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Volume 15, Issue 11
Home
Home
What is PMR.africa?
Access to Information Act
Past Issues
PMR.africa Events
Conferences/Seminars
Your Views
Advertise on PMR.africa
Research Reports
Subscribe to PMR.africa
Purchase Back Issues
Jobs @ PMR.africa
Business School Rankings
Corporate Care Awards
Test Drives:
The BMW X3
The BMW 6 Series
The BMW 6 Series Convertible
The Toyota Hino
The Maybach
The Vito 2004
The Ford Ranger 4.0
The Toyota Prado
The Lexus RX 300
Search:
Find!
Site search
Web search
PMR's Editorial

Company Turnaround

Turnaround and the timeline of financial distress – 3

Jan van der Walt, CEO, Corporate Renewal Partners

Past articles in this series described how a troubled company not eventually follows a timeline through four stages – management-led correction, informa workout, business rescue and liquidation.

Business Rescue

Business rescue is meant to allow an insolvent but potentially viable firm to creditors, continue in the economic stream, preserve jobs, create employmen

However, in SA a distressed company is inevitably liquidated once it has be The reason is that business rescue in terms of judicial management (Sections Companies Act) is ineffectual.

Government is concerned about the associated job losses. Both Departments Trade & Industry are preparing a new business rescue model for SA. Also, a committee of enquiry into the liquidation industry is investigating the nature maligned sector.

The Draft Rescue Act makes provision for concursus creditorum, moratoriu down, thereby overcoming the weaknesses of the informal creditor workout.

As a result, creditors and employees' positions will be frozen at the time a c under administration, preference of creditors' interests will be ring-fenced a cram-down provisions will bind dissenting minority creditors.

A business administrator will determine turnaround viability and conduct a t viable. Significantly, turnaround practitioners will, as business administrato operate within a turnaround-friendly formal insolvency process for the first t proposes that the business rescue industry be regulated through ABASA (As Business Administrators of South Africa), which was recently formed.

Unfortunately, although it produces better results than liquidation, overseas, has a relatively low success rate compared to informal creditor workout. The reason is that it is used as a measure of last resort. Why the delay? Being a c formal process, business rescue cost is high. The stigma of bankruptcy coul staff, suppliers, customers and equity investors. Unlike Chapter 11 in the US management in SA will lose control of the company to a court-appointed bu administrator, leading to expected resistance until the writing is on the wall.

philosophy:
"It is only by standing on the shoulders of giants that I have been able to see further."
Sir Isaac Newton, 1642–1727

Learning from the overseas experience, a number of key success factors for in South Africa can be identified.

Firstly, business rescue must be expedited. Business needs education about t effective reaction to early warning signals of distress. A stronger legal deterr trading under insolvent conditions will also be beneficial. One can also take USA, where 'free-fall' business rescue (action only starts once formal insolv have kicked) is more and more often replaced by 'pre-packaged' business re achieves the lower cost of informal creditor workout, while achieving the leg of business rescue. First devising a turnaround plan, and then invoking busin achieves this.

Secondly, industry associations should play a major role. ABASA regulating rescue industry has already been mentioned. The Turnaround Management (is being formed to promote the turnaround industry, and for purposes of info exchange, networking, education and raising the standards of turnaround acr informal and formal sectors.

Thirdly, turnaround practitioners need to be educated and certified. Initiative under way in this regard.

A major challenge is the need for a strong turnaround private equity industry overcome the constraint of turnaround finance. A R2bn government turnarou possibility too.

Lastly, during business rescue, distressed companies should be turned aroun merely restructured financially or sold, since the latter approach does not ne the fundamental causes of distress.

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