



APPENDIX i

# **R3 survey of members**

## **Encouraging company rescue consultation**

**August 2009**



## Methodology

Between the 15th and 30th July 2009, ComRes conducted an online survey of R3 members in the UK. The survey was sent to 2082 IPs, of whom 365 responded. This means that approximately one in six of those eligible to take part did so.

ComRes is a member of the British Polling Council and abides by its rules ([www.britishpollingcouncil.org](http://www.britishpollingcouncil.org)). This commits us to the highest standards of transparency.

The BPC's rules state that all data and research findings made on the basis of surveys conducted by member organisations that enter the public domain must include reference to the following:

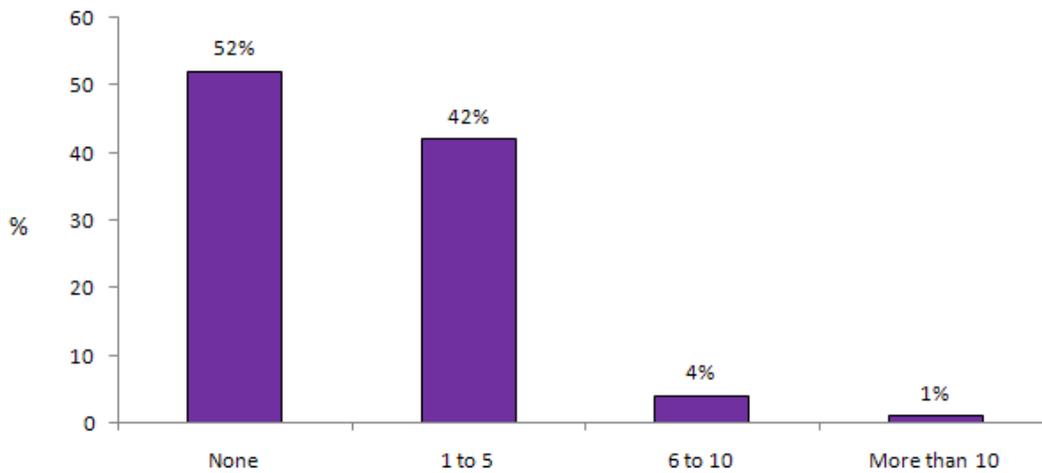
- The company conducting the research (ComRes)
- The client commissioning the survey
- Dates of interviewing
- Method of obtaining the interviews (e.g. in-person, post, telephone, internet)
- The universe effectively represented (all adults, voters etc)
- The percentages upon which conclusions are based
- Size of the sample and geographic coverage

Published references (such as a press release) should also show a web address where full data tables may be viewed, and they should also show the complete wording of questions upon which any data that has entered the public domain are based.

All press releases or other publications must be checked with ComRes before use. ComRes requires 48 hours to check a press release unless otherwise agreed.

