

# Administration of Business Rescue: CIPC Perspective

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07 October 2014



Companies and Intellectual  
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# Role of CIPC in Business Rescue

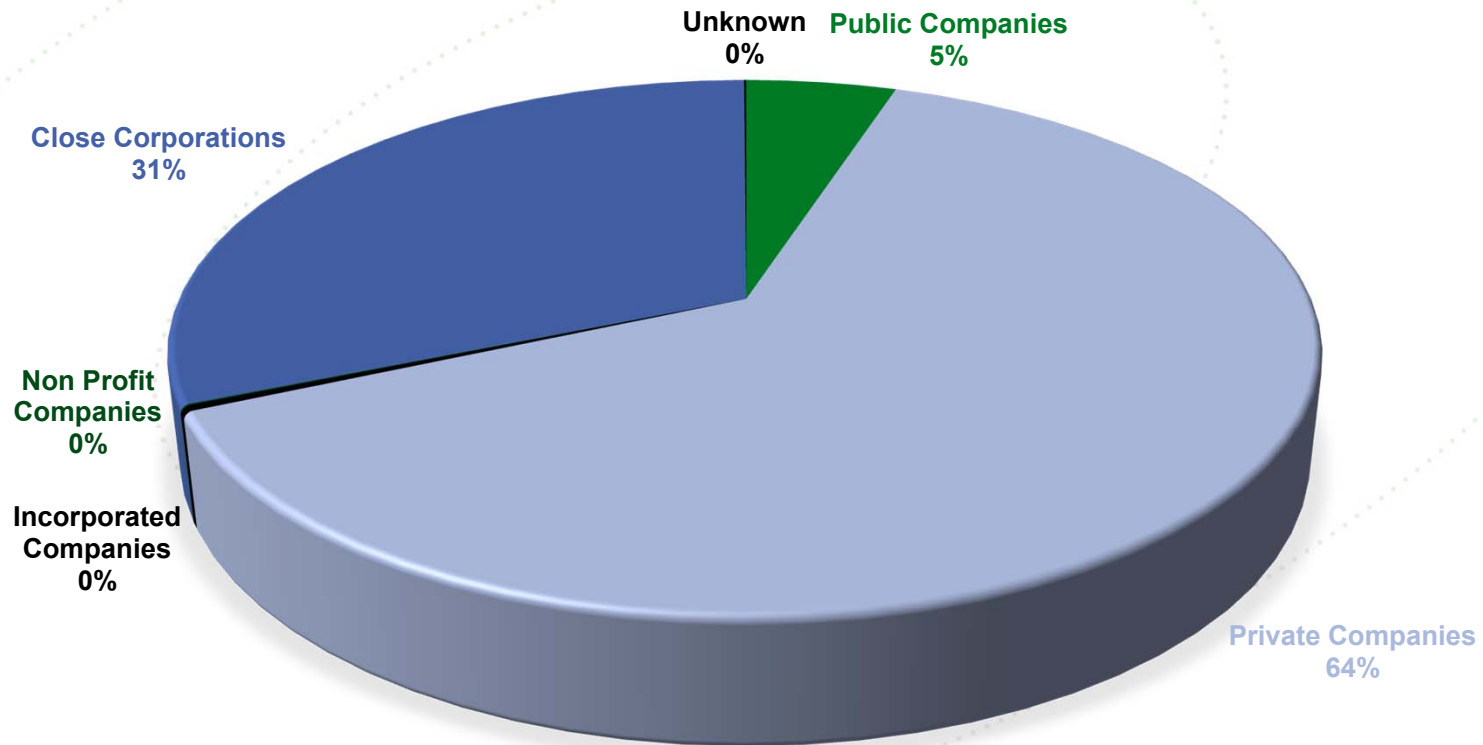
- Role of CIPC is limited to:
  - Status updating
  - Record keeper of documents submitted
  - Licensing practitioners
- No investigative / enforcement / mediation powers

# Statistics – Business Rescue Started

- In total 1490 proceedings started from inception of business rescue on 1 May 2011 to 30 September 2014 while a total of 494 matters ended.
- 74% - true status unknown
- 26% - active status (received status report in last 3 months)

