

Report

To: Organisation Performance
Business Rescue Liaison Committee

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Subject: Business Rescue Proceedings Status Report - September 2018



Companies and Intellectual
Property Commission

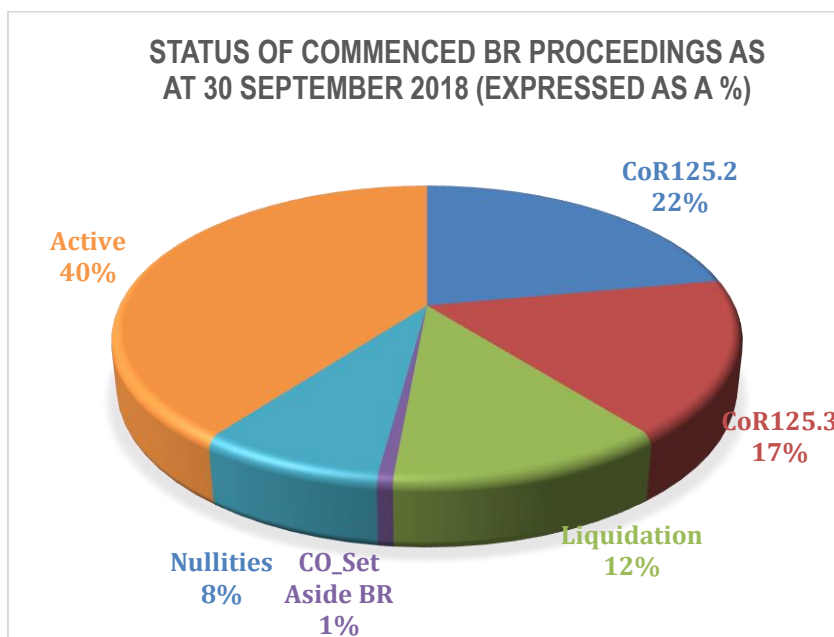
a member of **the dti** group

1.	Business Rescue Proceedings Status:	2
2.	Business Rescue Proceedings Started Per Category Of Entity:	3
3.	Business Rescue Proceedings Started Per Province:	4
4.	Notice of Termination (CoR125.2) Filed:	5
4.1.	Breakdown of Notice of Termination (CoR125.2) Filed:	5
4.2.	Age analysis on Terminations (CoR125.2) filed:	6
4.3.	Liquidation Status of Business Rescue Proceedings Terminated (CoR125.2) (as at 30 September 2018):	6
5.	Substantial Implementations (CoR125.3) filed:	7
5.1.	Age analysis on Substantial Implementations (CoR125.3) filed:	7
5.2.	Liquidation Status of Business Rescue Proceedings On Proceedings Substantially Implemented (CoR125.3) (as at 30 September 2018):	7
6.	Liquidation Documents Filed:	8
7.	Nullities filed:	9
8.	Business Rescue Proceedings Started Per Industry:	10
9.	Volume of Recorded Proceedings:	12
9.1.	Volume of Recorded Proceedings per month:	12
9.2.	Recorded Business Rescue Proceedings compared with New Liquidations:	13

1. **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 September 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	179	3046
Invalid filings	61	27	24	42	12	6	5	0	177
Business Rescue Proceedings Ended	321	308	280	266	298	214	133	17	1837
CoR125.2	72	113	88	84	143	94	68	12	674
CoR125.3	82	105	100	87	69	59	21	0	523
Liquidation	57	57	65	65	62	42	22	0	370
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	21	4	249
Active	61	132	129	147	183	165	230	162	1209