**Q1. How many CVAs have you supervised in the last 12 months?**

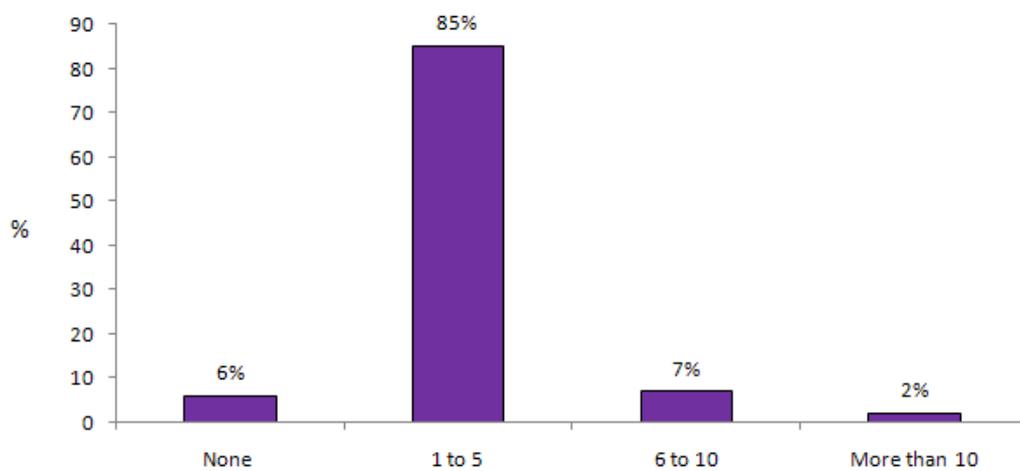
**Average: 2**



Base: All IPs

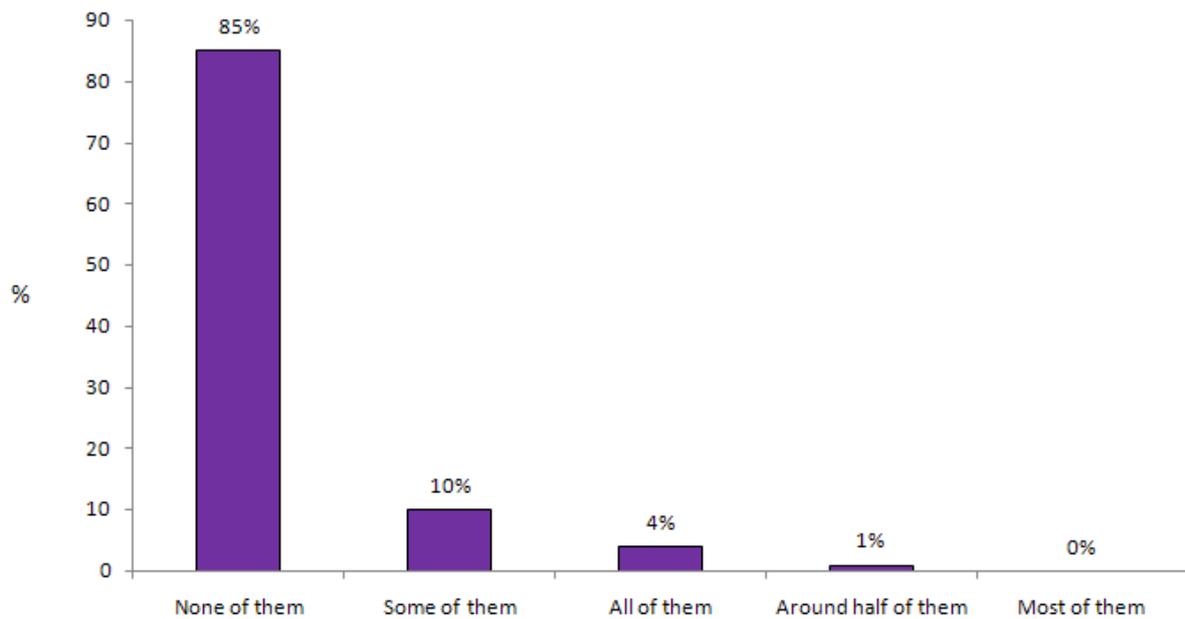
**Q2. How many of these companies would be classified as a 'small company' under Schedule 1A of the Insolvency Act 1986?**

**Average: 3**



Base: All IPs who have supervised a CVA in the last 12 months

**Q3. In what proportion of these cases, approximately, did the directors apply for a moratorium under section 1A of the Insolvency Act 1986?**



Base: All IPs who have supervised a CVA in the last 12 months

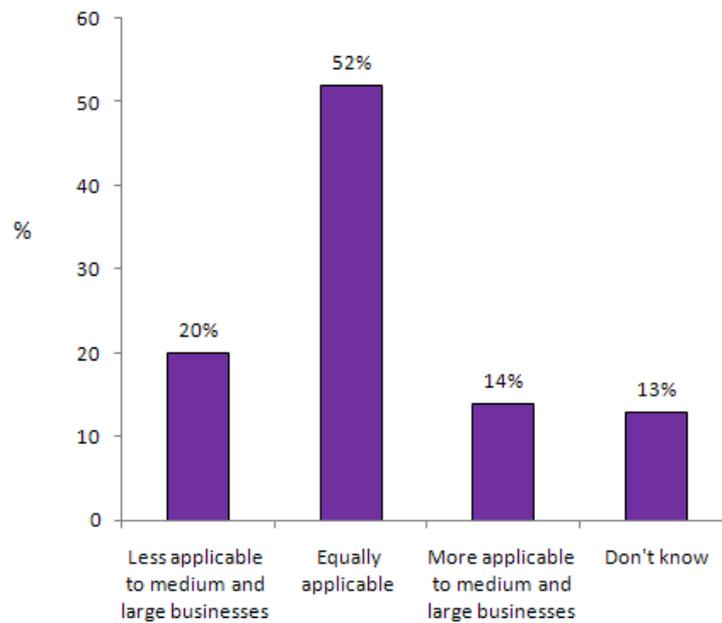
**Q4. In your experience, why is the moratorium procedure not used? Please select all that apply.**

Nominees are not prepared to submit a statement under paragraph 6 (2) of Schedule 1 IA 1986* because they would not be in control of the company's affairs, thereby creating unacceptable risk for the IP.	55%
The Directors do not deem it necessary to obtain the protection afforded by a moratorium - there was no imminent threat from creditors.	36%
The Directors do not wish to incur the additional costs associated with a moratorium.	25%
The Directors do not want to publish details of the moratorium on the company's invoices, stationery and website.	22%

Base: All IPs

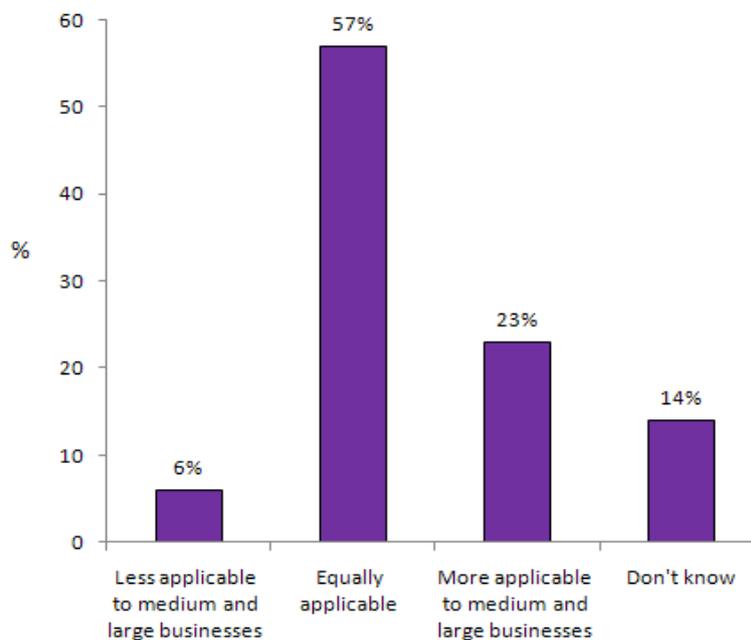
**Q5. To what extent, if at all, do each of the following challenges or issues apply to medium and larger companies as well as to smaller ones?**

