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**Effectiveness of Business Rescue Procedures in Zambia: A Case of the Development Bank
of Zambia**

By

Chanda Bernadette Mutati

Greenwich University Student ID: 001138708

ZCAS University Student ID: 202001314

**Research in Partial Fulfilment for the Award of Masters Degree of Business
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Dedication

This paper is dedicated to my husband Fredrick Chiluba Mwila and our son Benjamin Yoram Mwila who have been my source of inspiration.

Declaration

I declare that this research has been undertaken in my own independent capacity and it had not been tendered in to any university for assessment and conferment of any degree. I wish to further declare that any information borrowed from any scholarly work either electronically or in any paper form has been duly acknowledge through relevant in text citation and referenced accordingly.

Student details

Student No:.....

Signature:.....

Date:.....

Supervisor details

Signature:.....

Date:.....

Acknowledgement

I wish to acknowledge the tireless guidance of my supervisor, Dr Kawimbe who I must attest, came to ZCAS University at a time I needed one like him. I wish to confess that what I perceived to be a hurdle was made easier by him and I am confident that I have learnt quite a lot from him. I also wish to also acknowledge my parents who have supported me financially during the course of my studies. I wish to thank my parents for their unwavering support as the course was in progress and I could have not made it this far without their support.

Abstract

The study sought to evaluate the effectiveness of business rescue procedures in Zambia with reference to the viewpoints at Development Bank of Zambia using a mixed method design and obtaining questionnaire responses from a sample of twenty five (25) respondents and analysed the findings using the statistical package for social sciences which was used to draw charts for easy interpretations. The objective of the research was to evaluate the practical application of business rescue in Zambia using the case organisation.

The study revealed and concludes that the available business rescue procedures that exist in Zambia are effective and includes restructuring, selling and/or integrating the company into another viable entity and strategies that positively address the concern of the various stakeholders. Further, business rescue is a better option that is effective than straight liquidation and the effectiveness of business rescue procedures is to the extent that it guarantees the interests of the various stakeholders who include the employees, shareholders, creditors and other capital providers owing to the fact that when the entity continues in operation for the foreseeable future, more returns and/or profitability will be generated through the alteration of the operational strategy to address the gaps that are currently affecting the entity to result in it being a financially distressed and thus making it difficult to be managed properly. This is opposed to straight liquidation which natively impacts the various stakeholders in terms of job security prospects and desirable returns in comparison to the capital provided to the company especially that the entity exists as a separate legal entity from the owners in which only the company can sue and be sued in its own right which is significantly not a better option.

Key words: Business rescue, effectiveness, creditors, Zambia,

CHAPTER ONE: INTRODUCTION

1.1 Background

Business Rescue refers to the means by which rescue proceedings are taken as steps to resuscitate businesses faced with financial distress as a means of providing them with a substitute to liquidation (Naidoo, Patel and Padia, 2018). In others words, it is the procedures implemented to restore an ailing business entity to a profitable position to hinder or prevent liquidation. The phenomenon is believed to have been in existence for the past decade with challenging achievement levels (Ismail, 2020). According to Kaulungombe (2012), a company constitutes an important component of the society in which it conducts business activities and thus impacts that very society and the economy at large.

As a result, the operational failure of that business entity not only impacts the community in which it operates but effectively also affects the various stakeholders such as the shareholders who are the owners of the business, the customers, the suppliers, employees among others. It is an argued truth by many scholars that as a means of preserving the commercial enterprises that make significant contributions to the economic wellbeing of the nation, legislative frameworks and other business strategies ought to exist or be developed as a rehabilitation measure for such companies. This has fortunately been accepted in several developed and developing states through the enactment of legislation bordering on business rescue as a means of supplementing current insolvency rescue procedures such as receiverships and the scheme of arrangements.

Historically from a global perspective, there has been ambiguity as to what business rescue is and its origins but from an empirical world view during the middle age, penalties and stigmatisation was an acceptable tradition for entrepreneurs who failed to meet contractual promises which overtime were relaxed with more lenient penalties being meted out which among others included forfeitures of civil and/or political rights of the offenders (Verdoes and Verweij, 2020). This compelled the Court's acknowledgement of the fact that debt enforcement was to be directed towards the assets of the defaulter. Business rescue was also demonstrable in the middle age through lending and credit as a driver of insolvency regime which included a sphere of entities including limited liability with regard to failure to liquidate as a common trend that led to business failure.

Legally, from a Zambian view point, business rescue falls within the ambit of the Zambian Insolvency Act No. 9 of 2017 which has traditionally been embedded in the Companies Act No. 10 of 2017 of the laws of Zambia operationalized through Statutory Instrument No. 47 of 2018 and Statutory Orders Nos. 40 and 41 of 2019 whose enactment has resulted in the recognition of business rescue as opposed to the traditional recovery approach whose primary objectives are to make the Zambian jurisdictional law regarding insolvency compatible with international best practices, fostering of transparency and accountability in the management of insolvency proceedings and to also permit operationalization of mechanisms for salvaging financially from distressed but viable business entities (Pwc, 2020).

1.2 Statement of the Problem

From Mendelow's stakeholder Theory and/or matrix, dissimilar stakeholders such as shareholders, employees, creditors, tax authorities and customers inter alia have a diversity of interest in the company with the sole objective of expecting the company to remain in operational existence for the foreseeable future (Trahms *et al.*, 2013 and Freeman, 2010). However, there are concerns as to whether the available business strategies and legislative framework to keep a company in financial distress afloat are adequate with regard to effective applicability in Zambia.

Arising from this uncertainty, the problem has been that of ambiguity in ascertaining the availability of adequate business rescue procedures and workable legislative framework to apply in the Zambian Business jurisdiction due to paucity of scholarly research evidence regarding the practical application of business rescue in many contexts including Zambia as revealed by the research conducted by Whetton (1980) who highlighted the insufficiency of studies on the subject of business rescue thereby emphasising the need for more empirical research to mitigate the inevitable challenges of dealing with financially distressed companies through the acknowledgement of a corporate rescue culture at pre-insolvency stage (Katrinou and Jacobs, 2017).

Further, Development Bank of Zambia has not been certain on whether there are sufficient business rescue procedures and the sufficiency and efficiency of their applicability (DBZ, 2018). The bank has been involved in the processes of business rescue when it comes to financing and the experience revealed inadequacy in terms avenues for rescuing erring companies as alternatives to the liquidation avenue.

It is against this background that this research sought to evaluate the practical application of business rescue phenomenon in Zambia.

1.3 Research questions

The following questions aided in evaluating the adequacy and effectiveness of business rescue procedures in Zambia:

- i. What is the effectiveness of business rescue procedure in Zambia?
- ii. To what extent have business rescue strategies and procedures available in Zambia been effectively applied?
- iii. What mitigating measures should be implemented to promote effective application of business rescue procedures in Zambia?

1.4 Research Objectives

In operationalizing the research under consideration, the research sought to address the following general and specific research objectives:

1.4.1 General objective

To evaluate the practical application of business rescue in Zambia with reference to viewpoints from the Development Bank of Zambia

1.4.2 Specific objectives

- i. To ascertain the effectiveness of business rescue procedures in Zambia.
- ii. To establish the extent to which business rescue strategies and procedures available in Zambia are effectively applied.
- iii. To assess the mitigating measures that should be implemented to promote effective application of business rescue in Zambia.

1.5 Significance of Research

This dissertation highlighted the adequacy of business rescue procedures, the extent of their effective application and recommendations for improvements in light of paucity in evidential scholarly work from a Zambian context. Specifically, the research findings were targeted at business entities and companies operating in the Zambian business environment whose risk of insolvency are inevitable and/or unavoidable due to the competitiveness of the business environment in which they operate. Further, the research made significant contributions to the

academic body of knowledge with regard to the application of business rescue not only within the Zambian context but also in other contexts due to the exploratory nature of the study.

1.6 Scope and Limitation of the research

The research was limited to the evaluation of business rescue procedures, their adequacy and efficiency in the quest to help ailing companies to financial recovery as opposed to straight liquidation. The findings were in turn generalised to Development Bank of Zambia (DBZ) but may be applied to other settings due to the exploratory nature of the research. Further, due to limitations in time and deadlines as well as the restrictions imposed by relevant authorities in light of the COVID 19 pandemic, the sample size was limited to twenty five (25) respondents out of the total workforce of fifty five (55) staff at DBZ.

1.8 Organisation of the dissertation

The paper was structured around five chapters covering the introduction, literature review, research methodology, findings and analysis chapter and the conclusion and recommendations chapter. Chapter one discussed the introductory aspects of the paper, highlighting the historical perspectives of the topic, statement of the problem, research questions, objectives, importance of the research and the structure. Chapter two critically reviewed a diversity of literature sources in addressing the concept of business rescue, the conceptual and theoretical frameworks underpinning this research and identification of the research gap. Chapter three discussed the methods that were applied in collecting data for this research and the analytical tools thereof. It also discuss the research design and paradigm, the strategy and the ethical considerations to be observed in this research. Chapter four evaluated the findings from the data collected and analysed using the Statistical Package for Social Sciences (SPSS) in light of the literature reviewed and formed the basis of the conclusion and recommendation section. Chapter five highlighted the summary of research findings, addressed the research objectives sought by the research, provision of relevant policy recommendations and propositions of future research undertaking.

1.9 Chapter summary

The chapter highlighted the introductory aspects of the research by bringing out the background to the study, the research question, objectives, importance, scope and limitations and the organisation of the paper in evaluating the application of business rescue in Zambia. This chapter

of the research provided the basis of the critical review of the literature which follows in the next chapter.