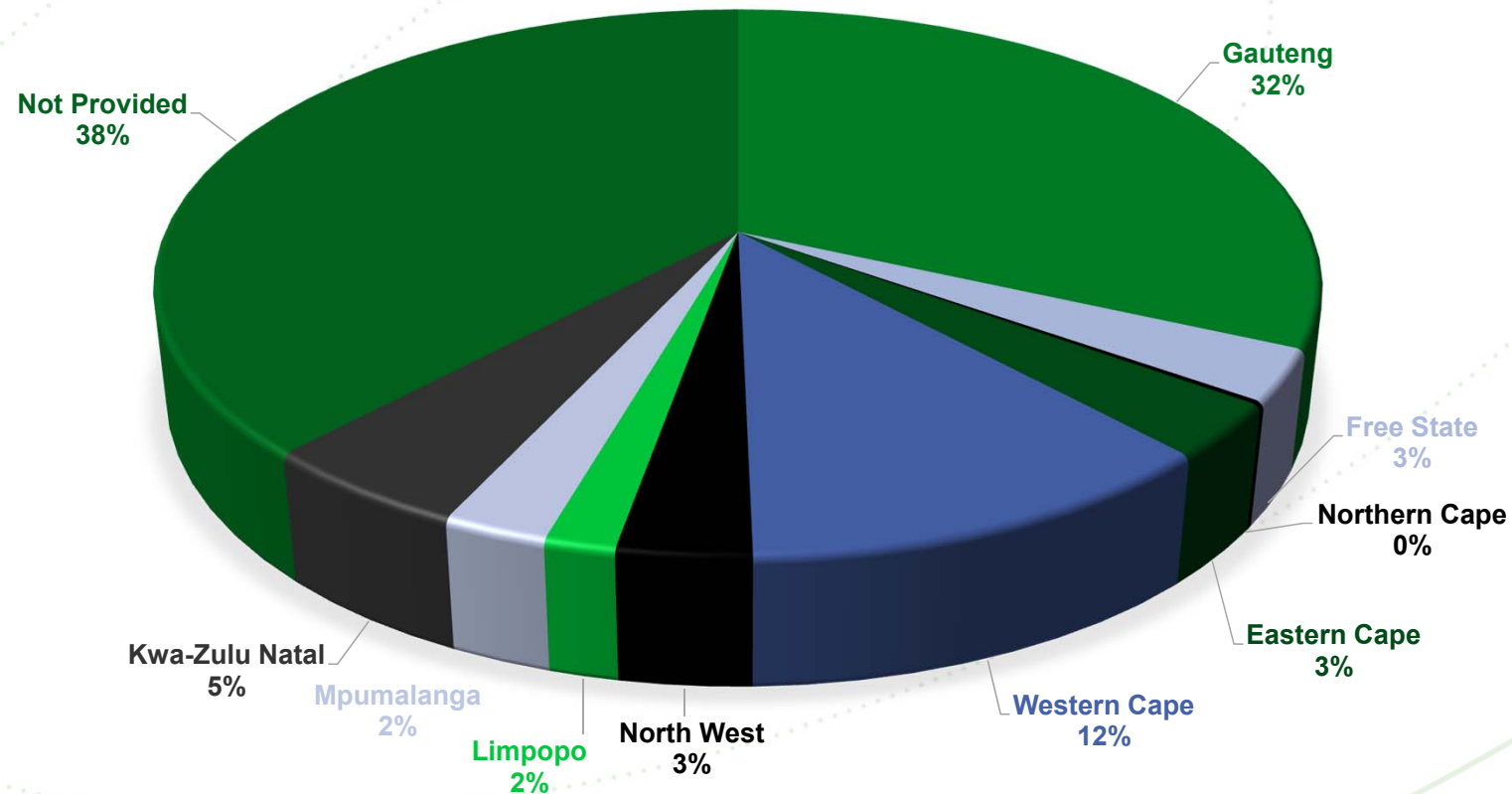
Operational BR Proceeding Applications	2011 - 2012	2012 - 2013	2013 - 2014	2014 - 2015	total
<b>Business Rescue Proceedings Started</b>	<b>418</b>	<b>447</b>	<b>410</b>	<b>215</b>	<b>1490</b>
<b>Nullities</b> (Proceedings started but was declared a nullity)	105	23	18	9	155
<b>Invalid filings</b>	25	21	21	33	100
<b>Business Rescue Proceedings Ended</b>	<b>148</b>	<b>194</b>	<b>139</b>	<b>13</b>	<b>494</b>
CoR125.2	54	78	50	4	186
CoR125.3	57	80	48	1	186
Liquidation	35	29	40	8	112
CO_Set Aside BR	2	7	1	0	10
<b>Active as at 30 September 2014</b>	<b>270</b>	<b>253</b>	<b>271</b>	<b>202</b>	<b>996</b>
<b>Active as at 31 August 2014</b>	<b>273</b>	<b>255</b>	<b>278</b>	<b>167</b>	<b>973</b>
<b>Active as at 31 July 2014</b>	<b>273</b>	<b>258</b>	<b>284</b>	<b>124</b>	<b>939</b>

