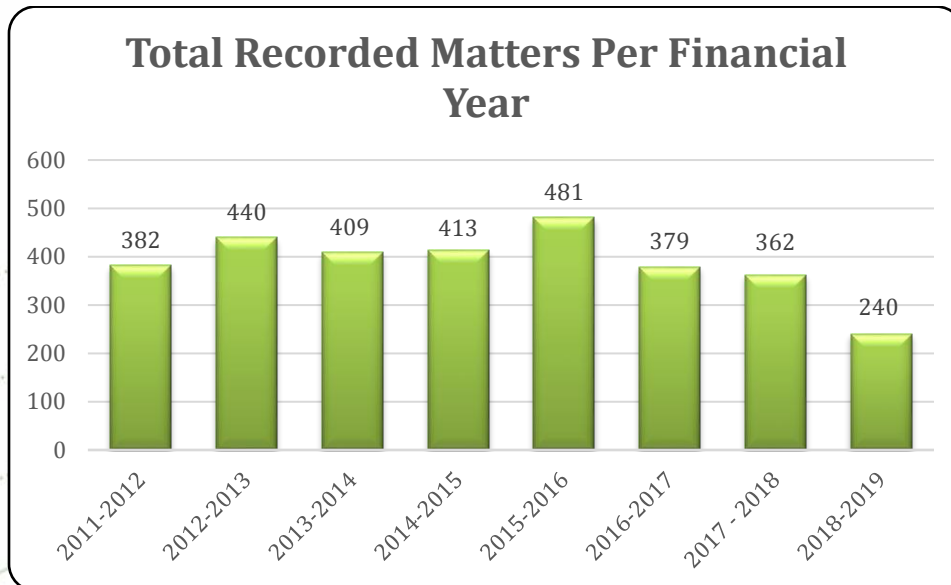
Graph 5 indicates the volume of entities commencing business rescue up until December of each year



There is a clear decrease in new matters being reported compared with with the previous two reporting periods.



Graph 6 indicates the total volume of entities commencing business rescue for the entire financial year (1 April to 31 March)



10.2. Recorded Business Rescue Proceedings compared with New Liquidations:

For the purposes of determining the volume of new liquidation matters, volume of processed provisional and final liquidation court orders are ignored due to the fact that the current liquidation process utilised by CIPC is not integrated with the manual business rescue process which makes it difficult to accurately distinguish between discontinuation of business rescue proceedings and newly commenced liquidation proceedings.

For example, of the total volume of new business rescue proceedings and new liquidation proceedings received from April to December 2018 (1766), new liquidation proceedings contributed to 87% of the total volume. Thus, more entities goes into liquidation than business rescue proceedings.

New Liquidations v New Business Rescue Proceedings	Total To Date
New Liquidations (2017-2018)	1505
New Liquidations (2018-2019)	1529
New Business Rescue Proceedings (2017-2018)	280
New Business Rescue Proceedings (2018-2019)	237
Total New Liquidation and New Business Rescue Proceedings (2017-2018)	1785
Total New Liquidation and New Business Rescue Proceedings (2018-2019)	1766
Liquidations % (2017-2018)	84%
Liquidations % (2018-2019)	87%