CHAPTER TWO: REVIEW OF LITERATURE

2.1 Introduction

Following the introduction of chapter one in which the research sought to evaluate the practical application of business rescue in Zambia, this critically reviewed a variety of literature and other sources to evaluate prior research, findings and methodologies as well as the conceptual and theoretical frameworks used by other scholars in relation to the current research without necessarily reinventing the wheel or replicating research that has been conducted by prior scholars regarding the topic and identification of the gaps in the literature.

2.2 Theoretical Framework

Theoretically, the research employed the creditor's bargain theory which was postulated by Casey (2019). The author in this theory argued that insolvency ought to be restricted to strategies for managing coordination challenges instigated by a myriad of problems from creditors and that the two recognised challenges encountered are that of illiquidity or debt overhand and adversity in selection of creditors which thus justify their use in managing bankruptcy.

The relevance of the theory stemmed from its ability to demonstrate financial concept and efficiency dynamics and that post legal interventions tend to be priced overly thereby affecting bargaining which if an erring company is liquidated as opposed to being rescued using available means may actually make the creditors worse off and as such creditors of the company are always for the idea of implementing strategies that will not put the company into straight liquidation but what will secure their returns and for the best interest of the company as a going concern as there is mostly the fear of losing the investment in case of no adequate salvage value to liquidate their dues.

2.3 Concept of Business Rescue and its Applicability

Business rescue is a means of taking steps to resuscitate a company that is experiencing financial distress a concept based on the premise that a company will be unable to continue in operations on a going concern basis or to remain solvent for the feasible future (Rajaram, Singh and Sewpersadh, 2018). The essence of putting a company under business rescue is to help it in terms of restructuring certain aspects of the business with the overall consequence of having a company that is rehabilitated in a way that it will be able to assure the creditors of the ability and/or capacity

to a better return as opposed to straight liquidation (Barnett, 2009). It is thus regarded as the last line of defence before a firm can opt for a complete liquidation.

Empirically, Scholars have made countless attempts to construct dissimilar models and/or theories in explaining the reason behind the business rescue concept of a going concern (Rajaram, Singh and Sewpersadh, 2018). From these attempts, a safe definition of a firm has been viewed as an economic entity that exists as a consequence of fundamental market forces (Spulber, 2009) and a point of synchronisation for transactions between the various groups and individual interests (Fleming, Heaney and McCosker 2005). Jensen and Meckling (1976) associated the company to a 'black box', operationalized through the adherence to prevailing market conditions of resource input and outputs in maximising shareholder wealth (Correia *et al.*, 2011).

With regard to applicability, this was evident in Zambia's Ndola where two (02) previous employees of Ndola Lime Company initiated business rescue proceeding in 2019 against the company which resulted in the appointment of the interim business rescue administrator to superintend over the affairs of the company which consequently permitted ZCCM Investment Holding to commence the restructuring process of the company by looking at the core assets of the entity with a view of ring fencing them for possible salvage and transfer to Limestone Resources Limited (Founder, 2020).

2.3 Benefits and Limitations of Business Rescue

Business rescue being a regulated process of resuscitating businesses that are in financial distress has become a popular practice in comparison to liquidation due to recognition of its processes and means of helping an ailing company experiencing financial distress over the years in most jurisdictions (Barnett, 2009). This involves a comprehensive analysis of the entity's state of finances, its affairs, liabilities, assets and operations and essentially puts the corporate entity under the administration or supervision of experienced and qualified person seeking to revitalise the state of operational sustainability of meeting its trade and settling of liabilities as they fall due with minimal fuss.

However, the practice has its own benefits and shortcomings. Among the shortcomings that such a company will be faced with include the reputation in terms of publicity and perception from financial service players particularly the banks or lenders in a way that suspends the borrowing

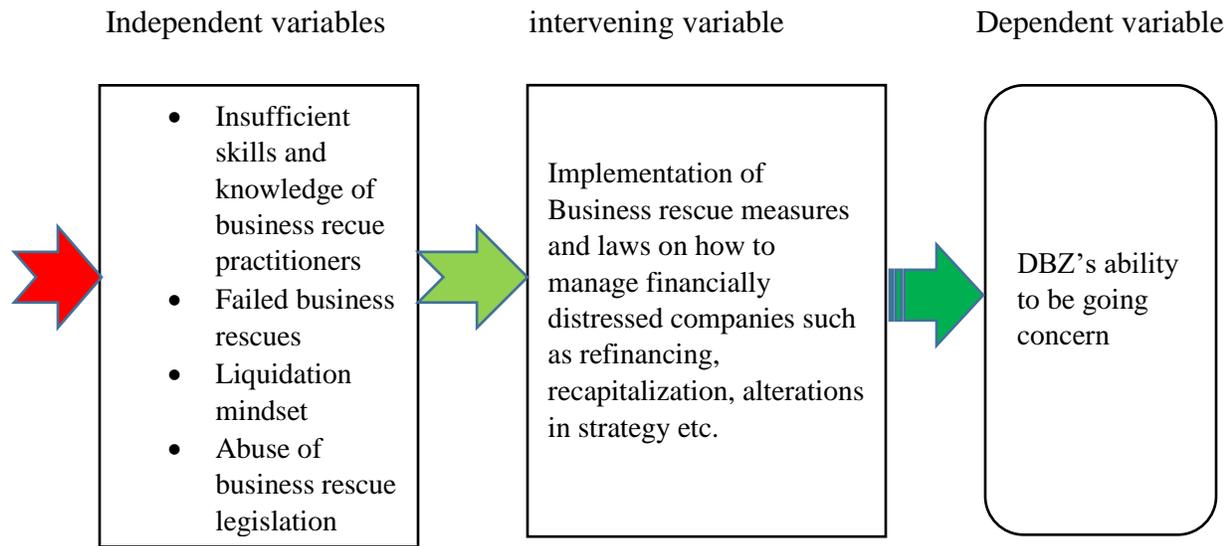
facilities or complete refusal of post-commencement finance. The tradition has been that liquidation is an acceptable recourse for a business entity that is unable to secure post-commencement for the day to day activities or working capital (Veldhuizen, 2021).

On the contrary, the process has also its own benefits including the fact that it acts as an opportunity in terms of breathing space for an ailing company that prevents creditors from implementing legal proceedings that may culminate into the liquidation of the company through consent from the business rescue practitioner. This action is also possible in situations where the process of liquidation has reached an advanced stage to be remedied through the creditor's assurance of a better trade off or return for the creditors rather than the liquidation route which could be operationalized through the sale of assets or through ordinary wind down of operations (Maphiri, 2018).

2.4 Conceptual Framework

Conceptually, due to the insufficient skills and knowledge, the business rescue practitioners have been perceived to have been occupied by a liquidation mind-set that does not seem to have the survival of the corporate entities at heart and as a result in most cases there has been failure in managing an erring entities for them to be sustainable and going concern. Further, there appears to be significant abuse of existing legislation as regard to management of companies in financial distress as most companies end up in complete liquidation as opposed to a rescue which has serious ramifications that affect not only the company but various stakeholders such as employees, shareholders, creditors and the economy at large. Hence there is need to implement of Business rescue measures and laws on how to manage financially distressed companies such as refinancing, recapitalization, alterations in strategy among others for the company to be in operational capacity for the foreseeable future as opposed to opting for straight liquidation.

Figure 1: Conceptual framework



Source: Author's construction, 2021

2.5 Review of related studies

In appreciating prior research understanding and how this research fits into those aspects and how this research contributed to the existing body of knowledge on the practical application of business rescue, this section critically reviewed prior research literature and identifying the gaps for the purpose of this research.

2.5.1 Appropriateness of business rescue procedures

In research conducted by Maphiri (2018) regarding the appropriateness of business rescue procedures in South Africa's re-organisation of small and medium enterprises revealed that in spite of the local laws having made attempts to match international trends helping erring companies using modern forms of corporate rescue similar to that of the Anglo-American countries, it has not been able to provide the country with corporate rescue system correlating with the needs and development of the companies in South Africa which implies that the existing business rescue methods and/or process has inherent teething challenges that make it cumbersome to be employed by small and medium enterprises.

2.5.2 Operational effectiveness of business rescue procedures

According to studies carried out by Conradie and Lamprecht (2015) on the evaluation of the operational effectiveness of business rescue procedures at company level, a similar structure of business rescue procedures between the African and international business rescue standard with

indicators such as the going concern status on current business rescue and whether the return to creditors was maximised as opposed to liquidation. Revelations from the research further revealed that the prospect of a going concern may be a myopic success or short term indicator which ought to be investigated further.

This is contrasted with the arguments proposed by Olusola (2021) in his studies regarding insolvency and recovery legislation in Nigeria which revealed flawed insolvency laws particularly for oil firms, their improvements and rearrangements which was pointing to the fact that nations and companies are not affected to a similar extent when it comes to bankruptcy and insolvency and thus the operational efficiency of business rescue procedures casts a lot of doubts in some entities but are equally effective in other set ups.

2.5.3 Role of stakeholders in business rescue

Research by Dumisani and Fairhurst (2020) who investigated the role of stakeholders in business rescue revealed that stakeholders with key interest are affected to an undisputable extent but the most affected are the creditors who are regarded as the most impacted parties attributed to their ability to vote as to the way forward on the business rescue plan accompanied by post-commencement funders and employees to foster business continuity. The customers were also allocated the same level of significance by the business rescue practitioners as other affected parties. Further due to the ever changing nature of business rescue, practitioners have tended to prioritise resourceful interested parties when managing the process. The implication was that the business rescue practitioners ought to take into consideration the stakeholder influences at the various stages of the business rescue process. According to Phillip (2020) in his research on the evaluation of whether business rescue efficiently stands as an efficient rescue and recovery method for financially distressed entities in a manner that strikes a balance of the rights and interests of all relevant stakeholders revealed that an efficient and well-functioning business rescue procedures is one tailored to have advantages for both the country and the economy especially with regard to the company, its shareholders, creditors and employees to preserve the business together with the experience and skill of its employees.