# Statistics – Business Rescue per Entity Category

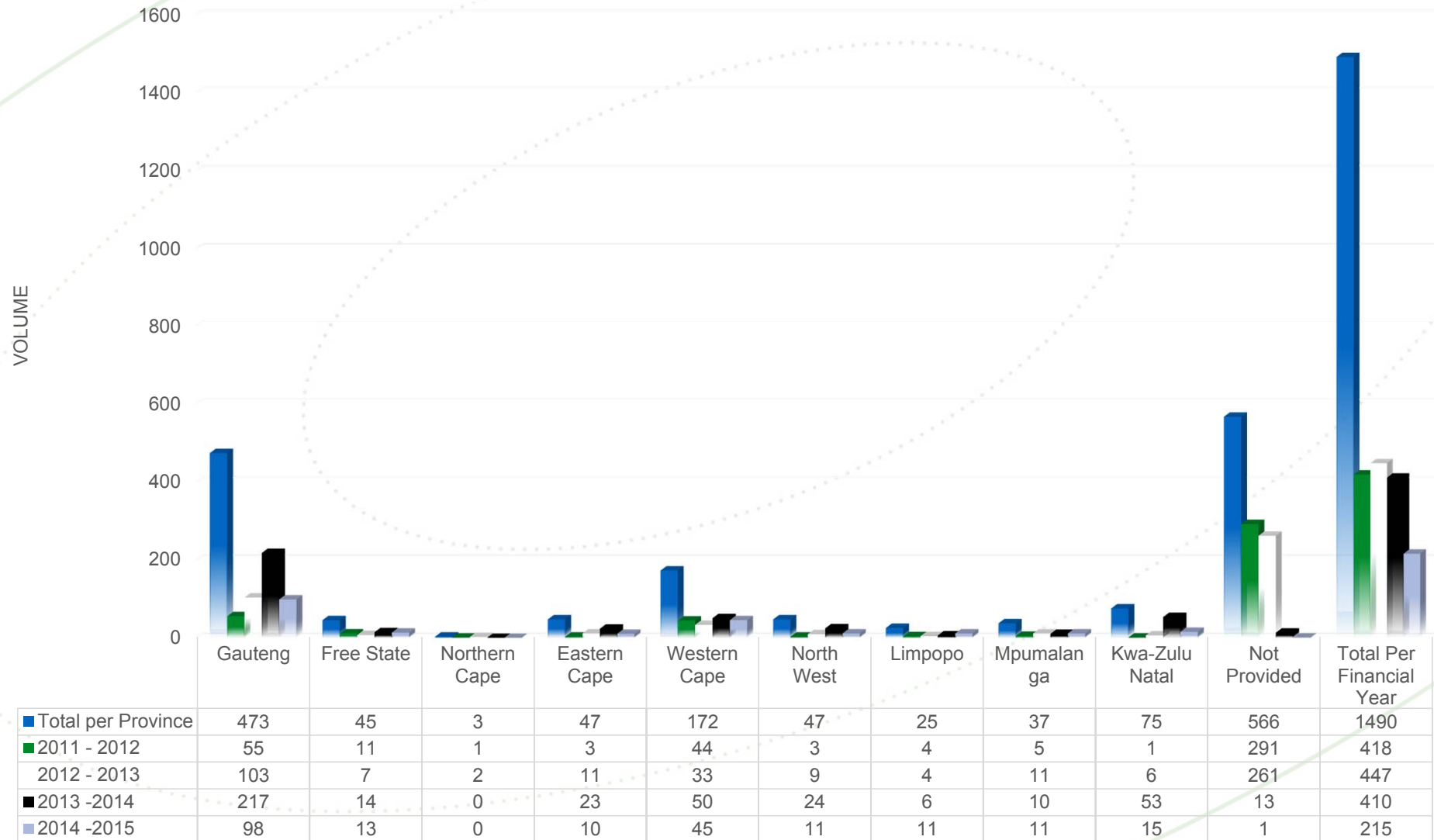


# Statistics - Business Rescue Started per Province

- Majority of proceedings in Gauteng then followed by Western Cape
- Province is not always confirmed with Notice to Start Business Rescue Proceedings