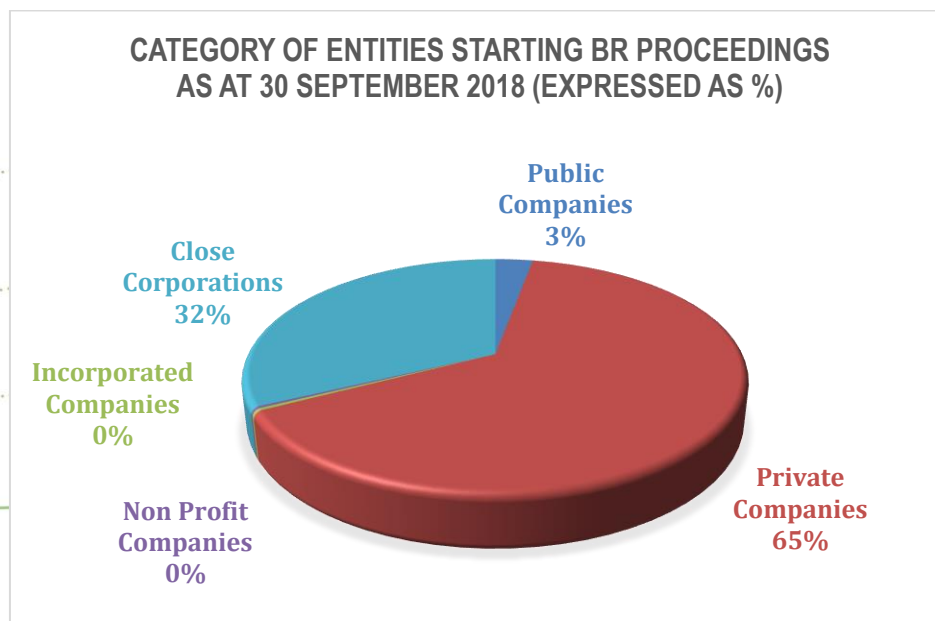
40% of proceedings are still ongoing, while 22% was terminated, 12% went straight into liquidation (predominantly final liquidation) and 17% was substantially implemented. Refer to para 4, 5 and 6 for detailed on terminations, substantial implementations and liquidations.



2. 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	1963	240	281	257	266	297	241	253	128
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	978	89	147	143	137	177	131	105	49
Total	3046	382	440	409	413	481	379	363	179



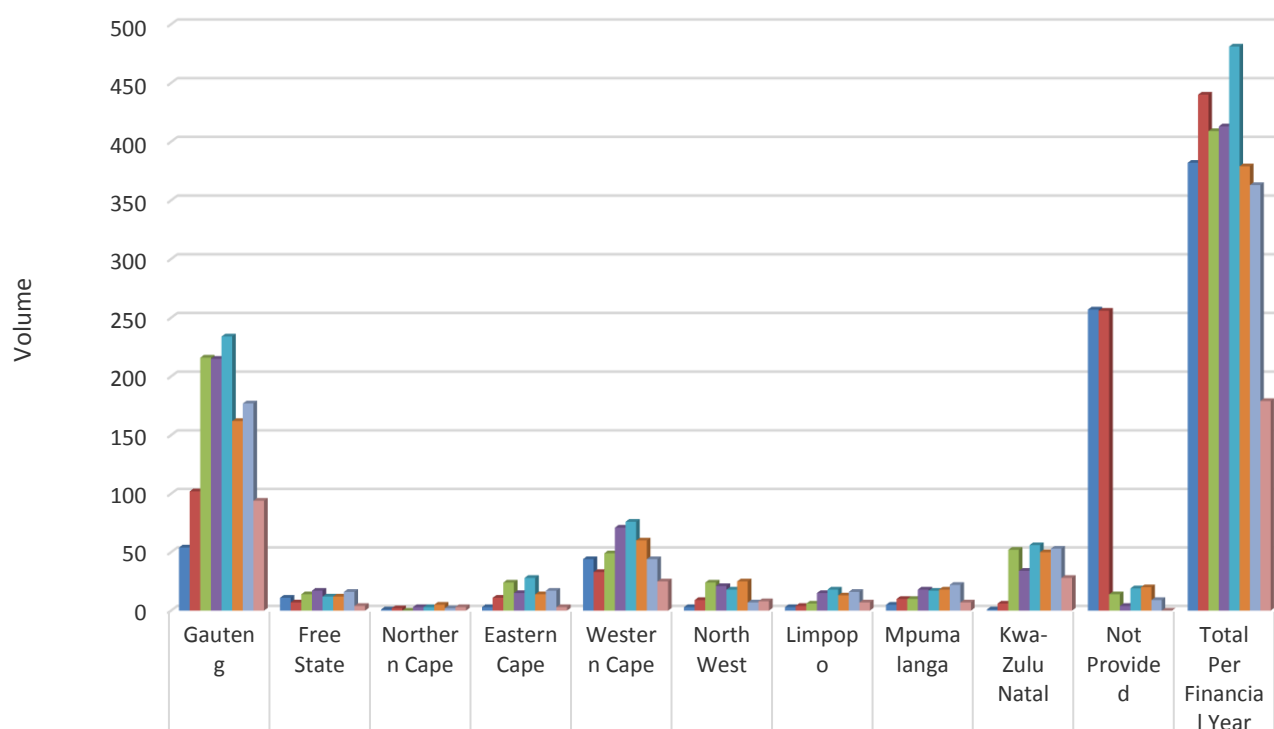
Business rescue is mostly utilised by private companies. 65% of entities applying for business rescue are private companies while only 32% are close corporations.