2.5.4 Effectiveness and Sustainability of suitable business rescue mechanisms

Studies by Rajaram, Singh and Sewpersadh (2018) investigating the effectiveness and sustainable suitability of business rescue as a mechanism to rehabilitate financially distressed companies,

found that the root causes of business rescue turbulences are mainly due to deficit in skill level and abuse in the existing legislation coupled with the negative effect of selecting the liquidator to aid in business rescue. The research also found that there are other factors that contribute to failure of businesses has been attributed to resistance in filing for business rescue and knowledge regarding distressed status of these companies. Further, the research provided insights in terms of ranking order for business rescue success factors with accreditation of a business rescue practitioner being ranked as first.

Further, research conducted by Nkoane (2021) regarding the efficiency of changes to creditors' contractual arrangements revealed that a prospective creditor would not be willing to perform adequately on contracts whose terms are changes if there is no assurance of receiving adequate compensation. The research further highlighted that a business rescue plan must be made in a way that ensures that the creditors are not disadvantaged to an extent of not receiving anything as their only recourse would then be the liquidation of the company.

2.6 Gaps in the literature

The research found gaps in research with regard to studies on availability, suitability and effectiveness of the available business rescue procedures in Zambia as not much research either related to this research or directly linked to this research within the business context has been carried out hence necessitating this research undertaking. Further, it appears that not so many instances have corporate entities fell prey to this trap of being threatened into liquidation and as such most business entities do not feel the need to have an appreciation of this phenomenon and how it can help them deal with insolvency issue and how they can apply different business rescue plan as opposed to liquidation.

2.7 Chapter summary

The chapter critically evaluated the various literature sources to establish the practical application of the business rescue procedures in Zambia highlighting the conceptual and theoretical framework and identifying the gaps in the literature.

CHAPTER THREE: RESEARCH METHODOLOGY

3.1 Introduction

Having critically reviewed the literature from dissimilar sources, this chapter discussed the methodological techniques used in designing the research, instruments for gathering of data and analysis thereof, the sampling methods and sample size, research approach, the paradigm in terms of the philosophical view or lens relevant to the research, the research strategy and its justifications, the reliability and validity issues, generalisation of research findings as well as the ethical considerations employed in dealing with human respondents.

3.2 Research Design and Paradigm

The research was a mixed method in that it consisted of some qualitative and quantitative aspects attributed to the exploratory nature of the research and the drawing of charts using Statistical Package For Social Sciences (SPSS) for easy of interpretation descriptively. In terms of paradigm, the research adopted the interpretivism paradigm which is a multi-layered and a complex process that gives rise to multiple interpretations (Saunders *et al.*, 2009).

3.3 Research Approach

In terms of approach the research employed the inductive method drawing theories from the data collected through questionnaire research instruments distributed to the selected respondents from the sample of employees at the Development Bank of Zambia representative of the population at the named bank. This approach is desirable in that it draws conclusions and theories based on data collected and analysed (Saunders *et al.*, 2012).

3.4 Research Strategy

The research employed the case study strategy which is an exploratory tool relevant to the research and that permits the exploration of aspects of business rescue through interactions whose experience in dealing with business rescue issue was desirable and valuable (Yin, 2008). The approach is justified in that it has been applied in countless research undertaking including Bwembya (2015) who investigated the pitfalls of insolvency provisions under the Zambian Companies Act, Naidoo, Patel and Padia (2018) who researched on business rescue practices in South Africa from an explorative view point and Smith and De Abrew (2020) who looked at the direct costs of business rescue in South Africa which justifies its use in this research.

3.5 Sampling and Population

The research applied the non-probabilistic sampling techniques referred to as purposive sampling also known as judgemental or selective sampling (Saunders *et al.*, 2012), whose sample selection of twenty-five (25) respondents was based on researcher's own judgment when selecting research respondents to participate in the research based on technical knowhow as was the case in this research. These respondent sample were selected from a population of fifty five (55) employees of Development Bank of Zambia. The justification for the sample using the saturation point started with a small number of five respondents who in turn invited others with new information until there was no more new information to a maximum of twenty five (25) (Faulkner and Trotter, 2017).

3.6 Collection of data and analysis

The data for this research was collected using the structured questionnaires which were distributed to the targeted twenty five (25) respondents of the Development Bank of Zambia asking the same type of questions for standardisation. The instrument is thought of being desirable because of its ability to reduce the cognitive load on respondents in terms of thinking to complete the questionnaire and due to the ease with which the responses are coded and analysed (Guest, 2019).

3.7 Research Reliability and Validity

Validity explains how well the data gathered in a research represents the area of study (Ghauri and Gronhaug, 2005) which implies measuring what is intended to be measured (Field, 2005). Validity for this research was achieved through configuration of dissimilar sources of information such as via pre-testing of questionnaires and data triangulation among others.

Reliability on the other hand refers to the extent to which what is measured from dissimilar contexts if repeated would yield consistent results (Drost, 2011). For this research, the reliability was achieved through application of the already justified case study strategy, inductive research approach and design and paradigm to assess the consistency of the results regarding business rescue applicability in Zambian context.

3.8 Ethical Considerations

Ethically, the research considered the ethical requirements of the research by ensuring that consent is sought from the respondents on their rights regarding participation in the research and the benefits thereof. The confidentiality of the respondent's identify was also clarified in assuring them

that the information gathered from them was purely for academic purposes and that their identity was to remain confidential and was not in any way disclosed in the paper. The author endeavoured to comply with the University's ethical code of conduct operationalized through the research ethics clearance form as prescribed by the university's ethics committee.

CHAPTER FOUR: FINDINGS AND ANALYSIS

4.1 Introduction

The study sought to evaluate the effectiveness of business rescue procedures in Zambia with reference to the case of Development Bank of Zambia. This chapter analyzed and discussed the findings from the research respondents regarding this effectiveness.

4.2 Demographic Characteristic of Respondents

Demographic Variables		Frequency	Percentage
Gender	male	18	72%
	Female	7	28%
Age	30 and below	13	52%
	31-40 Years	6	24%
	41 and above	6	24%
Education status	Diploma	8	32%
	Degree	13	52%
	Postgraduate	4	16%

Source: Author's construction, 2022

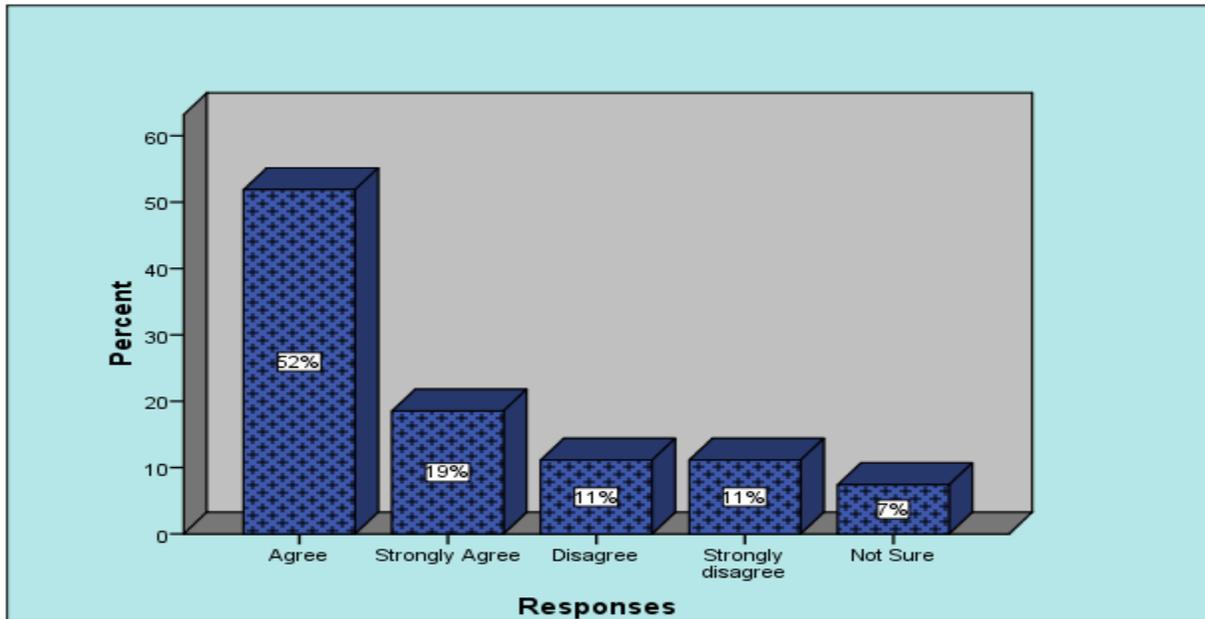
Demographic data's relevance is to provide an understanding of the characteristics of the population being studied who in this study are those from DBZ workforce from which twenty five (25) were selected out of the fifty five (55) as representative of the total workforce. The findings regarding the demographic characteristics of respondents revealed that out of the twenty five respondents administered with the research questionnaire, 72% were male while 28% were female. Out of these twenty five, 52% were thirty years and below, 24% were aged between thirty one and forty while the remainder 24% were aged forty one years and above. Further, 32% of the respondents were diploma holders, 52% were degree holders while the balance of 16% were postgraduate holders. This demonstrates that the research was not only participated by one gender, age group and educational level but attempted to balance them as a means of getting a fair view of the responses. This also suggests the balanced view of opinions from the respondents who participated in the research.

4.3 Goals of Business Rescue and their effectiveness

This sections covered the analysis and interpretation/discussion of the goals and effectiveness of business rescue compared to straight liquidation.