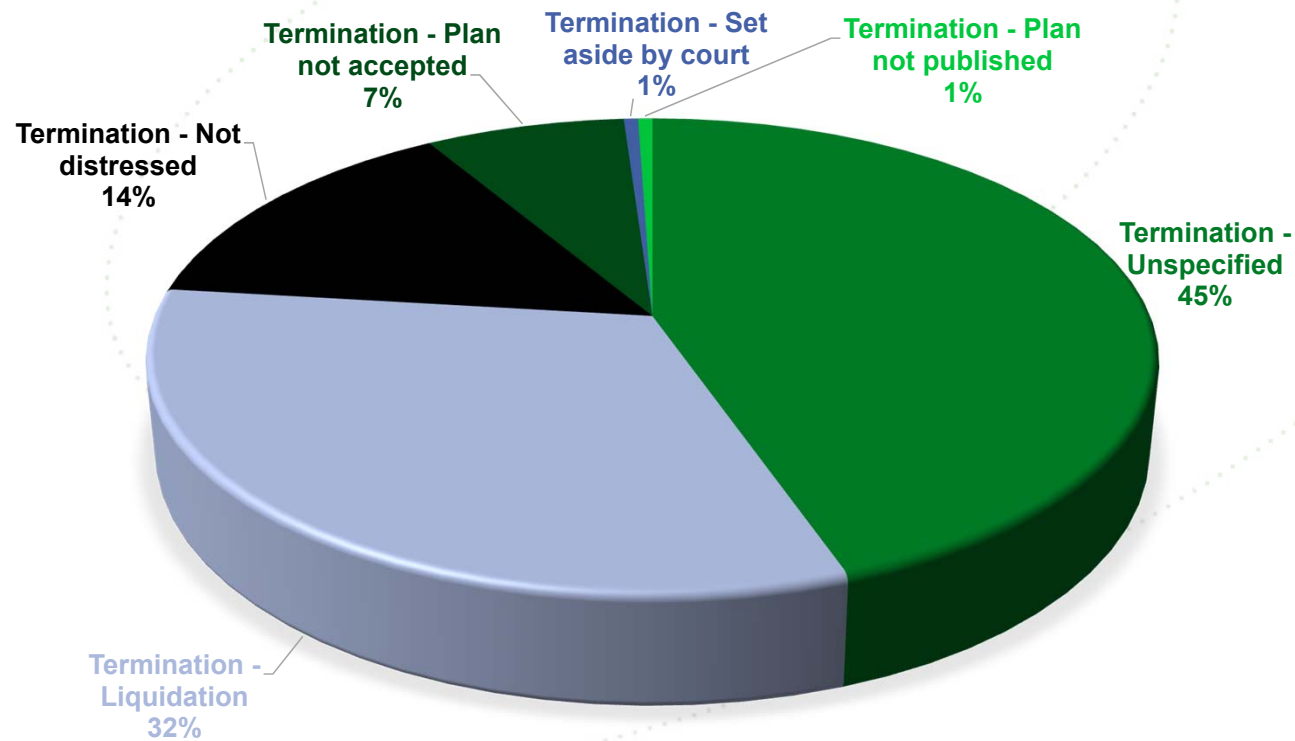


# Statistics - Business Rescue Started per Province (cont...)



# Statistics - Termination

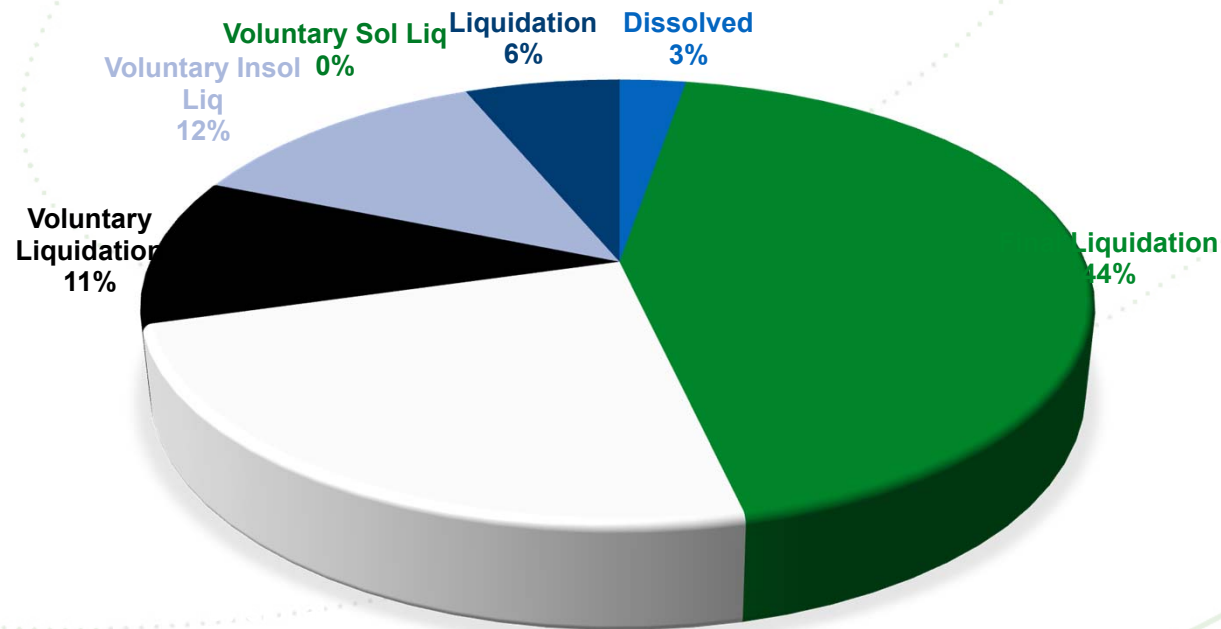
- Reason for termination is not always clearly stated
- Content of CoR125.2 limited
- Not all “*Termination – Liquidations*” results in liquidation





# Statistics - Liquidations

- Liquidation applications filed directly without terminating proceedings first.
- Liquidation and business rescue processes and registers not integrated at this point in time
  - No clear sequence of filing documents
  - Ideally, termination and then liquidation documents
  - Activation of business rescue status assists – need to be moved to in business before liquidation application can be processed