*Directors would not deem it necessary to obtain the protection afforded by a moratorium - there would be no imminent threat from creditors.*

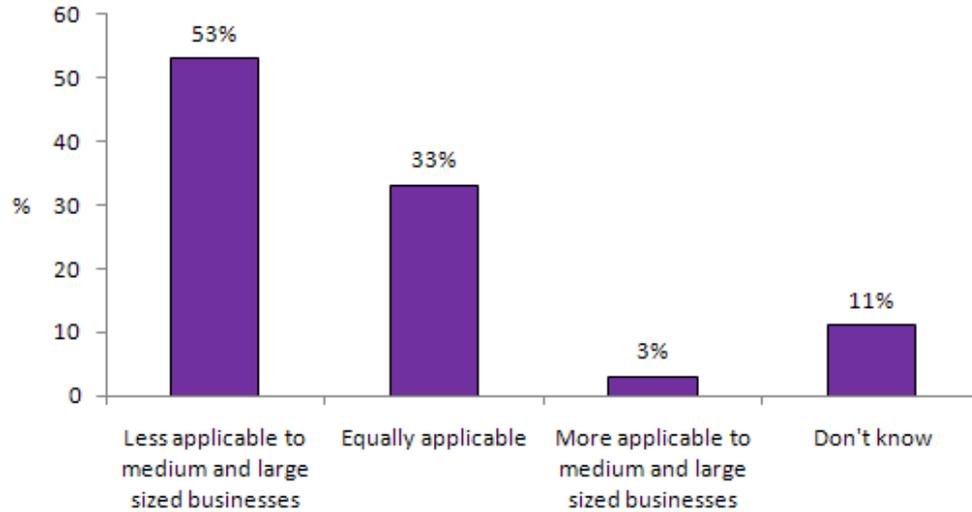


Base: All IPs

*Directors would not want to publish details of the moratorium on the company's invoices, stationery and website.*

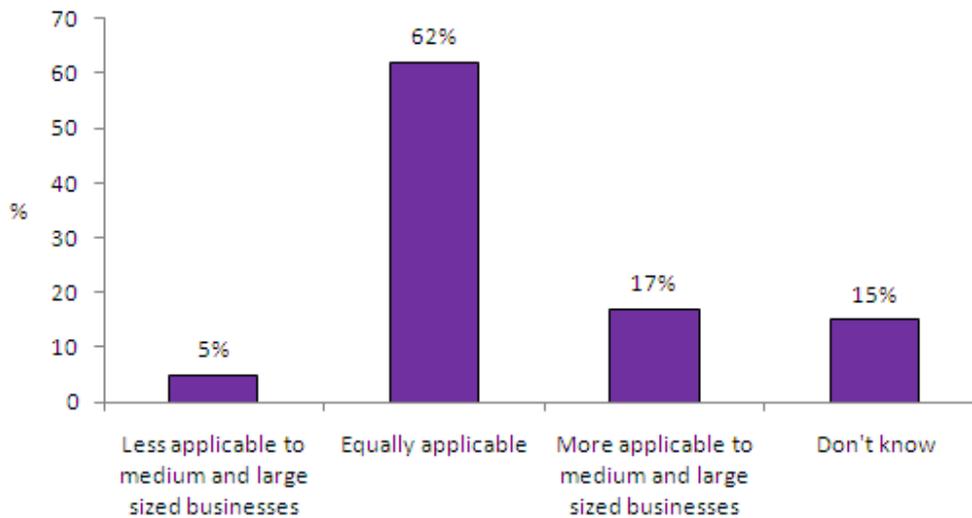


*Directors would not wish to incur the additional costs associated with a moratorium.*



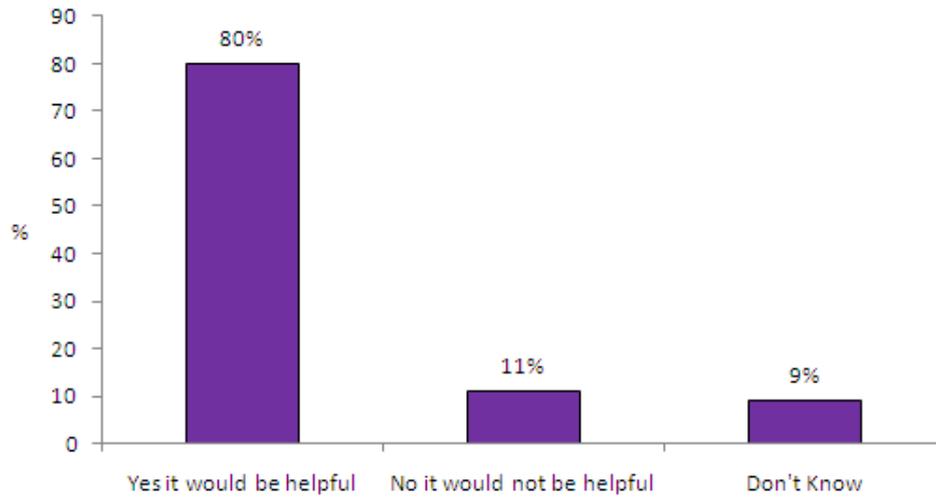
Base: All IPs

*Nominees are not prepared to submit a statement under paragraph 6 (2) of Schedule 1 IA 1986 because they would not be in control of the company's affairs, thereby creating unacceptable risk for the IP.*