Figure 2: Going concern as a goal to effective business rescue

Figure 2: Opinions on whether business rescue is based on the company emerging as a going concern



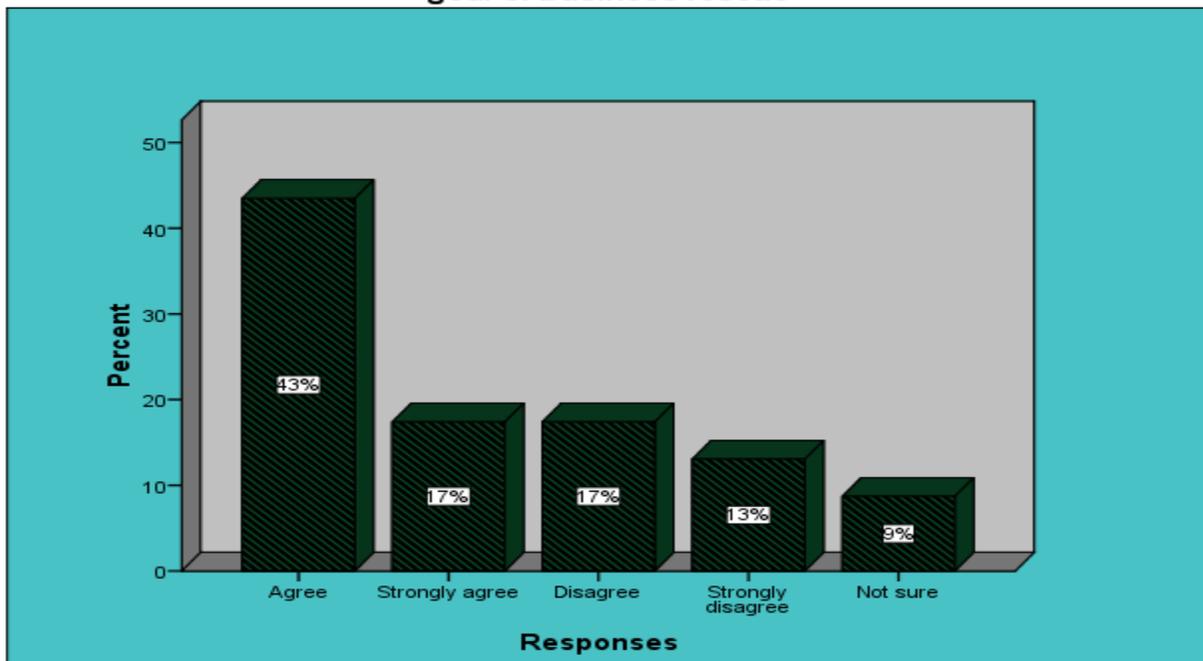
Source: Author's construction, 2022

With regards to the entity sustaining the going concern following the business rescue being an effective goal of business rescue, research results on a comparative basis revealed that 52% of the respondents agreed to the assertion that the survival of the entity post business rescue as opposed to outright liquidation was a profitable for the entity in financial distress and therefore serves as one of the main goals of effective business rescue. Further, 19% of the respondents were in strong agreement with the claim that indeed one of the main effective goals of business rescue was to see to it that the business remained in existence as a viable business as opposed to liquidating it in that it would have served a number of issues including disadvantaging the staff of the organization as they may lose employment and also in terms of loss of service to the customers as well as the possibility of reduction in the returns received by the creditors if they opted for straight liquidation opposed to business rescue strategy.

However, 11% of the respondents apiece were either in disagreement or string disagreement arguing that the company that has been rescued from financial distress may not be able to cope with the competition and other industry changes such that the going concern may be debatable or may probably take some time and thus they argued that it was not a straight forward assurance. Further, 7% of the respondents were not sure of the assertion as they felt success is assured if the company rescued is able to learn from previous mistakes which sometimes may not be the case as some companies whether rescued may not simply be able to cope with the competition and adoption of ways of doing business that reduces financial distress.

Figure 3: Better returns to creditors as a goal of business rescue

Figure 3: Opinions on whether creditors receiving a better deal or returns is a goal of business rescue

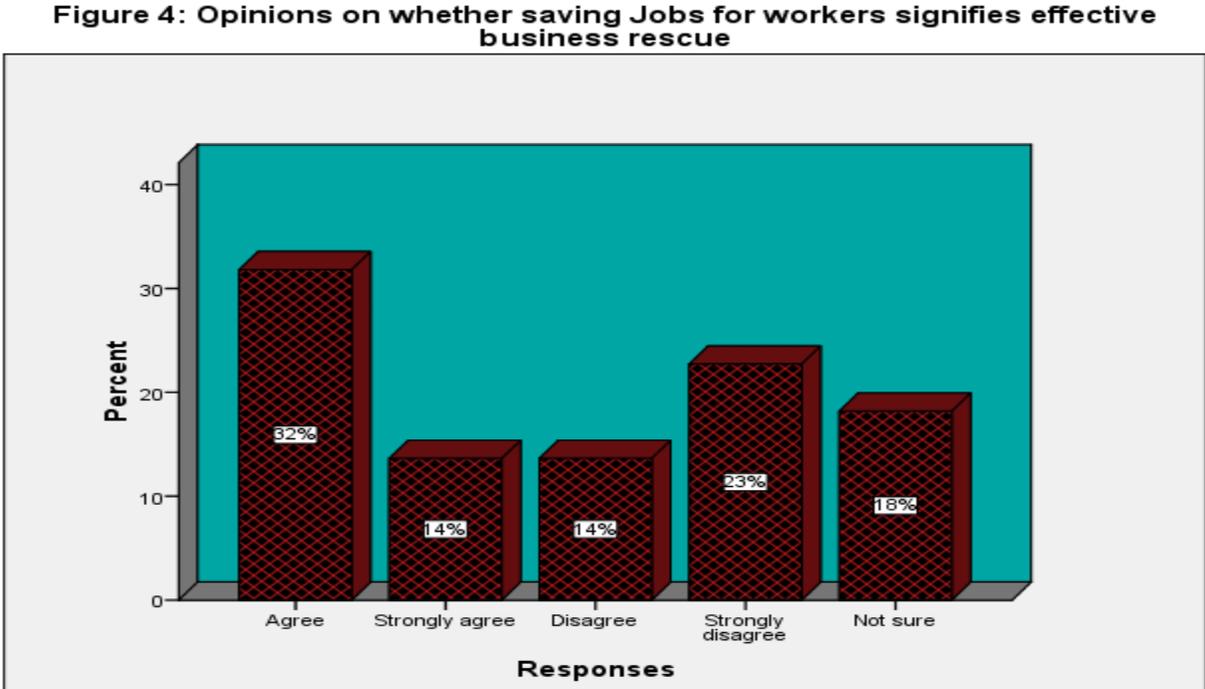


Source: Author’s construction, 2022

The findings with regard to creditors receiving a better deal or returns being a goal of business rescue, revealed that 43% of the research respondents were predominantly in agreement with the assertion that if the business rescue alternative is selected, the creditors are bound to receive a better return from the company in financial distress as opposed to going for straight liquidation even if in the creditors hierarchy they rank first owing to the fact that the returns from straight liquidation may not be sufficient to cater for the various stakeholders who may have a stake in the company. Similarly, 17% of the respondents were in strong agreement with the claim that the

creditors would be remunerated handsomely if they opted for the business rescue strategy as opposed to straight liquidation. However, 17% and 13% of the respondents were in disagreement owing to the fact that getting a better return depends on the creditors risk appetite and their position in the creditors hierarchy if the liquidation is to take place as opposed to business rescue. Further, 9% of the respondents were not sure if the assertion was a securest way to serve the interest of all concerned parties who have a stake in the company. This suggests that the business rescue option comparatively serves as a better goal to effectively manage a company that is in financial difficulties as opposed to straight liquidation.