3. 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 Per Financial Year	3046	382	440	409	413	481	379	363	179

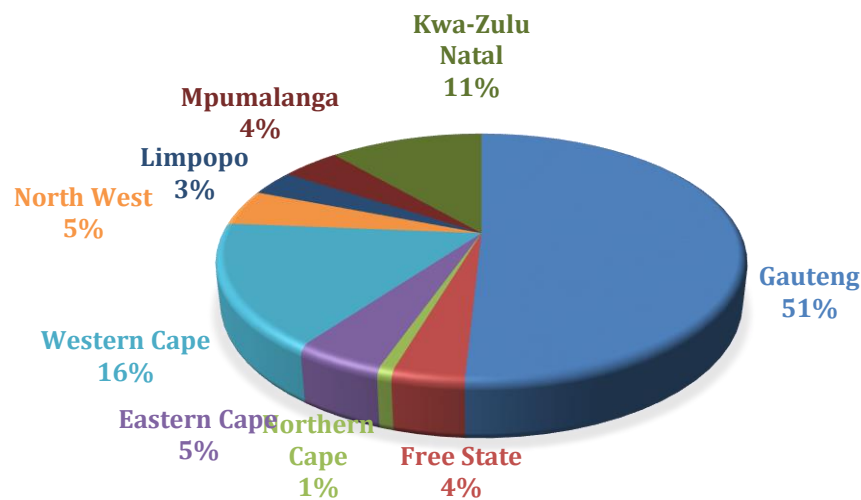
**Breakdown of Entities Starting BR Proceedings as at 30 September 2018
Per Province (expressed in volume)**



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



BREAKDOWN OF ENTITIES STARTING BR PROCEEDINGS AS AT 30 SEPTEMBER 2018 PER PROVINCE (EXPRESSED AS %)



It is clear from the diagrams that 51% of businesses commencing business rescue, resides 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.

4. Notice of Termination (CoR125.2) Filed:

4.1. 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	211	19	49	29	18	43	27	21	5
Termination - Not distressed	400	32	53	48	59	95	64	42	7
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 Terminations filed	674	72	113	88	84	143	94	68	12

*Notes:

