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Business Rescue, Restructuring & Insolvency
ALERT

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Risk it for the biscuit: Opportunities for Private Equity in Business Rescue

Private equity firms have long been known for their ability to strategically identify and act on opportunities where others may not see them, and business rescue is no exception. In the private equity space, business rescue presents a unique opportunity for private equity firms and investors to invest in companies that are struggling financially but with the right resources and support, there are reasonable prospects of a profitable turn around or rehabilitation.

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With the increase in interest rates, inflation and the unrelentless loadshedding, the economic strain experienced by businesses and the consumer throughout the country only continues to magnify. It is only a matter of time until we see a surge in business rescues where companies are left with little to no option but to restructure their debts through mechanisms provided for in the Act. This presents an invaluable opportunity for private equity players in the market in understanding how business rescue may be used as an attractive vehicle to pursue their investment objectives. Private equity firms play a pivotal role in the distressed and restructuring sector as they are able to act quickly and decisively – this of course is vital in ensuring a successful and efficient rescue.

It is widely accepted in industry that Chapter 6 of the Companies Act provides for the rehabilitation mechanism for financially distressed companies through the process of business rescue. One of the pre-requisites for placing a company in business rescue, is being able to prove that there is reason to believe that the company will be successfully rehabilitated. This, however, can look different from one distressed company to another.

Since Chapter 6's inclusion in the Act, business rescue has continued to evolve and the interplay between various sectors, particularly in the private equity, capital investments and distressed merges and acquisitions space has become evident.

Whilst business rescue can be a complex and challenging process, for those with the right expertise and experience, it can be used as an opportunity to create significant value in the long run.

Unlike other potential investors, private equity firms typically have the resources and operational expertise and experience to undertake the necessary due diligence and make swift investment decisions,

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this affording private equity firms the ability to take advantage of the opportunities presented in a distressed scenario. This can be particularly valuable in a business rescue situation, where time is often of the essence and the company may need significant operational improvements to return to profitability. Similarly, the business rescue practitioners are often under immense pressure to ensure that processes are followed in accordance with the time frames as stipulated in the Act and the approved business rescue plan.

It's no secret that when a company is struggling financially, its assets are often undervalued or overlooked by investors. However, given the mandate and experience of private equity firms in such circumstances, these firms are able to take advantage of this foresight by acquiring these assets at a discount, looking to potentially generate significant value in the long term. Being able to take advantage of these opportunities also affords these firms the invaluable window to potentially secure a position in industries where there are significant barriers to entry, as acquiring distressed assets may be one of the few ways to gain a foothold in the market.

Apart from their unrivalled expertise and resources, private equity firms are also able to bring significant financial resources to the table in a business rescue or distressed situation. This is particularly important given that the company in rescue is more often than not struggling with significant debt and disgruntled creditors and stakeholders. This capital injection can provide the necessary funds to compromise its debts or restructure the debt in such a way to allow the company to return to a place of solvency.

Whilst private equity in these circumstances can offer high returns in the long run, this type of investment is not without risk. Like with most investment strategies, there is the challenge of uncertainty faced by investors as to whether the investment will pay off – this uncertainty sometimes even more so when investing in distressed companies. In attempting to best mitigate this risk, private equity investors should appreciate the importance of winning over the cooperation and approval from stakeholders – being both creditors and shareholders. This may involve working alongside the business rescue practitioner in conducting extensive due diligence, analyzing the company's financials and operations in detail, and developing a comprehensive plan for turning the business around.

Much like in instances of distressed merges and acquisitions, we are seeing an uptick in the interplay between private equity takeovers or buy-ins as a means of rehabilitation in the business rescue space. This is promising for the future of business rescue and other restructuring endeavours as it serves as a win-win for investors and companies looking to return to a healthy position of solvency.

Tobie Jordaan and Jessica Osmond

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Our BBBEE verification is one of several components of our transformation strategy and we continue to seek ways of improving it in a meaningful manner.

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