Figure 4: Saving Jobs for workers as a goal of business rescue

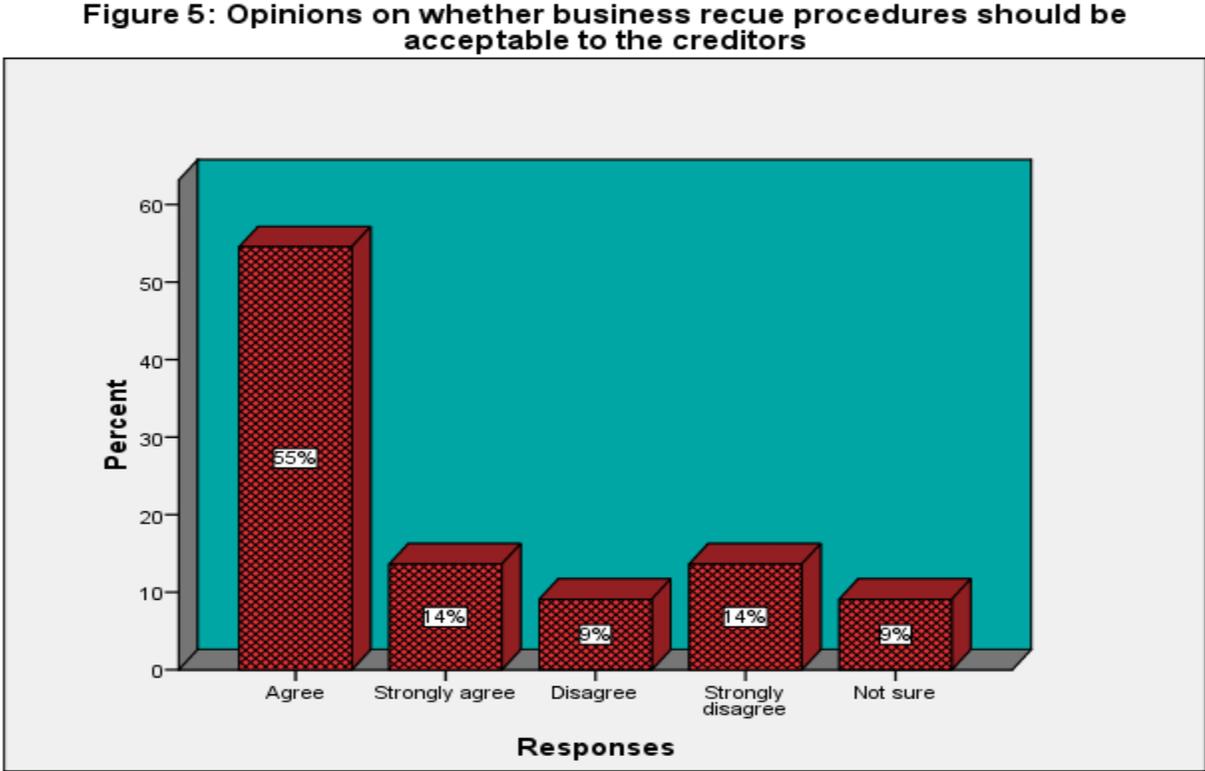


Source: Author’s construction, 2022

As regards the security of jobs for workers being a goal of effective business rescue, 32% of the respondents acknowledged the assertion that business rescue is a better alternative to outright liquidation in that if the company is liquidated, the employees may lose employment which may affect them negatively as they will lose the income stream they have been receiving during their employment period. This is arguably a better deal as an effective business rescue goal in that it is aimed at securing the jobs and therefore livelihood of the works for the foreseeable future. This was also supported by the 14% of the respondents who were also in strong agreement with the

claim that business rescue serves a better alternative or strategy as opposed to liquidating the company due to the detrimental nature of the impact on the workers who depend on the survival of the company in terms of continued operation. However, 14% and 23% of the respondents were in disagreement with the assertion because despite the company being rescued from financial distress, the workers may be the contributing to the poor performance as a labour factor of production which may ultimately affect the sustainability and continuity of the company in terms of being a going concern. Further, 18% of the respondents were not sure of the assertion as they felt that saving jobs is only key if the personnel possess the requisite expertise to help the company in financial distress to get of the fit otherwise if not then they may not be critical as they will be irrelevant to the decision.

Figure 5: Acceptability of business rescue to creditors



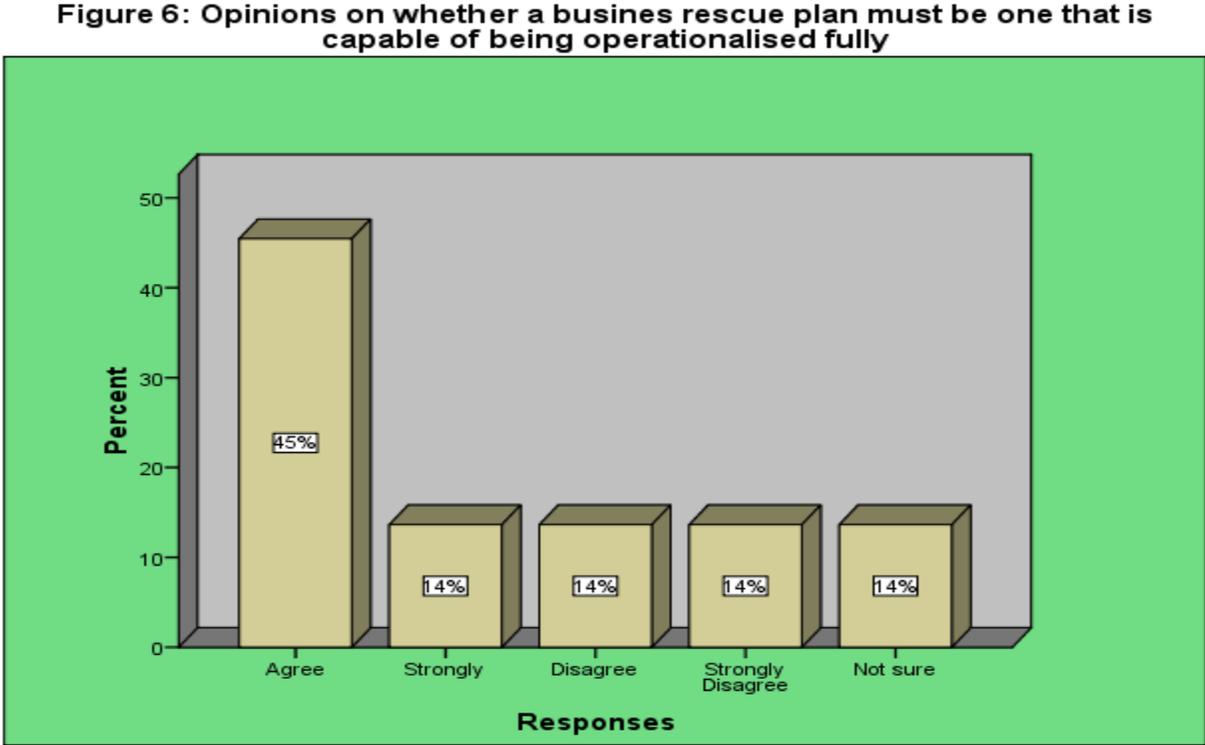
Source: Author’s construction, 2022

The findings as to whether business rescue procedure should be one that is acceptable to the creditors revealed that 55% of the respondents were in agreement that a business rescue will only be desirable and acceptable if it is to the benefit of the creditors who are mostly affected if the company is in financial difficulties and hence challenging to recover or be paid the debts owed to

them with regards to the creditors hierarchy. Similarly, 14% of the respondents were in agreement that indeed the rescue procedure must be one that is of benefit to the creditors who partly contributed towards the capital of the entity in form of debt and/or sales on credit.

However, 9% and 14% of the respondents were in disagreement arguing that they were not the only stakeholders that mattered to the decision to either go for liquidation or business rescue and that this must be a consented effort from all interested stakeholders. Further, 9% of the respondents were not sure of whether business rescue must be acceptable to the creditors only or to all interested stakeholders considering that if the process only pleased the creditors, it may not be appealing to other interested stakeholders. This suggests that as business rescue is being considered, it is important to take into account all interested stakeholders especially the creditors who may constitute the largest capital providers.

Figure 6: Operationalization of the business rescue plan



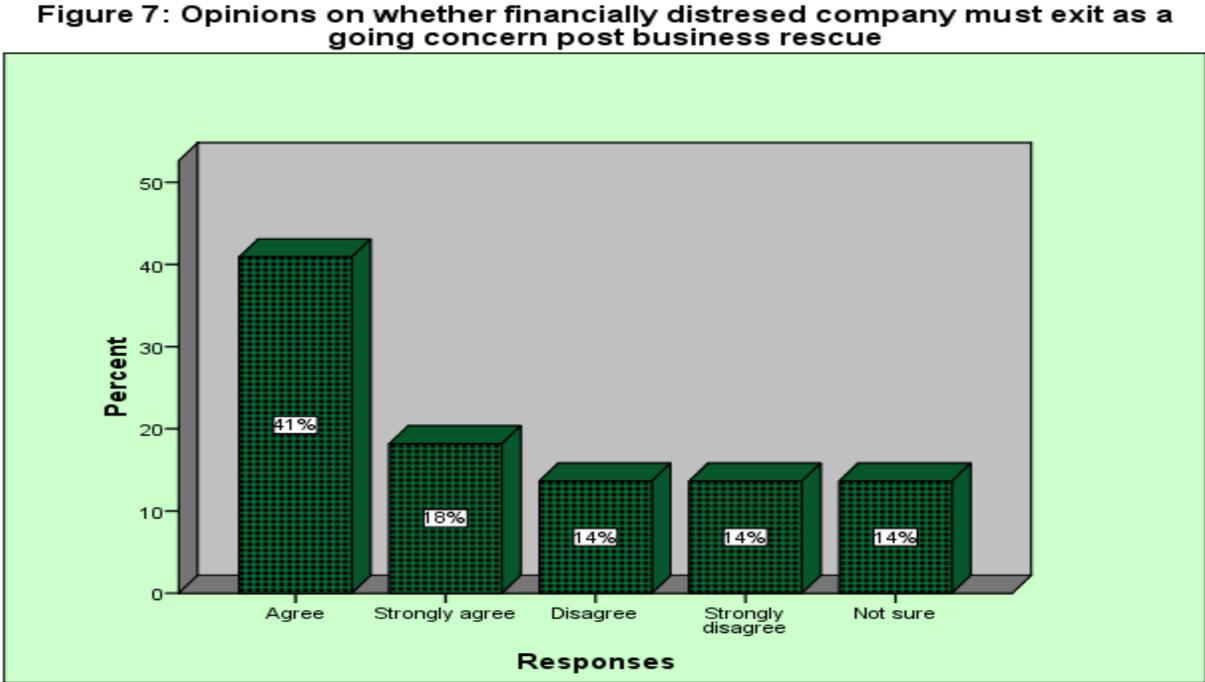
Source: Author’s construction, 2022

The results regarding the form that the business plan with regard to business rescue is concerned must take, revealed that 45% of the respondents were of the view that the business plan for the business rescue must be one that is capable of being implemented fully for the resuscitation of the

entity to a viable one rather than one that is not existent when straight liquidation is decided on. This follows the 14% agreement of the respondents that full operationalization of the business plan regarding business rescue ensures no gaps are left to the detriment of some stakeholders in terms of ensuring that if the business rescue procedure is undertaken, it benefits all interested stakeholders and thus avoids the possibility of liquidation.