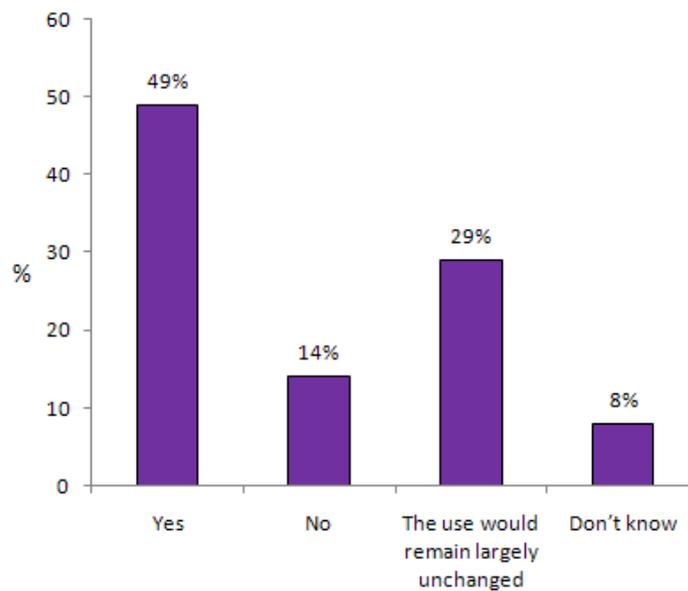
Base: All IPs

**Q6. Do you think that it would be helpful for medium and large-sized companies to be allowed to benefit from the option of a moratorium from creditor action for up to 28 days, or not?**



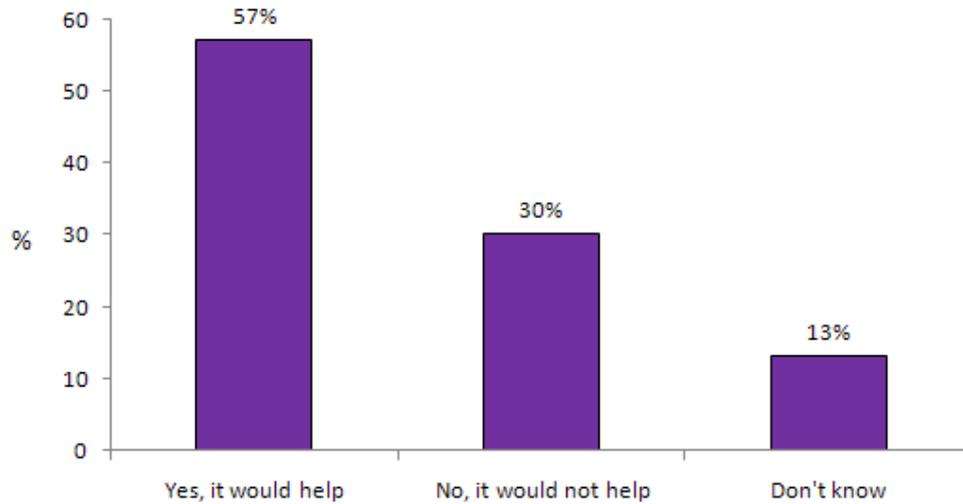
Base: All IPs

**Q7. Do you think that having access to a moratorium would increase the use of CVAs in medium and large-sized businesses, or not?**



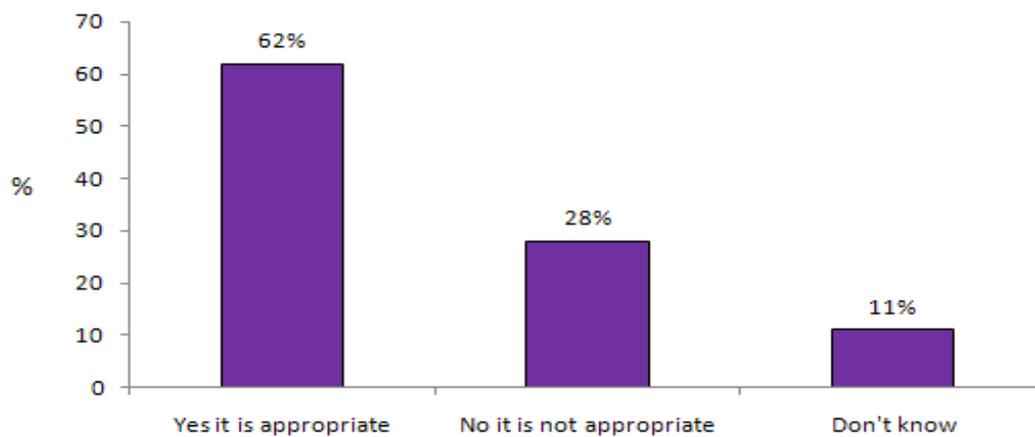
Base: All IPs

**Q8. Do you think it would be helpful to have a new type of court sanctioned moratorium on creditor action (separate from above), or not?**



