

# gerencia de riesgos



## English Appendix

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EDITORIAL

FUNDACION MAPFRE ESTUDIOS

### Training, yet again

In issue No 34 of GR magazine we published the result of the survey on «Advanced Training for Insurance company professionals», as well as some final conclusions touching on the advisability of developing a specific university-level qualification in «Risk and Insurance Management». It was also mentioned in the Editorial of that issue, which announced the introduction by Fundación MAPFRE Estudios of a degree of this type under the academic aegis of the Pontifical University of Salamanca.

This fact does not in itself represent an isolated trend. The AEAI (Association Européenne des Assurés de l'Industrie), in collaboration with the various Risk and Insurance Management Associations and with the guidance of the Insurance Departments of The University of Glasgow and other European university centres, is preparing to launch a Post-graduate (or professional) course, directed towards higher-level training in Risk and Insurance Management in Europe. It is expected that next year should see the realization of this ambitious project, which could be set in motion independently by institutions of each country, but with a particularly European stamp and a common core syllabus. The Fundación MAPFRE Estudios, in this connection, is preparing a post-graduate course of this type which will probably be able to be offered next year, 1993.

Along the same lines, this issue of GR Magazine contains an article on «Teaching Insurance at University Level» which justifies and analyses the rationale, aims and contents of this type of teaching. However, training in this particular field does not end with this kind of project, but rather should be complemented by other initiatives of a professional nature. What is more, there are doubts as to which activities —academic or professional— may be most beneficial for each country. For example, the training of agents or brokers, now with new perspectives in Spain since the recent approval of the Law of Intercession, must be tackled soon either by the bodies themselves or by collective institutional groups, to face up to the increasing complexity of the profession.

Professional distance learning is another important challenge for countries with the geographical extent of Spain, or for others such as those in South America where a great number of professionals would like to have access to institutions such as the Chartered Insurance Institute of the United Kingdom, or the USA's Insurance Institute of America, which have for many decades done excellent and highly creditable work for the professionals of Insurance and risk management. This facet is still among the unfinished business of many institutions or associations which, in great measure, will have to justify themselves by activities of this kind.

In the recent International Conference of Actuaries, held in Montreal, this question also arose for this group of professionals who will in the near future have to face up to new challenges in an ever more complex and uncertain world. Actuarial training, promoted by university centres in most countries, must be brought closer to reality and, to a great extent, professionalised through courses or practical educational programmes directed by associations or by the university centres themselves. Actuarial treatment of risks demands more and more common-sense approaches, perhaps hung about with fewer mathematical frills in cases where there are no statistics or valid past experiences.

Another group whose training is of interest within the framework of risk management is that of Adjusters or Surveyors. Years ago, a special set of guidelines promoted this training activity to a disproportionate degree, perhaps with the purpose of fulfilling administrative requirements rather than actually training these professionals. Now that this legislation has been withdrawn the training of these professionals has suffered a severe setback, which should be quickly rectified by actions aimed at thorough training and improvement, whether in basic areas or in specialised fields. It is another urgent and important task for the future which should be taken up again by university centres, private institutions and professional associations.

# TEACHING INSURANCE AT UNIVERSITY LEVEL

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## *Teaching of risk and insurance: the justification*

1.1. The **educational aim** of this type of teaching is to cover all the subjects which are involved in the study of the **world of Risk and Insurance** from all its angles.

A **complex world** which works in a complicated way and the **study** of which should be approached from an **equally complicated viewpoint**.

1.2. **Risk** is the motivating force and *raison d'être* of Insurance: as such it demands **specific attention** to its Determination, Analysis, Evaluation and Treatment, **leading** to the concept of **Risk Management** as an effective tool for **the taking of decisions** on prevention, security, and precautions, basically within the ambit of **Complex Organizations** (Companies, Institutes, etc).