Termination = reason for termination not specified

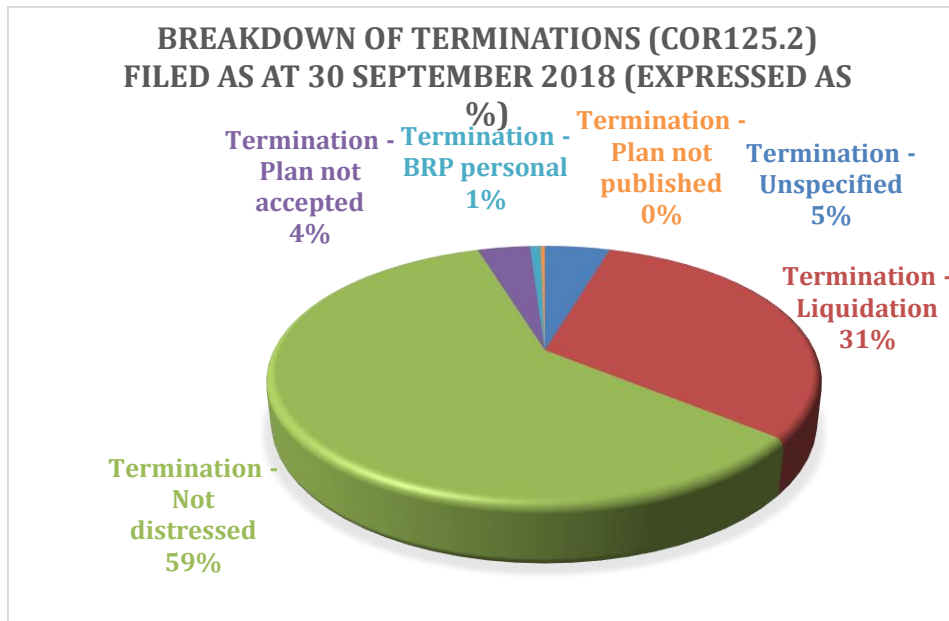
Termination – Liquidation = BRP terminates proceedings in order for entity to start liquidation proceedings

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



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.

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

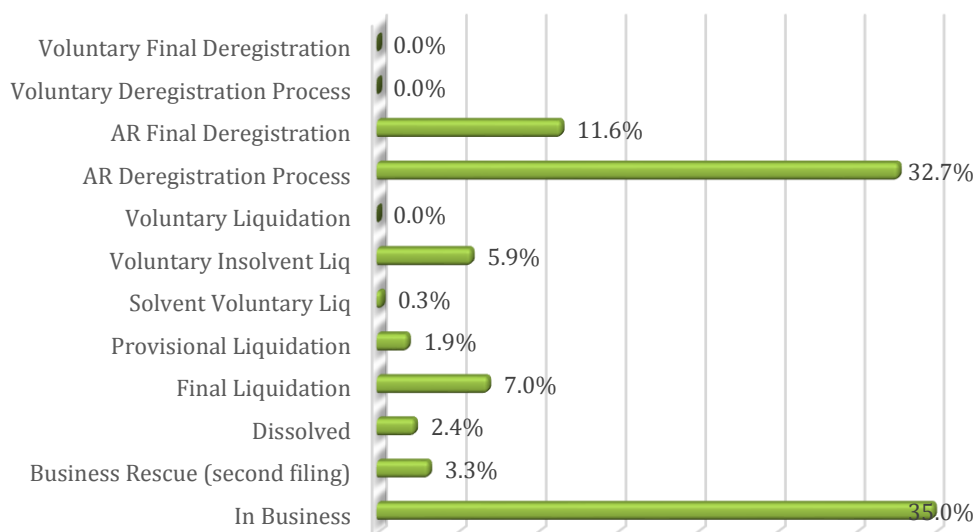
Age Analysis	Average Period	2 Months	3 Months	4 Months	5 Months	6+ Months
As at 31 September 2018	12.14 months	25.16%	5.61%	6.89%	7.05%	55.29%
As at 30 June 2018	11.18 months	26.67%	5.41%	7.57%	7.21%	53.15%

4.3. 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, 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.



Post Termination Liquidation Status Check as as at 30 September 2018 (expressed as %)