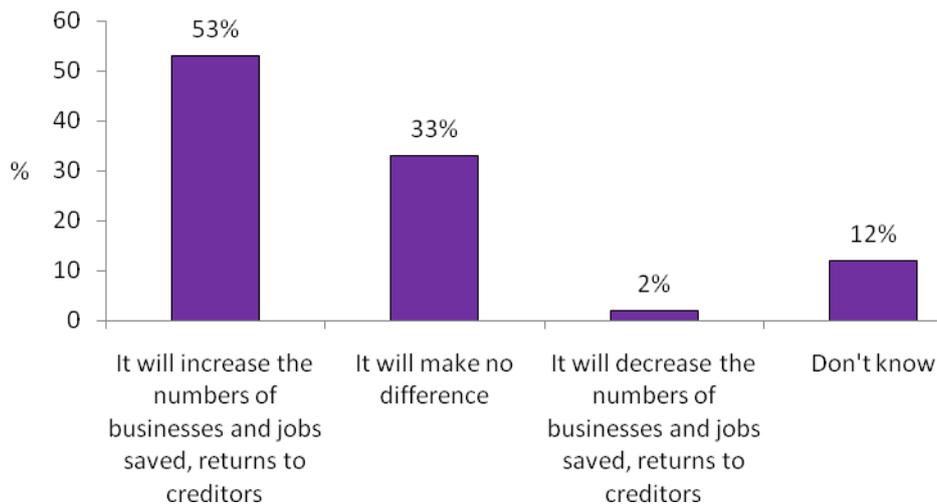
Base: All IPs

**Q9. Do you think that the proposed moratorium period of 42 days, extendable to 3 months is appropriate or not?**



Base: All IPs

**Q10. Which of the following effects, if any, will this procedure (the court sanctioned moratorium) have? Please select one of the following.**



Base: All IPs

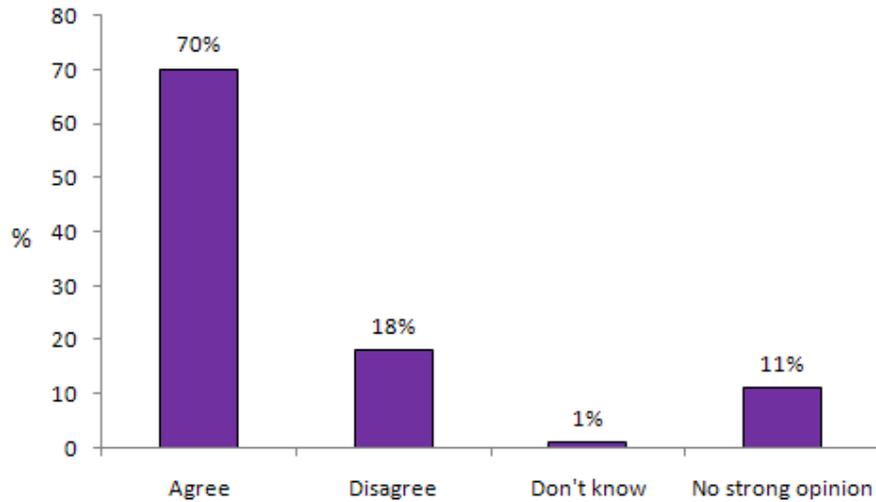
**Q11. The CVA procedure was only adopted in just over 500 cases during 2008. Why do you think the take-up of this process has been so low? Please select all that apply.**

Directors do not approach IPs soon enough in the company's decline to make a CVA a viable option (69%)	69%
Companies experience difficulty obtaining funding to continue trading in a CVA (69%)	69%
Directors prefer the quicker solution of winding up the company or placing it into administration, with a view to starting another company	57%
Companies experience difficulty obtaining ongoing supplies to continue trading in a CVA	52%
Creditors try to propose unworkable or unreasonable modifications, making the CVA proposal unworkable	52%
Directors are concerned that customers will withdraw business if they learn that the company is in a CVA	48%
It is difficult to persuade creditors to vote for the approval of a CVA	31%

Base: All IPs

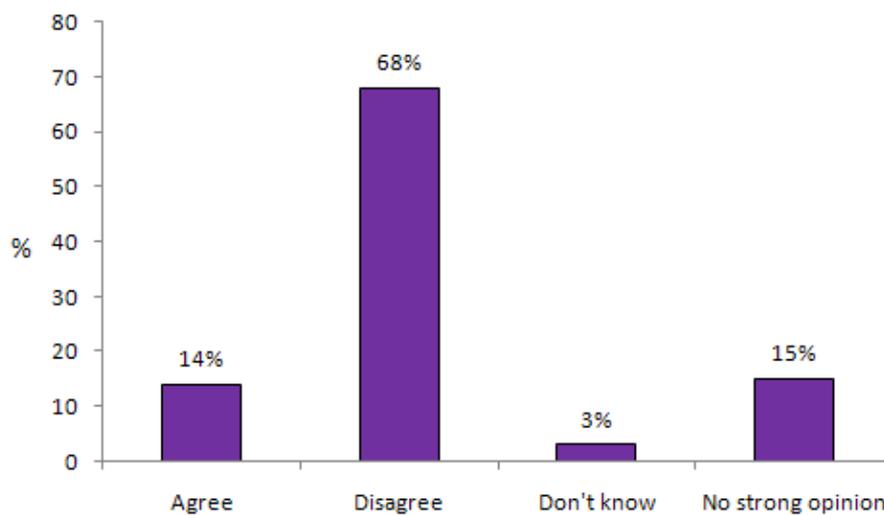
**Q12. The Insolvency Act 1986 requires the following information to be provided to Companies House in relation to a company operating under a CV - Form 1.1, Chairman's report, annual report, annual receipts and payments. To what extent do you agree or disagree with each of the following statements?**