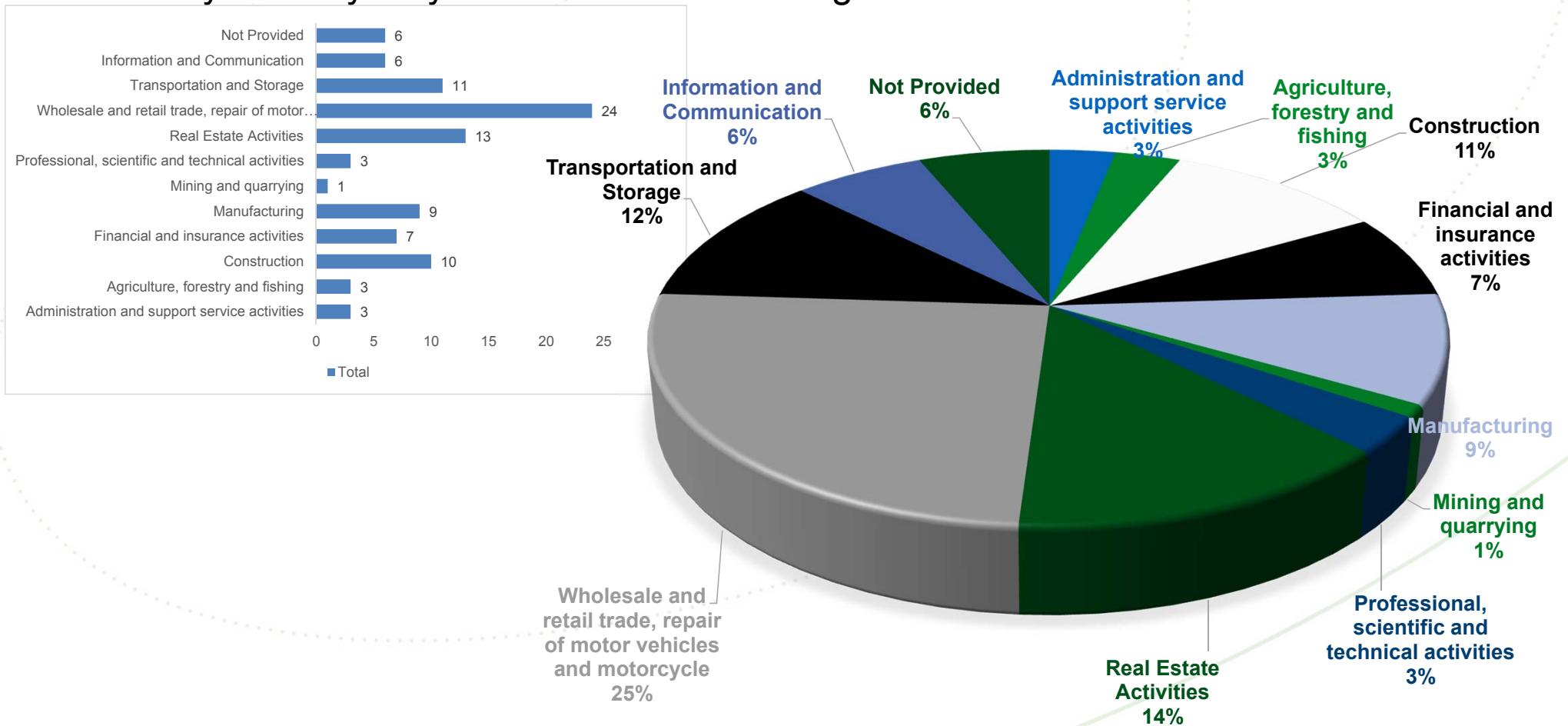


# Statistics – Liquidation Status after Termination / Substantial

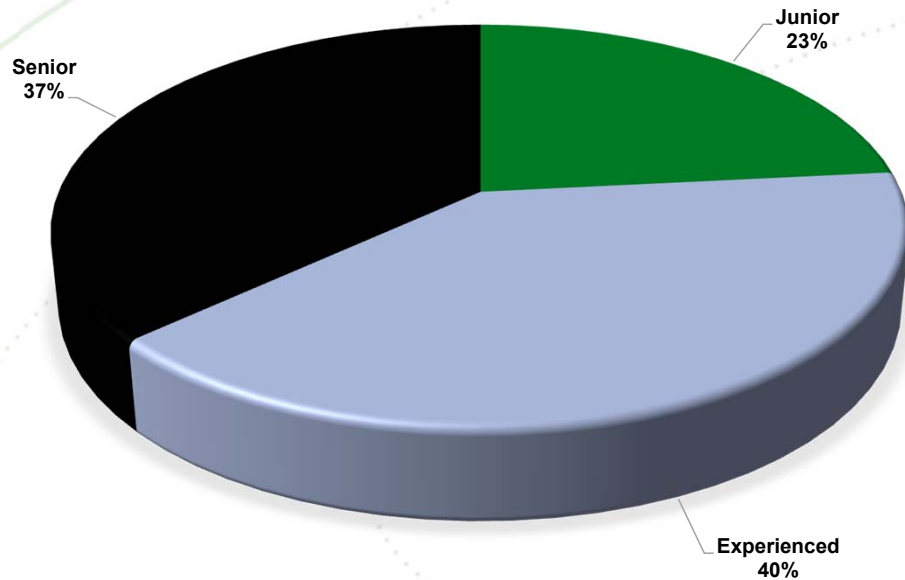
- Analysis done 26 September 2014
- 15% of terminations resulted in liquidation
- Status of the 186 terminations:-
  - 42 - AR Deregistration
  - 3 – AR Final Deregistration
  - 3 – Provisional Liquidation
  - 8 – Final Liquidation
  - 14 – Voluntary Liquidation
  - 3 – Dissolved
- 3.8% of substantial implementations resulted in liquidation
- Status of the 184 substantial implementations:-
  - 30 - AR Deregistration
  - 1 – AR Final Deregistration
  - 7 – Liquidation (combined total of voluntary liquidations, provisional liquidations, final liquidations and dissolved)