However, 14% of the respondents apiece were in disagreement of the assertion in that some business rescue plan don't get to be operationalized especially where the parties and or stakeholders do not agree holistically on the way forward (i.e. between business rescue or straight liquidation). Further, the remainder 14% of the respondents were not sure as either of the avenues (i.e. business rescue or straight liquidation) present their own dynamics and therefore ought to be addressed accordingly in which case conflict of interest may be inevitable.

Figure 7: Going Concern Prospects as a business rescue strategy



Source: Author's construction

As regards the going concern of the financially distressed company, the research findings revealed that 41% of the respondents were of the view that if the business rescue procedure is selected, the entity must be one that should carry on its activities as a going concern and not one whose business activities and/operations may be curtailed for the foreseeable future. This implies that business

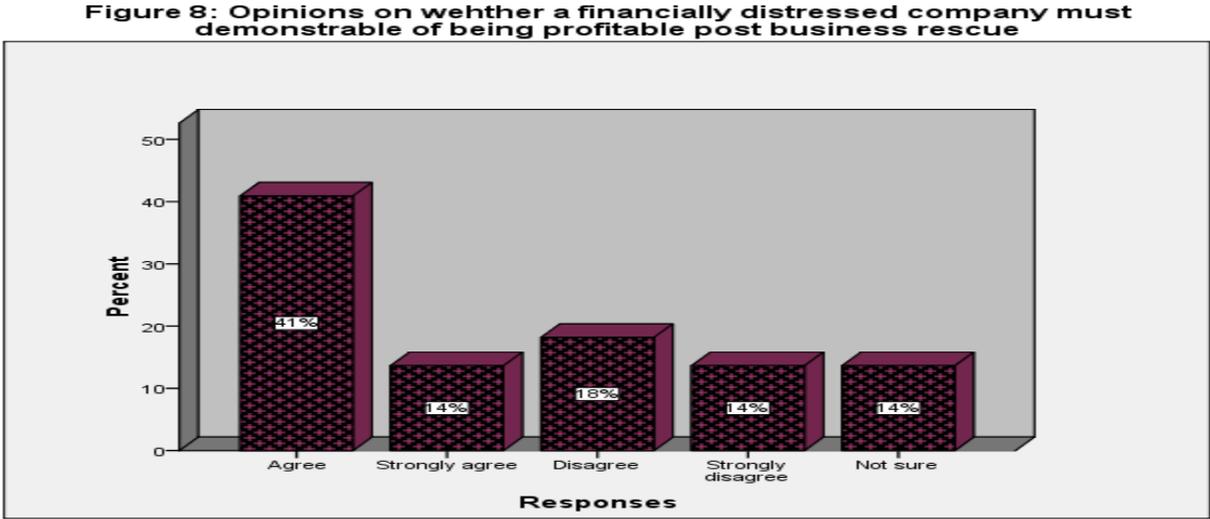
rescue as a procedure must applied with or opted for if as a result of such an undertaking, the entity will remain operational for the foreseeable future. Similarly, 18% of the respondents were in strong agreement that the end product of a business rescue procedure must be seeing to it that the entity contuse to operate on a going concern basis as opposed to straight liquidation which in a major way avoids disadvantaging any of the stakeholders interested in the viability of the entity.

However, 14% apiece were in disagreement as they felt that going concern was about strategizing ten best way out from financial distress and if not planned properly may actually put the company into more problems to an extent where the only way out would be through liquidation.

Further, 14% of the remainder of the respondents were not sure of the assertion in that they felt that it was a balancing act that ought to take into account the arguments and propositions of all interested stakeholders.

This suggest that the business rescue procedure must take into account the various stakeholder needs related to either the entity continuing as a going concern or as one that is not viable and therefore detrimental to the various interested stakeholders needs consistent with the arguments by Rajaram, Singh and Sewpersadh (2018).

Figure 8: Demonstration of Profitability



Source: Author’s construction, 2022

As regards profitability of the financially distressed company, the research findings revealed that 41% of the respondents were of the strong view that if the route of business rescue is selected, the company in question must demonstrate that it will remain profitable following the business rescue.

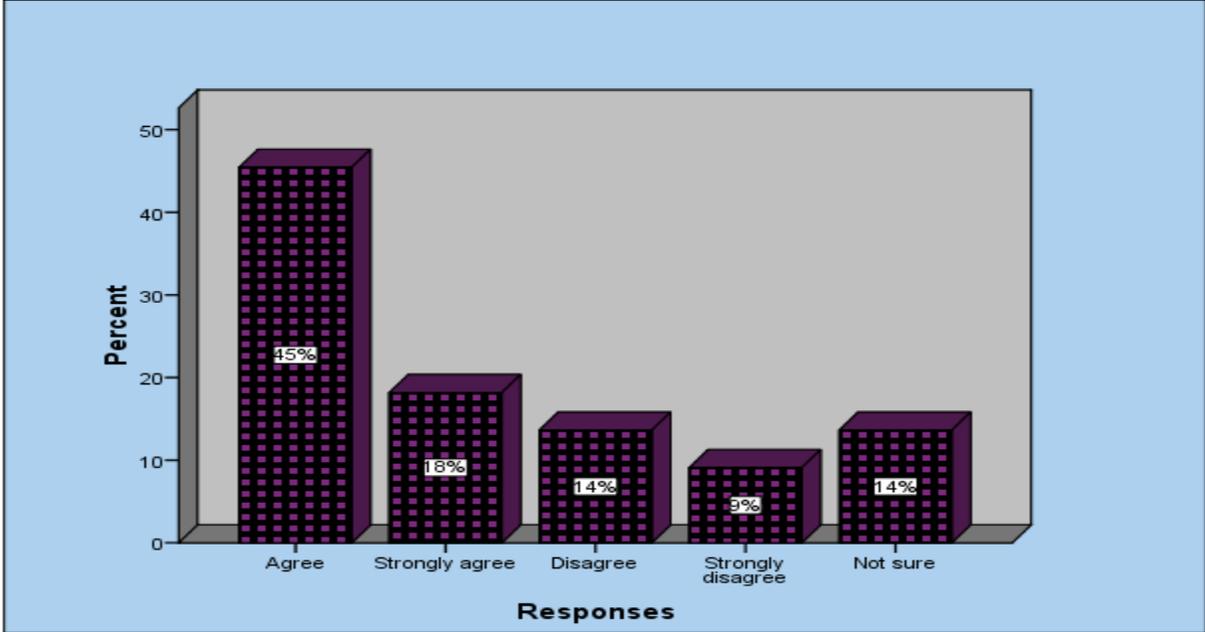
Consistently, the remaining 14% of the respondents were in strong agreement that profitability is an important indicator of the company’s survival following the business rescue procedure in that it helps in establishing whether the company will remain viable to serve the interest of the various stakeholders and/or remain a going concern.

However, 16% and 14% of the respondents were in disagreement of the assertion on profitability post-business rescue in that the profitability is only assured if the company is able to learn from its past mistakes that led to financial distress in the first place as well as to be able to understand and cope with industry trends. Further, 14% of the respondents were not sure as to whether profitability was assured or whether there may be other competing interests by the various stakeholders above profitability.

This therefore suggests that the effectiveness of the business rescue procedures significantly depends on whether the avenue or strategy is one that is bound to leave the company in operational stability for the foreseeable future or not owing to the fact that if not then the various stakeholder interest may suffer and the worst case scenario option remains that of liquidation.

Figure 9: Positivity of Returns generated following business rescue

Figure 9: Opinions on whether getting positive returns from a business rescue is better than straight liquidation



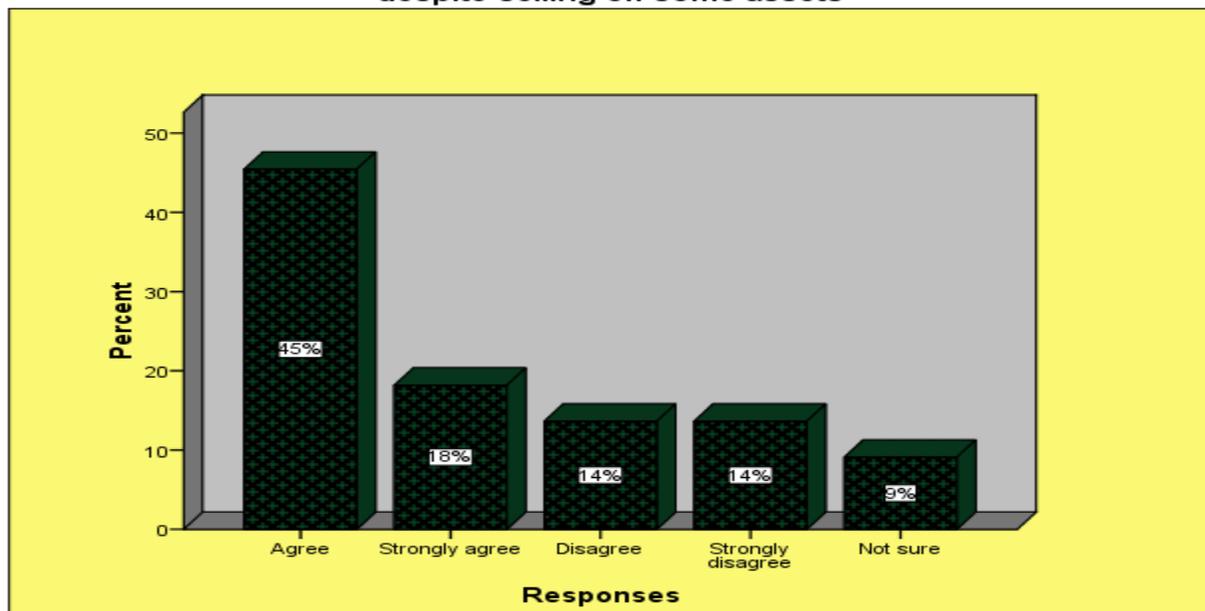
Source: Author’s construction, 2022

As regards the what type of returns the erring company must achieve, the research results revealed a 45% agreed that the returns to be generated following the selection of business rescue must outweigh the detriment of the company going into straight liquidation which could be inferred from the strategies put in place to see to it that the company remains viable and one that serves the interests of the various stakeholders who have sacrificed huge resources to ensure the company remains a going concern. Similarly the remainder 18% of the respondents were also of the firm view that positive returns generated by the financially distressed company are what justifies the viability of the firm once the business rescue option is selected or opted as the best remedy to resuscitate the erring company.