*The disclosure is appropriate*



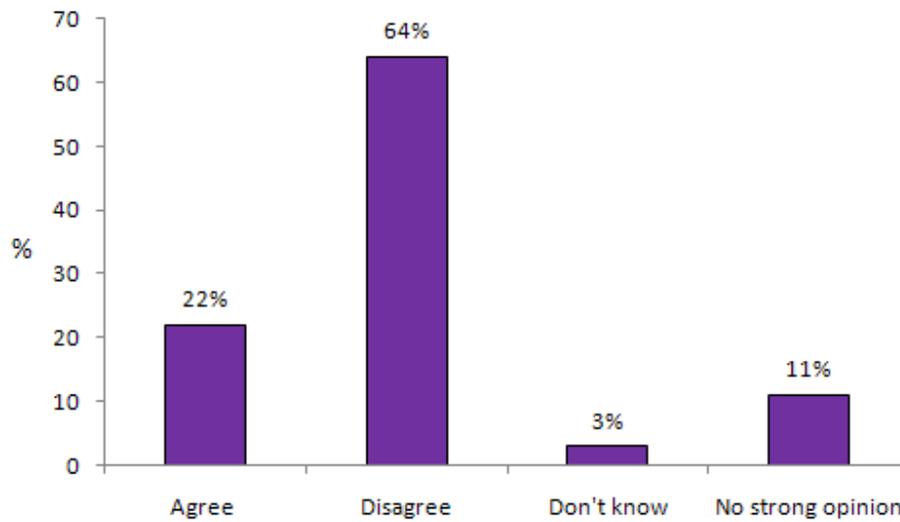
Base: All IPs

*The disclosure is unfair to the company in CVA*



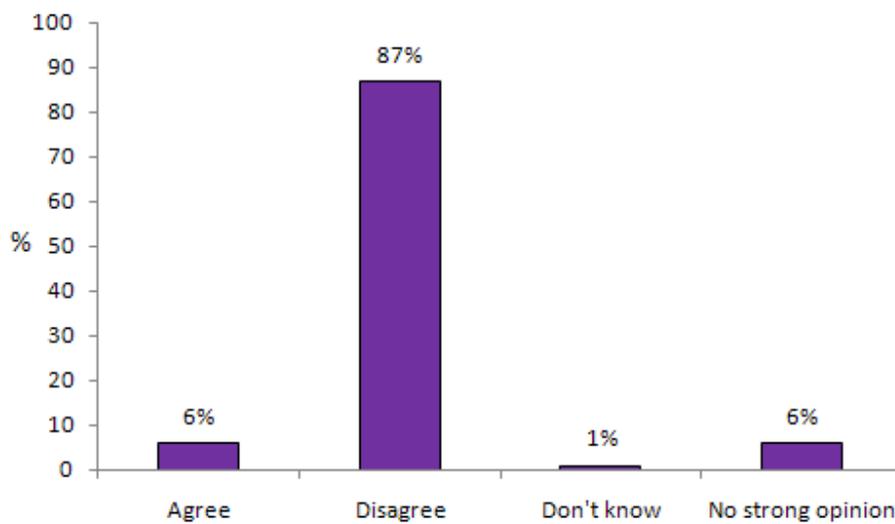
Base: All IPs

*The only disclosure should be the notification of the CVA.*



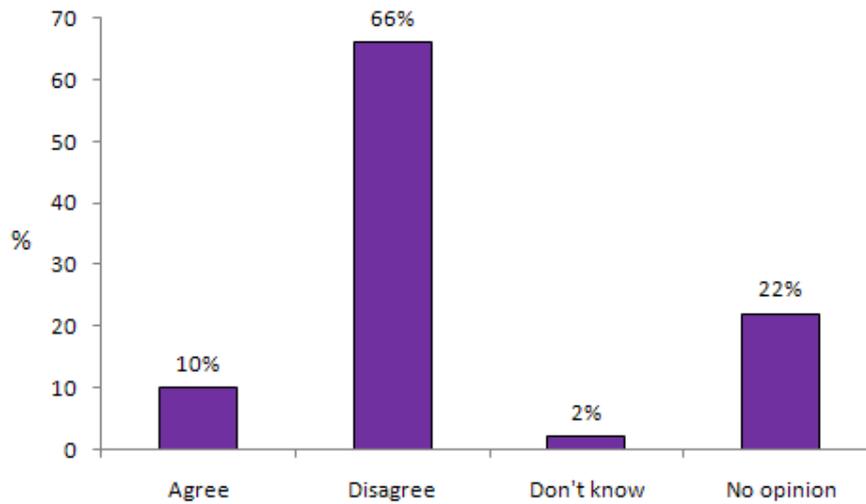
Base: All IPs

*There should not be any disclosure at all*



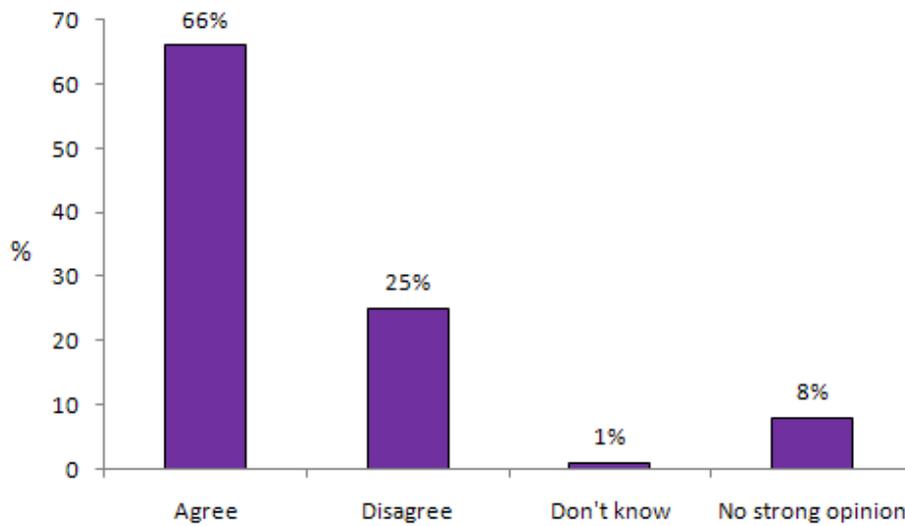
Base: All IPs

*There is currently too little disclosure*



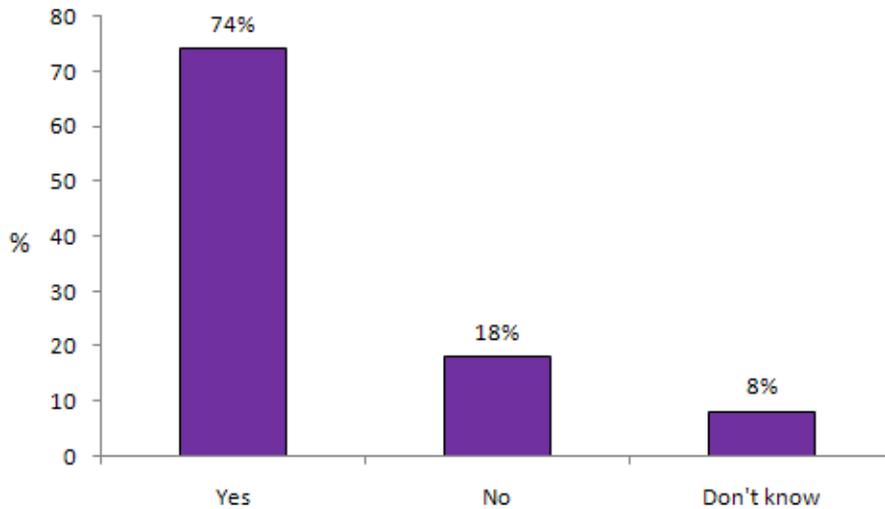