# Statistics - Business Rescue Started per Industry

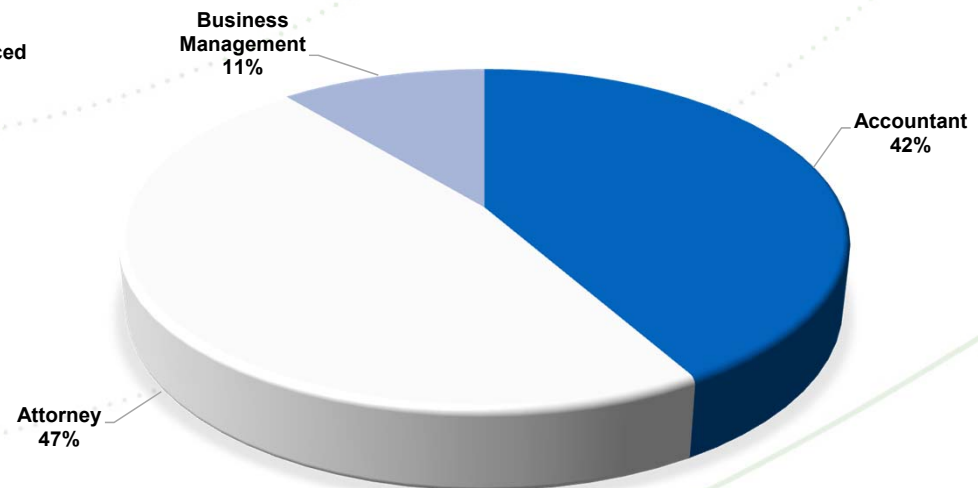
- Industry is not always stated on Notice to Start Business Rescue Proceedings and if description is provided such is aligned to the closest SIC code industry
- Use SIC code decoder of SARS to determine industry
- Primary industry only recorded as from 1 August 2014



# Statistics – Practitioners



201 licenced practitioners



# Administration Challenges

- Incomplete Notice to Start Business Rescue Proceedings
  - Legislative requirements and administrative requirements
  - Legislative requirements:
    - (i) CoR123.1 - 100% complete from customer code to confirmation of dates;
    - (ii) Resolution - must be signed by persons as per CIPC register
    - (iii) Affidavit / Sworn Statement – independently commissioned, contain sufficient detail to identify cause of the distress and how the entity belief it should be resolved
    - (iv) Status of entity does not allow for business rescue proceedings
  - Administrative requirements:
    - (i) PI Score and breakdown – must provide breakdown
    - (ii) Confirmation of primary industry
    - (iii) Confirmation of registered address
    - (iv) Confirmation of legal proceedings especially litigation proceedings
    - (v) Confirmation of independence of to be appointed practitioner
    - (vi) Confirmation of acceptance of appointment
- Cause / reason for termination not always provided
- Status reports not filed timeously – difficult to determine whether proceedings are on going or not

# Administration Challenges (cont...)

- Practitioners not always responsive to requests for updates
- PI Score not submitted with substantial implementation
- Unknown whether business rescue “saved” the business operations or whether provided better return than liquidation proceedings.
- Require additional information for better statistical information on proceedings and research
- Example: Changes in PI Score for 3 matters that PI score at start and PI Score at end:

PI Score at Beginning Business Rescue	PI Score at Substantial Implementation
250 (unknown employees)	36 (1 employee)
484 (40 employees)	408 (35 employees)
75 (35 employees)	2 (0 employees)

- Not able to provide “personal” service on business rescue – especially difficult for practitioners due to tight timelines
- No formal workflow system – all is done manually
- CIPC is not the custodian / administrator of business rescue – self regulatory process with the primary driver the practitioner

# Questions