5. Substantial Implementations (CoR125.3) filed:

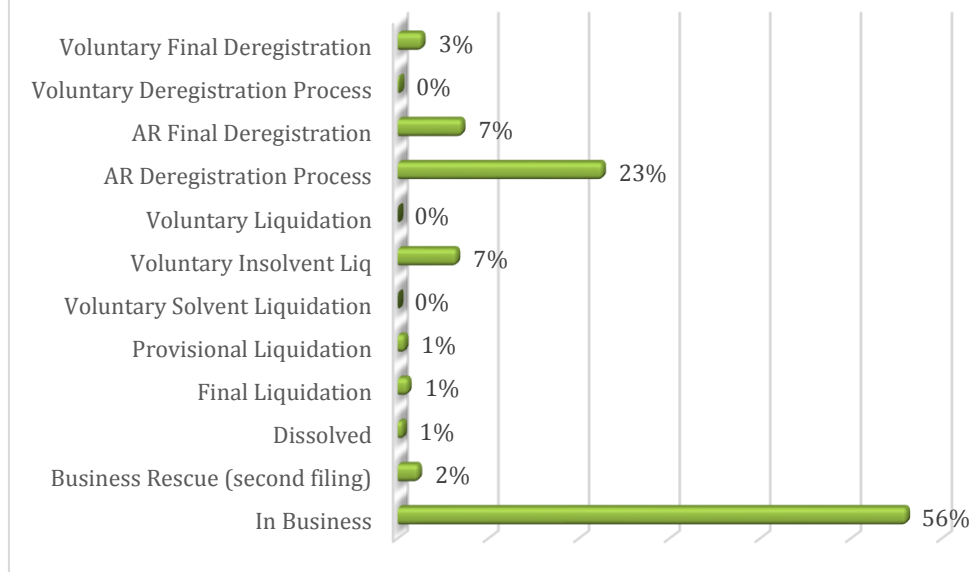
5.1. Age analysis on Substantial Implementations (CoR125.3) filed:

Age Analysis	Average Period	2 Months	3 Months	4 Months	5 Months	6+ Months
As at 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%

5.2. 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, 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.

Post Substantial Implementation Liquidation Status Check September 2018 (expressed as a %)



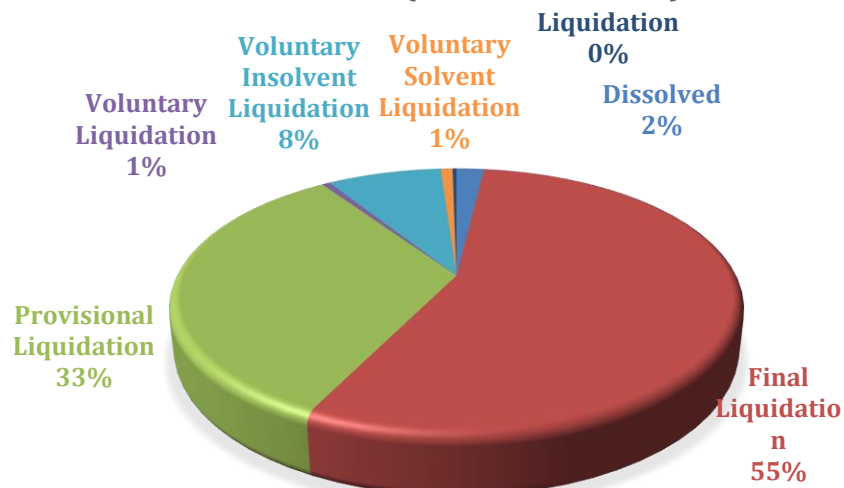
6. Liquidation Documents Filed:

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 Liquidations	370	57	57	65	65	62	42	22	0



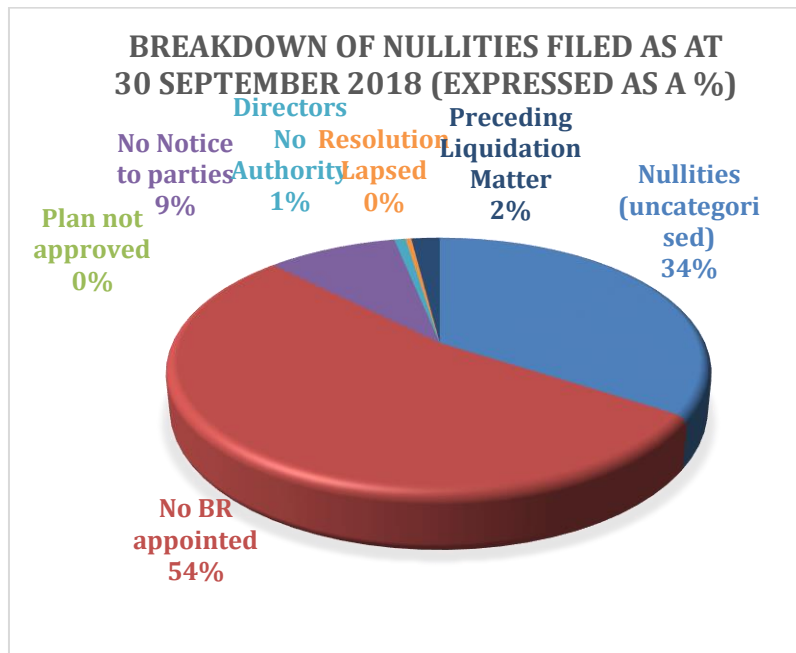
BREAKDOWN OF LIQUIDATIONS FILED AS AT 30 SEPTEMBER 2018 (EXPRESSED AS %)