Base: All IPs

*The CVA proposal should be on public record*



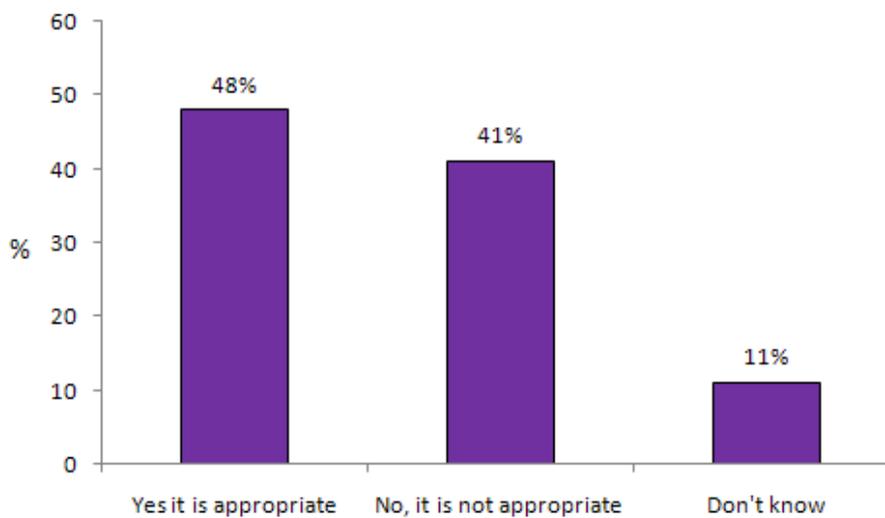
Base: All IPs

**Q13. Do you think that access to CVA financing should be facilitated by the ability to offer new security, or not?**



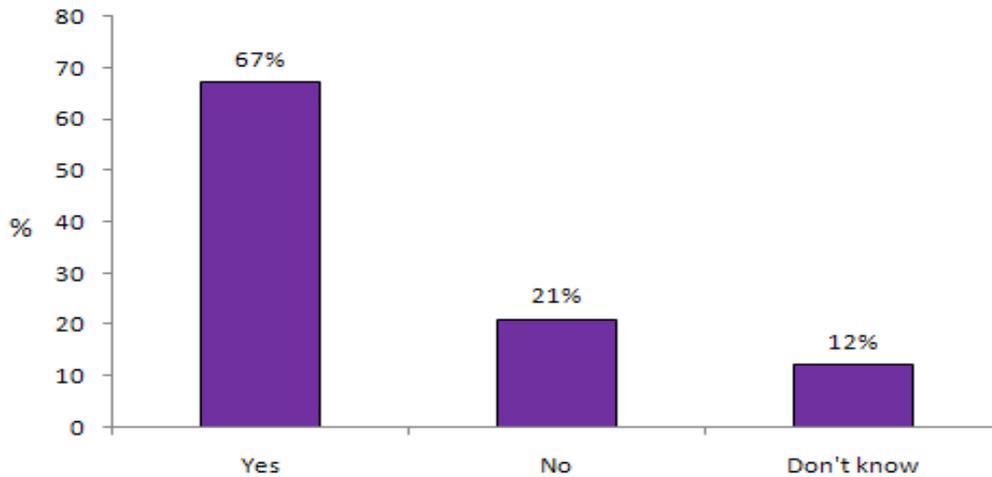
Base: All IPs

**Q14. Do you think it is appropriate for the Court to have a role in ensuring protection is provided for existing fixed charge holders (as happens in the USA), or not?**