However, 14% and 9% of the respondents were in disagreement owing to the fact that this is not something that would be achieved in the short or medium term but over a long time gradually as the company needs to heal from the wounds of financial distress before beginning to enjoy handsome returns. Further, 14% of the respondents were not sure in that it is a two way position as things may be positive for the company in terms of returns or may be negative if not properly managed. This demonstrates that for the business rescue procedure to be effective, it must be able to show that it is capable of generating adequate returns that must outweigh the outcome of a straight liquidation consistent with arguments by Casey (2019).

Figure 10: Maintenance of Key Operations in Business Rescue

Figure 10: Opinions on whether original business continuity is assured despite selling off some assets



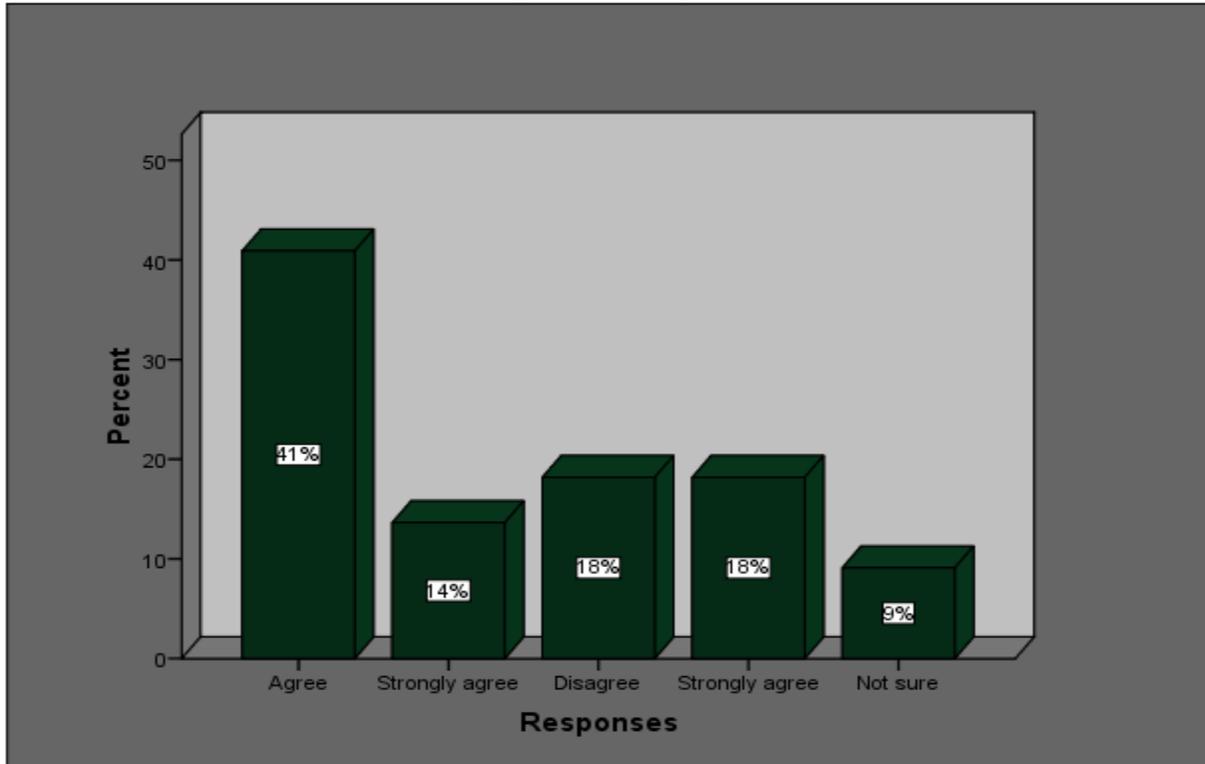
Source: Author's construction, 2022

As regards business rescue being effective if the company is sold to another company, the research results revealed that all respondents were in agreement as can be seen by the 45% affirmation that in as much as the company in financial distress is integrated into a viable company, the key operations of the entity must be capable of continuing operations at a momentum that is demonstrable of being viable and thus a going concern once this option is selected as opposed to straight liquidation. Further, 18% of the respondents were in strong agreement owing to the fact that most aspects of the business may be retained in the original company which implies that operational continuity though in another form of a company may have some life. However, 14% of the respondents apiece were in disagreement of the assertion because if the company is sold most of the things normally change and this may affect many aspects of the business such as the required workforce, systems and that may just mean that maintaining most of the aspects of ten old company may not be possible. Further, 9% of the respondents were not sure owing to the fact that it may be or not and it all depends on ten prevailing circumstances and plans tat have been put in place to save the erring company.

This suggests that for the business rescue option of selling the company or integrating with another can only be effective if the option guarantees sustainability of the key operations that addresses the teething problems as a means of ensuring that the entity remains a viable one for the interests of the various stakeholders consistent with the arguments by Phillip (2020).

Figure 11: Job Security of Employees in Business Rescue

Figure 11: Opinions on whether effective business rescue is one that provides job security



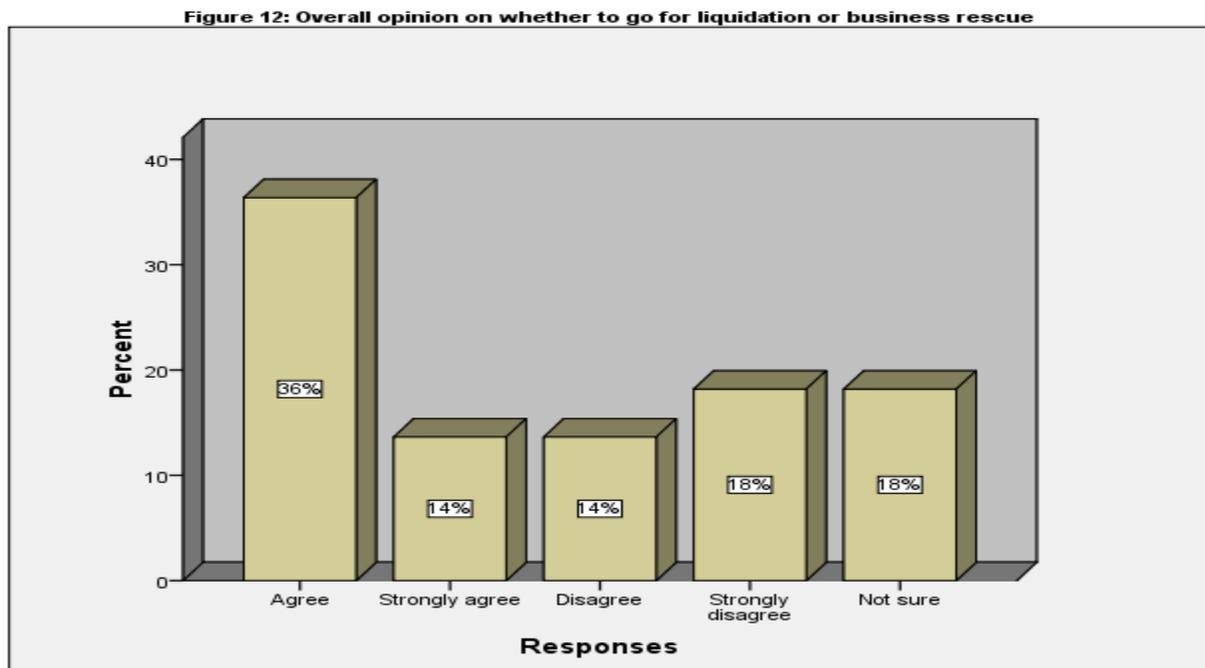
Source: Author's construction, 2022

The interest of the option of business rescue to serve the interest if the various stakeholders and among these stakeholders include the employees. With regard this aspect, the research results revealed a 41% agreement that for the business rescue to be effective it must not only serve the interests of the funders such as creditors but also the employees who constitute the requisite human capital to spearhead the company to higher heights. This is in the interest of retaining the expertise possessed by these men and women as opposed to liquidation which may affect them negatively as they may not have the chance to get employed for instance because of having the history of working for a company that underwent liquidation and probably due to age. This is coupled with the huge cost of redundancy packages that needs to be paid to these separatees. This is consistent with the agreement by the remainder of the 14% respondents who similarly felt that, job security of the employees plays an important role in the operational continuity of the financially distressed company if the liquidation option is selected as opposed to straight liquidation which suggests that for the business rescue option to be effective, it must be desirable to ensure that the jobs of the

employees are safeguarded consistent with the arguments by Dumisani and Fairhurst (2020) and Phillip (2020).

However, 18% of the respondents apiece were in disagreement owing to the fact that when a company is undergoing these changes, predicting the security of a job may be too farfetched as it may not be regarded as important a consideration in equal extent to the other interest of the stakeholders such as balancing whether to go for straight liquidation or business rescue in terms of costs and benefits. Further, 9% of the respondents were not sure of the assertion as it may not be the case or it may be the case depending on what is agreed upon by all parties concerned.

