

Decline in company liquidations the result of new rescue laws

Company liquidations showed another sharp decline in September, falling by 28.5% year-on-year, after a 20.2% decrease in August, according to figures released by Statistics SA recently. The decline in both months was driven by a fall in voluntary liquidations, which decreased by 134 in September and by 110 in August. In contrast, compulsory liquidations were up in both months.

Adam Harris, director of the litigation department at corporate law firm Bowman Gilfillan, said this suggested that more companies are benefitting from the new business rescue laws that came into effect in South Africa in May last year under the Companies Act of 2008. "Business rescue aims at avoiding liquidations and job losses by providing businesses with protection against creditors who may want to file for liquidation. It is an opportunity to reorganise and restructure distressed but viable companies in order to avoid liquidation," explained Harris.

More companies seek protection

Statistics SA figures indicated that the number of liquidations decreased by 15.5% in the first nine months of 2012 compared with the first nine months of 2011. Liquidations between July and September this year were down by 29.3% compared with a year ago.

Harris said: "The fact that the decrease in the number of liquidations in August and September 2012 was due to voluntary liquidations is indicative that the business rescue procedure is taking hold in the economy and that there has been an increase in the number of companies seeking assistance. I understand that some 650 companies have filed for protection by means of business rescue."

According to Statistics SA, the largest year-on-year decreases in total liquidations in September 2012 related to businesses in financing, insurance, real estate and business services.

An alternative to liquidation

Applying for business rescue can provide companies with the opportunity to access interim liquidity to fund their operations while a rescue package is being formulated. "Business rescue offers an alternative to liquidation for financially distressed companies, allowing them to be stabilised and restructured. However, business rescue always depends on there being a source of funding, which means companies will also need buy-in from their banks and creditors for an application to be successful."

1time Holdings subsidiary 1time Airline recently applied for business rescue, while one of the first companies to undergo business rescue was Pinnacle Point Group. The latter failed, however, after Pinnacle Point's bankers declined to provide the necessary financial support.

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