1.3. **Insurance** is, in its turn, the **principal institutional mechanism** so far devised by man for the **study and handling of risk**, and it develops its own objectives of taking due precautions thanks to its **complex technical, economic and business structure** whose network and operating base lend strength to the system.

1.4. So the **Insurance Business**, as an object of analysis and study, furnishes a great number of suitable tools for

dealing with the activities of Risk Management, while at the same time carrying on its own activities by way of the **interrelated use of specific material and disciplines** in the fields of economics, law, technology and mathematics, which give rise to insurance **Economics**, Insurance **Law**, Insurance **Technology** and Insurance **Mathematics**.

1.5. But it is also the case that the **Insurance Business** does not form a **watertight compartment** within the national or international Economic and Legal System and, as a result of its activities necessarily and inevitably feels the influence of its general economic, legal, and technical surroundings, without whose effects it would be impossible to conceive or understand its proper operation.

1.6. Therefore we should be aware that, **as a subject of study and analysis**, a proper **knowledge** of the Insurance **Business** depends on a grasp **not only** of the **subjects** which are **unique** to it (Insurance economics, law, technology and mathematics) **but also** those **general** subjects which are either essential as a grounding for the specific ones, or else which are indispensable for an adequate understanding of the socio-economic setting in which Insurance operates.

1.7. Furthermore, the **internationalisation** of Insurance is an important aspect of the Business, and one whose analysis should not be overlooked if we are to have a complete and accurate view of it. Its very operation technically requires

risks to be **distributed** via **reinsurance** from **one market to another**, with the consequent effect on the home market of incidents and events, sometimes catastrophic, which happen elsewhere: but, in addition, the increasing and dynamic **expansion** of the **strongest groups** in other markets, as well as the creation of new economic areas by the elimination of frontiers and corresponding legal standardization, as in the **European Community**, makes it all the more necessary and essential to be familiar with the international face of Insurance.

1.8. Thus a **complete and integrated view** of all the factors which play a part in the complex operation of our subject (whether specific or part of the surroundings) is what can provide the «**sensitivity**» needed to be able to **take the necessary management decisions**, after looking at each problem from all sides.

1.9. Finally —and because of its importance, this item has purposely been left until the end of this section— it is as well to mention that:

— the **Insurance Business** is, **essentially**, a **commercial** activity;

— the business setting is **evolving very rapidly**, since its very survival often depends on its ability to adapt to reality;

— **decisions** must therefore often be made not only **accurately** but **quickly** in order to be effective and efficient, and

— for all these reasons and from a management point of view, **the more comprehensive the overview of a problem, the greater are the chances of success in the approach taken and in the decisions made.**

## University and postgraduate level

The complex economic, legal and technical network which makes up the Insurance Business carries out an activity which calls for the drawing together of different sciences and branches of knowledge, both specific and general.

Such complexity requires that thorough study and analysis be approached from a university standpoint, although this does not exclude initiatives from other scientific fields.

University status, including the Post-graduate level, guarantees academic stringency in teaching as well as in research, and it is from here that we should be in the best position to make a stringent and coherent approach to the multidisciplinary whole to which the thorough study of the Insurance Business must lead.

This has already been developed technically and scientifically to the extent that, in its entirety, it is now possible to approach the study of the subject by analysing it in extensive courses:

- 1st level: Equivalent to Diplomatura.
- 2nd level: Equivalent to Licenciatura or B.Sc.
- 3rd level: Doctorate and Postgraduate.

The Doctorate level permits research activity, so necessary as a spur and a promotion, while Postgraduate level opens the doors to specialization, also necessary in view of the great variety of perspectives which co-exist in the Insurance Business.

## Purpose of this type of course

1. The approach to the study and analysis of the Insurance Business mentioned above means that the **purpose** of this course is to **train university-qualified professionals**

who, on the one hand, **will receive a wide and thorough knowledge of all the subjects and disciplines relating to Insurance and Risk Analysis and Management**; and who will, on the other hand, **get a suitable level of training in other general related disciplines** (law, economics, mathematics, finance and management) **which are needed both to understand the particular and specific disciplines, and to grasp fully the proper operation of the general economic and business world in which, and with which, the activity of the Insurance and Risk world is carried out.**

2. The design of the **curriculum** in each subject should include, in suitable form, the theoretical as well as the practical side of each.