7. Nullities filed:

From the 3046 business rescue proceedings which commenced, 249 was declared a nullity. Therefore, 8.2% of all commenced proceedings ended in a nullity.

	Total	2011-2012	2012-2013	2013-2014	2014-2015	2015-2016	2016-2017	2017-2018	2018-2019
Nullities									
Nullities (uncategorised)	85	39	14	6	15	4	6	1	0
No BR appointed	133	68	10	7	3	14	11	16	4
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 Nullities	249	69	14	8	11	20	11	20	4



8. Business Rescue Proceedings Started Per Industry:

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

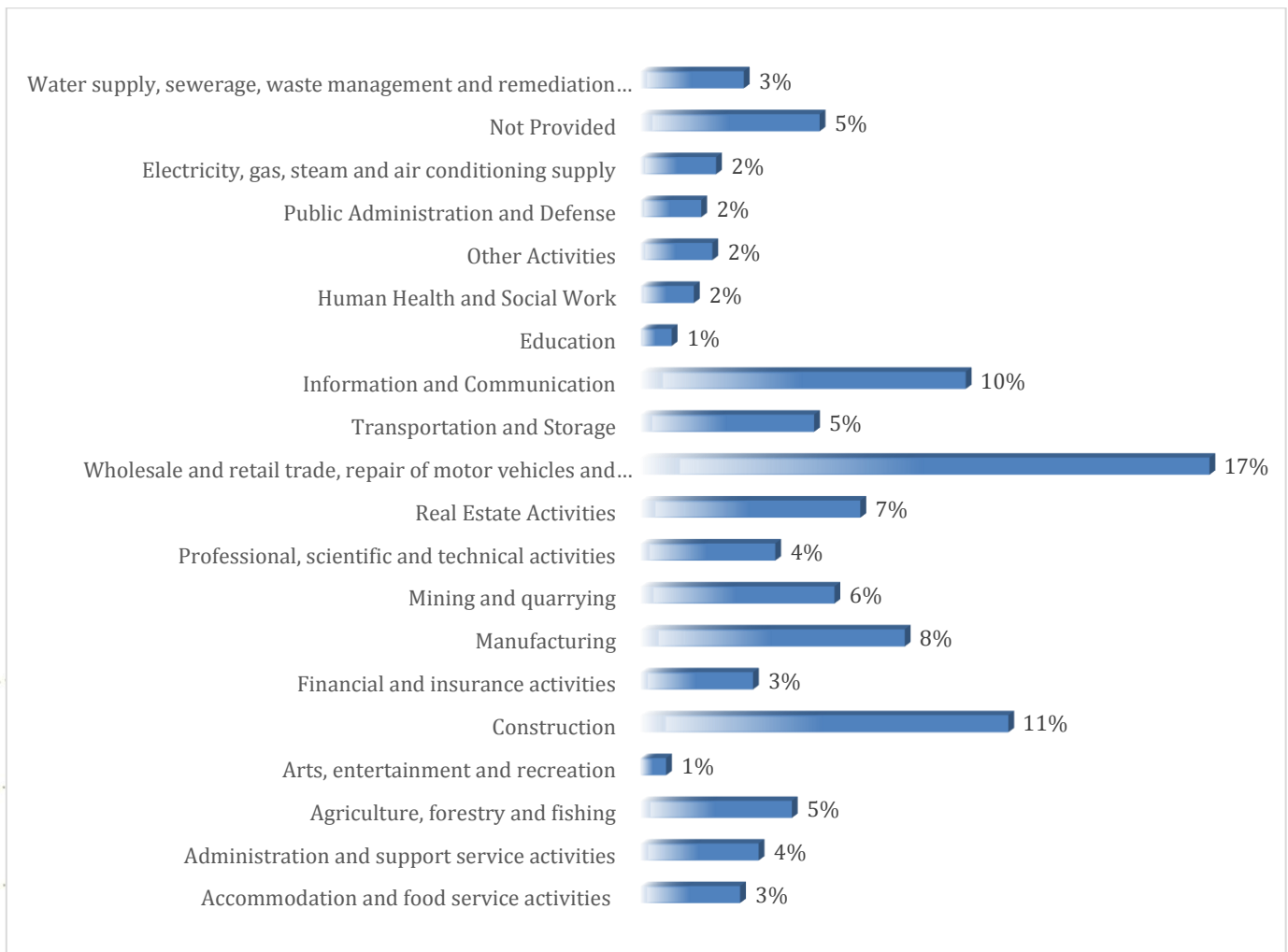
Industry	Total	2014-2015	2015-2016	2016-2017	2017 - 2018	2018-2019
Accommodation and food service activities	54	4	1	17	22	10
Administration and support service activities	64	18	26	13	6	1
Agriculture, forestry and fishing	82	6	24	25	16	11
Arts, entertainment and recreation	14	2	4	4	3	1
Construction	199	34	64	39	42	20
Financial and insurance activities	61	2	20	16	17	6
Manufacturing	143	0	43	35	41	24
Mining and quarrying	105	24	25	11	36	9
Professional, scientific and technical activities	73	0	26	18	23	6
Real Estate Activities	119	0	33	35	36	15
Wholesale and retail trade, repair of motor vehicles and motorcycle	308	28	114	84	60	22
Transportation and Storage	94	26	25	18	14	11
Information and Communication	176	146	13	8	5	4
Education	17	7	2	5	1	2
Human Health and Social Work	29	13	3	2	9	2
Other Activities	39	0	7	11	2	19
Public Administration and Defense	33	26	5	1	1	0
Electricity, gas, steam and air conditioning supply	41	21	6	2	2	10
Not Provided	97	0	36	33	23	5
Water supply, sewerage, waste management and remediation activities	56	45	4	2	4	1
Total	1804	402	481	379	363	179

