

*The Role of Shareholders during Corporate Rescue Proceedings:
On the Outside Looking In?*

Abstract

The main purpose of a corporate rescue procedure is to save the corporate entity and restore it to profitability. Shareholders have a real interest in the outcome of the proceedings because if the rescue attempt is successful, their shares will regain at least some value. If the rescue attempt fails, the shareholders lose their whole investment. Shareholders should in principle therefore be allowed to play an active role to protect these interests.

In reality, however, shareholders are mostly ignored during a corporate rescue or, at best, informed but powerless to act or influence the outcome. This paper compares the role of shareholders during the present system of judicial management and the future corporate rescue regime in South African company law.

The inevitable conclusion is that shareholders will not be in a stronger position under the new business rescue proceedings and will, as before, have to watch from the sidelines while the creditors steer the process.

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