Figure 12: Business Rescue Compared to Straight Liquidation Options



Source: Author’s construction, 2022

As to whether business rescue is a better option than straight liquidation, the research findings revealed that 36% of the respondents were of the view that business rescue is a better option as it serves the interests of many stakeholders who may be negatively affected if the company was to compulsorily go into liquidation. This is consistent with the other 14% of the respondents who were of the strong view that straight liquidation has many negative implication in that it may favor a proportion of stakeholders at the expense of others. For example as highlighted above, the employee’s job security may not be guaranteed and thus business rescue may be a better option in that it may serve the prospects of being in employment for the foreseeable future. However, 14%

and 18% of the respondents were of the view that business rescue is not a better option compared to straight liquidation in that from the creditors point of view, in that they were of the view that creditors may not be able to generate a better return from the business rescue as compared to when the company is put into straight liquidation even due to their strong position in the creditor's hierarchy where the first to be paid are the debt holders.

Further, 18% of the respondents were not sure whether on the overall, business rescue would be better than straight liquidation as both of the two avenues have their own advantages and disadvantages and the overall position is dependent on the each individual circumstances.

4.4 Chapter summary

The chapter covered the findings and analysis of the research from the responses gathered from the respondent and interpreted them in evaluating the effectiveness of the business rescue procedures in Zambia.

CHAPTER FIVE: CONCLUSION AND RECOMMENDATIONS

5.1 Introduction

The research sought to evaluate the effectiveness of business rescue from the perspective of the Development Bank of Zambia (DBZ) and this chapter concludes the research by highlighting the summary findings, addressing the research objectives and making policy recommendations including propositions for future research.

5.2 Summary findings

The research findings revealed that for business rescue to be selected as a better option compared to straight liquidation, it must be capable of addressing a number of concerns and various stakeholders. For example, it must be one that ensures that the company remains in operational viability for the foreseeable future and be able to generate adequate returns to assure the various stakeholders such as the creditors and shareholders of the security of their capital. Further, it must be able to address the job security of the employees who are mostly affected when the company goes into straight liquidation as opposed to a business rescue. This acts as a means of retaining the skill sets and/or expertise of the various employees which is critical in ensuring the company remains a viable undertaking. The research also revealed that if the company opts for a business rescue by being sold or integrated into another company, the key operations must be safeguarded and therefore must be able to be in operational continuity for the foreseeable future and/or be a going concern. The research also revealed that profitability and assurance of return is of cardinal importance if the business rescue option compared to straight liquidation is selected in that the entity following business rescue must be able to achieve desired returns and profitability that assures both the internal stakeholders such as the employees and shareholders and external stakeholders such as the creditors.

Specific objectives

RO1- To ascertain the effectiveness of business rescue procedures in Zambia

With regards to the effectiveness of the business rescue procedures in Zambia, the research ascertained that business rescue procedures exist in Zambia just like any other jurisdictions which includes appointing a business rescue administrator as evident at Ndola Lime Company where

business rescue proceeding in 2019 were commenced against the company which resulted in the appointment of the interim business rescue administrator to superintend over the affairs of the company which consequently permitted ZCCM Investment Holding to commence the restructuring process of the company by looking at the core assets of the entity with a view of ring fencing them for possible salvage and transfer to Limestone Resources Limited (Founder, 2020). The effectiveness of these procedures, however, depend on how carefully the views highlighted in the research findings and summary of findings are effectively implemented and managed which implies that it is dependent on ensuring that the various interests are addressed to ensure that the entity in financial distress remains a going concern for the foreseeable future with no drastic cutbacks to curtail the operations of the entity to the detriment of the business.

RO2-To establish the extent to which business rescue strategies and procedures available in Zambia are effectively applied

With regards to the extent to which business rescue strategies and procedures are effectively applied, the research revealed that it is to the extent that the business rescue option as opposed to straight liquidation ensure that strategies are put in place to ensure that the various interests of the stakeholders including employees, creditors and shareholders are taken very good care of in a way that is aimed at sustaining the business operations for the foreseeable future and the ability of the entity to be able to generate desirable returns and/or profitability.

RO3- To assess the mitigating measures that should be implemented to promote effective application of business rescue in Zambia

If the business rescue option is selected compared to straight liquidation, effectiveness and efficient operationalization is a product of prudence in the manner in which all interests of various stakeholders are addressed. This must involve discussing the way forward as to ether a better return will be generated from a straight liquidation or through a business rescue that is capable of safeguarding the various interest if the dissimilar stakeholders and this must incorporate these stakeholders in order to reach a sound decision as regard the going concern of the entity in financial distress. The study further recommends for the Court's intervention in which the key stakeholders must seek recourse on how to address the financial distressed entity with regards to the issues of whether a straight liquidation is a better option than the business rescue.

5.3 Conclusion

The study concludes that business rescue is a better option that is effective than straight liquidation and the effectiveness of business rescue procedures is to the extent that it guarantees the interests of the various stakeholders who include the employees, shareholders, creditors and other capital providers owing to the fact that when the entity continues in operation for the foreseeable future, more returns and/or profitability will be generated through the alteration of the operational strategy to address the gaps that are currently affecting the entity to result in it being a financially distressed and thus making it difficult to be managed properly. This is opposed to straight liquidation which natively impacts the various stakeholders in terms of job security prospects and desirable returns in comparison to the capital provided to the company especially that the entity exists as a separate legal entity from the owners in which only the company can sue and be sued in its own right which is significantly not a better option.

5.4 Propositions for future research

This research proposes that more research be carried on the subject with particular focus on the role played by the Government on helping financially distressed companies to resuscitate them to a viable and/or going concern position for the interests of the various stakeholder groups.

5.5 Chapter summary

The chapter summarized the findings from the research in addressing the research objectives sought to evaluate the effectiveness of business rescue procedures and making appropriate recommendations

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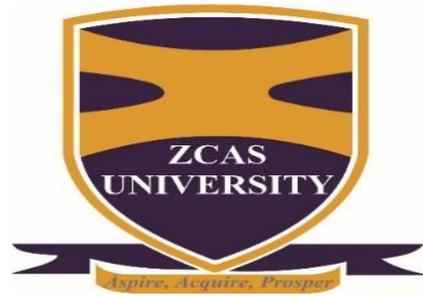
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Appendix I: Research Questionnaire



ZCAS UNIVERSITY

**MASTERS OF BUSINESS ADMINISTRATION INTERNATIONAL BUSINESS
DATA COLLECTION QUESTIONNAIRE**

Dear respondent,

I write to request for your utmost and sincere responses to the questions in the research questionnaire below in which I am evaluating the effectiveness of business rescue procedures in Zambia with specific reference to your organization as part of my Master of Business Administration International Business Programme requirements.

Yours faithfully,

Chanda Mutati

Instructions

Kindly put a tick or an **X** in the spaces provided under each option of the questions below by indicating either [] or [] and for open ended questions, kindly write down your opinion in the spaces provided which expresses your views on the evaluation.

Section A: Respondent's Demographic Features

1. **Gender of Respondents:** Male 1 Female 2

2. **Age of Respondents**

30 and below 1

31 – 50 years 2

51 and above years 3

3 Qualifications of Respondents

Diploma and Below 1 First Degree 2
 Postgraduate and Above 3

4. **Years of Experience** of either dealing with product packaging, referring someone based on product packaging, or being influenced to buy the product based on proper product packaging?

Below 6 years 1 6-15 years 2
 16 and above years 3

Part B: The Goals of Business Rescue

5. In your view, rate the following opinions about business rescue procedures and whether they represent the goals of business rescue using 1.strongly agree, 2. a\Agree, 3. Strongly disagree and 4. Disagree. See table below:

Goal of Business Rescue	Variable/Opinion	Percentage
1. The company should emerge as a going concern and remain economically viable		
2. In case, the first goal is not realised, the creditors must receive a better return from the business rescue than from outright liquidation		
3. Jobs and/or opportunities for employees must be secured		

Part C: Indicators of Effective Business Rescue

6. The following is a list of some of the indicators of an effective business rescue. To what extent do you agree with the statements shown by the Likert Scale in the table below? [5-Strongly Agree; 4-Agree; 3-Not Sure; 2-DisAgree; 1-Strongly Dis-Agree]

Characteristic or product feature	Strongly Agree	Disagree	Neutral
The business rescue procedure should be one that is acceptable to the creditors			

The business rescue plan must be one capable of being fully implemented			
The business rescue plan should be one that can be partially implemented			
The financially distressed company must be capable of exiting as a going concern			
Following business rescue, the exited company must be demonstrable of being profitable			
The business rescue must be able to afford positive returns to the company as opposed to straight liquidation			
Although the company under business rescue was sold to another company and may not exist as originally formed, the key operations must be capable of continuing to run			
Business rescue must be capable of saving many job opportunities			

Part D: Effectiveness of Business Rescue Procedures

7. Using the five rating of 1-strongly agree, 2-agree, 3-strongly disagree, 4-disagree and 5- not sure, do you think the below options fairly represent the business recue procedures available at DBZ?

- Restructuring of the organization
- Writing off of some portion of creditor’s obligations and/or debt or granting of credit extension
- Straight liquidation of the company to repay liabilities owed to creditors
- Selling of the company to an entity that is able to integrate the goods and services of the company in financial distress
- Seeking the court’s ruling regarding impartiality of all interested stakeholders for a win-win outcome

8. Using a five point Likert Scale given how do you rate the effectiveness of business rescue procedures at DBZ?

5 Very Effective 4 effective 3 Not effective 2 Moderate 1 Not sure

9. In your view, using a liker scale below, do you think business rescue is a better option in resuscitating a company that is financially distressed compared to straight liquidation?

5-Strongly Agree; 4-Agree; 3-Not Sure; 2-DisAgree; 1-Strongly Dis-Agree]

Thank You