Report



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***Notes:**

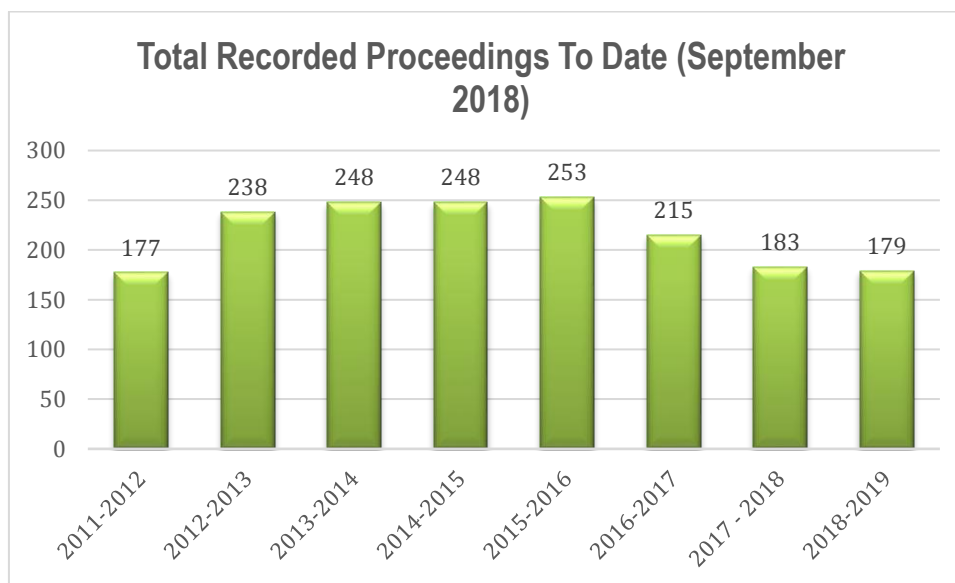
As from 1 August 2014 the primary industry within which the entity is conducting business is recorded. No information available on industry prior to such date.