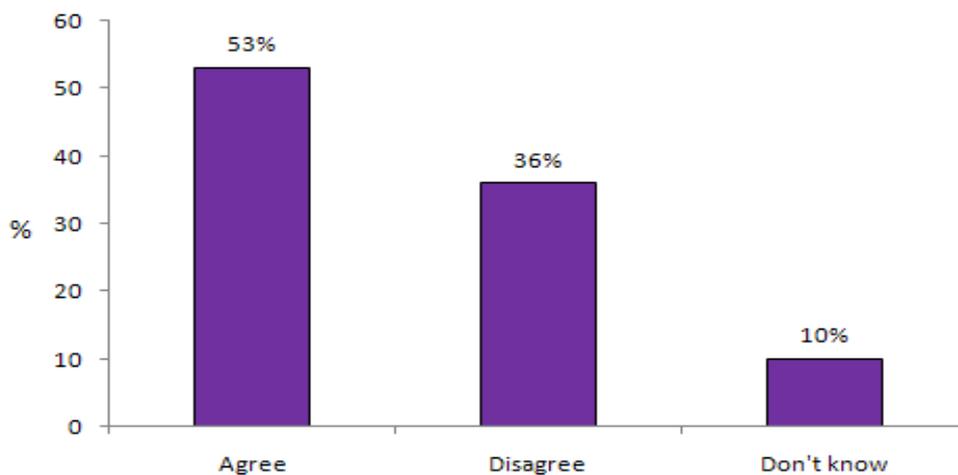
Base: All IPs

**Q15. Do you think that the effect of an asset based lending agreement or floating charge entered into before an insolvency event should be limited to the assets acquired or book debts arising before the insolvency event takes place (with the express exception of long term contracts where future periodic payments have already been assigned in return for an advance made to the company), or not?**



Base: All IPs

**Q16. Do you agree or disagree that finance properly incurred in attempting to rescue a company should rank in front of other administration expenses?**



Base: All IPs

**Q17. Why do you agree that finance properly incurred in attempting to rescue a company should rank in front of other administration expenses? Please tick all that apply.**

Super priority is the best way to ensure new finance	69%
The new finance is taking a risk and should be rewarded with higher ranking	65%

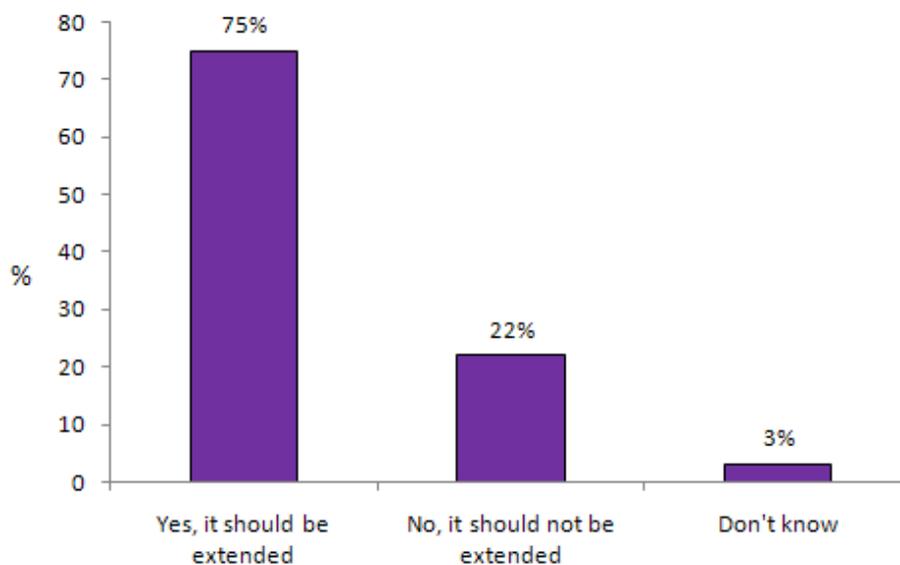
Base: All IPs who agree

**Q18. Why do you disagree that finance properly incurred in attempting to rescue a company should rank in front of other administration expenses? Please tick all that apply.**

It will allow unviable plans to be funded against the interests of other creditors	68%
'Leap-frogging' over existing secured creditors will undermine confidence in the bank lending system	64%
Banks and other lenders may demand greater security or charge higher interest rates on normal business lending	58%

Base: All IPs who disagree

**Q19. The insolvency gives protection against certain hostile creditor actions by way of certain moratoriums and stays. It also regulates the behaviour of utility creditors. Do you consider that protection should be extended to include forced continuity of supply (so long as normal contractual payments are made e.g. software licenses), or not?**



Base: All IPs