

# Business Rescue

**Considerations before  
Accepting an Appointment**

# Introduction



**MATUSON**  
ASSOCIATES



# Timing is Everything



- Very **little known** about the company
- **No time** to conduct a **Pre-assessment**
- Critical for success is the **availability of Post-Commencement Finance**

# Post-Commencement Finance

- Required to **run the business** while the Practitioner formulates, publishes and executes on the Business Rescue Plan.
  - The Practitioner will need to use the Post-Commencement Finance (“PCF”) **to fund**:
    - Operational **cash burn**
    - Unintended **consequences** of Business Rescue
    - Possible **retrenchments**
  - **Limited market** in South Africa for PCF
  - **Various sources** of PCF
  - **Critical** to the **success** of any Business Rescue

# Timing is Everything – Take 2



- A **Pre-assessment** could significantly impact the **success** of a Business Rescue.
- **Review** of the company's **financial position** and investigation into the company's **restructuring options**:
  - Informal Restructure
  - Business Rescue
  - Liquidation

# Informal Restructure

- **Advantages**

- Maintains perceived **market value** and goodwill
- Continuing to trade in the **ordinary course** of business
- Retention of **key staff**

- **Challenges**

- No formal **legal moratorium**
- No **compromising** of creditor **claims**
- No **suspending** of **contracts**
- Inability to **cherry pick** viable parts of the business

# Objective of Business Rescue

- Development and implementation of a Business Rescue Plan that:
  - maximises the likelihood of the company continuing its existence on a **solvent basis** (“**Part A**”)
- OR
- results in a **better return** for the company’s creditors and shareholders than would result in the immediate liquidation of the company (“**Part B**”)



# Critical Success Factors

- **Business continuity** (Critical creditors)
- Retention of **key staff**
- Post-Commencement **Funding**
- **Support** from Stakeholders
- Strong **management team**



# Unintended Consequences

- Change in **supplier terms** (COD and blackmail creditors)
- Negative **publicity**
- **Litigious** environment
- Impact on **entities within the Group** (breaches)

# Voting Landscape

- **Get familiar** with the voting landscape
- Require the support of **75% of the creditors** that voted
- At least **50%** of such creditors must be **independent**

# Conclusion

- **Pre-assessment** is essential
  - **Timing** is important
    - **Poor track record** of successful Business Rescues

# Thank you