9. Volume of Recorded Proceedings:

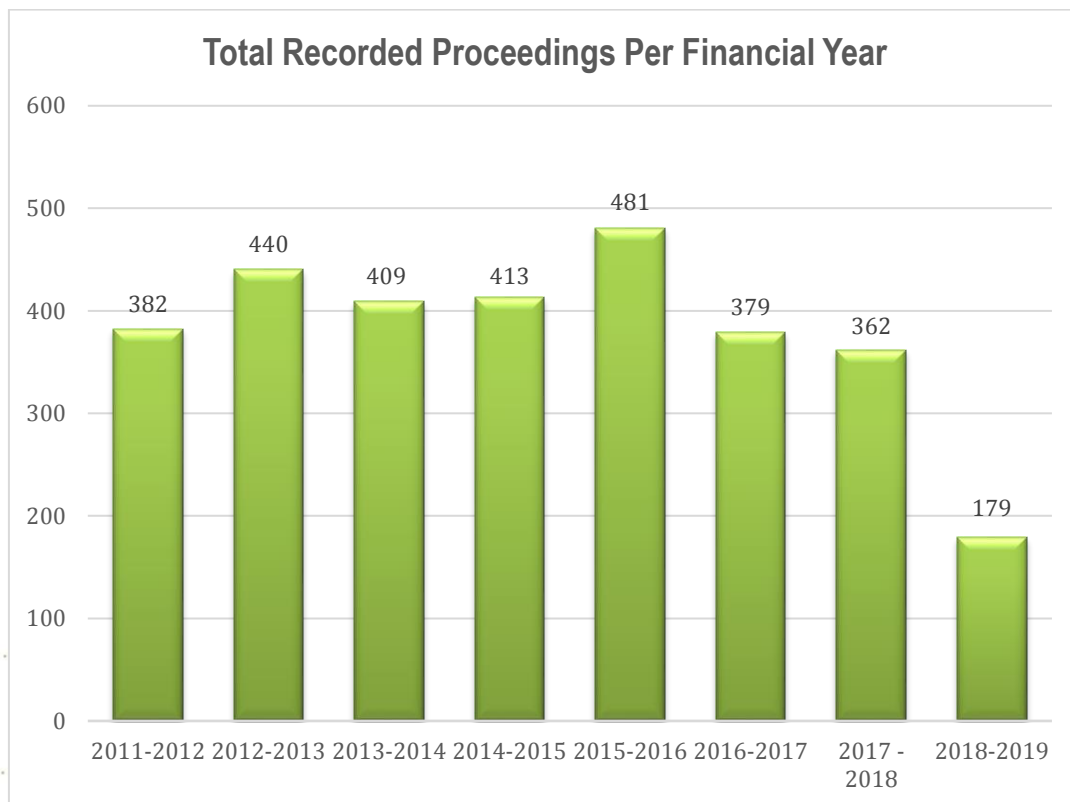
9.1. Volume of Recorded Proceedings per month:

The below graph reflects the volume of commenced business rescue proceedings from inception of business rescue up until 30 September 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	28
September	81	55	26	42	34	29	41	27
October	27	47	45	44	57	34	32	0
November	42	56	28	34	55	32	47	0
December	59	18	14	25	21	22	18	0
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



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



9.2. 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 for April 2018, 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 (2018-2019)	April	May	June	July	August	September
New Liquidations	124	206	167	167	169	149
New Business Rescue Proceedings	18	40	27	39	28	27
Total	142	246	194	206	197	176
Liquidations %	87%	84%	86%	81%	86%	85%

New Liquidations v New Business Rescue Proceedings (2017-2018)	April	May	June	July	August	September
New Liquidations	164	122	168	122	196	124
New Business Rescue Proceedings	16	27	43	23	33	41
Total	180	149	211	145	229	165
Liquidations %	91%	82%	80%	84%	86%	75%