3. The education thus acquired, although of great **usefulness within the business world in general**, would logically be at its most effective in the following **fields**:

- Insurance, reinsurance and brokerage companies.
- Company Risk Management departments.
- Public and private bodies related to Insurance and Risks.
- Activities of Insurance surveyors and commissioners and loss adjusters.
- Financial bodies and Audit and Consultancy companies.

### *Contents of the middle and upper level courses*

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The bases and objectives outlined above lead on to the **study** of what may be called **Insurance Science**, through a well-balanced group of subjects which, based around Economic, Business, Juridical, Mathematical and Social Sciences, provide the **general and specific knowledge** needed for a thorough and wide-ranging understanding of the whole of the functioning of the Insurance Business.

## 1. GENERAL SUBJECTS

These should be **fashioned and specially adapted to the specific objectives** it is hoped to achieve.

The contents should come from the fields of Business Economics, Juridical Science, Mathematical Sciences, and Social Sciences.

## 2. SPECIFIC SUBJECTS

These cover areas dealing with Insurance Economics, Private Insurance Law, Actuarial Science, Insurance technology and Risk administration.

### *MAPFRE: A concrete academic experience system*

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1. In the introduction mention was made of a «possible viewpoint» on teaching of Insurance and Risk.

2. This viewpoint is demonstrated in the **initiative** which the **MAPFRE** Group has been operating since 1989.

It was born within the group when in that year, with a clear and decisive intention to undertake or in other cases to consolidate projects dedicated to teaching and research, MAPFRE MUTUALIDAD, the parent company, set up the Fundación MAPFRE Estudios, one of the six currently active.

3. The Fundación MAPFRE Estudios was set up with the intention of contributing, on a non-profit basis, to stimulate and develop **educational and research activities** connected with the world of Insurance, safety, finance, general business administration and European Community Law.

To achieve this aim the Foundation has **four institutes** (The Institutes of Insurance Sciences, of Integrated Safety, of International Management, and the recently created European

Institute of Spain) as well as a **Study Centre** and a **Documentation Centre and Library**.

At the heart of the Foundation the **Institute of Insurance Sciences** has as its basic role the performance of educational and research activities in the areas of **Private Insurance, Social Security, the Management and Organization of Insurance Bodies and Risk Management**.

This Institute, among other activities, has been teaching the Degree Course in Insurance Science since 1989.

As regards **Academic Level** the structure and duration of the course, whose 92/93 year will be its fourth, has

been designed bearing in mind the requirements of the university standards for courses with a «Second cycle» and with a qualification level equivalent to «Licenciatura» (**Upper Level**). Accordingly, it lasts four academic years, divided into two cycles of two terms each, and with a total teaching-load of 300 credits (equivalent to 3,000 theoretical and practical hours) at a rate of 75 credits (75 hours) per term.

4. This project is being carried out in close collaboration with the **Pontifical University of Salamanca** and under its academic direction. Hence the Insurance Science Degree is a **Degree of the University**, with the academic level indicated above.

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## COMPUTER SECURITY CONTINGENCY PLANS

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There is no doubt that in today's world Computer Security is a necessity for any Company of whatever size or type. The progress of technology, of services and of the general business environment have probably made «Information Technology» the most important part of any company's resources.

This same progress forces us to adapt standard security procedures to protect these resources. In days gone by the physical protection of property from internal, external, natural and other risks was sufficient to provide adequate safeguards for the resources of the time.

Soon a series of significantly important events such as, for example, the Vietnam War or fraud in early computer systems alerted company executives to the need to develop new measures to cover these areas.

The situation became more serious as the installations and users of Data Processing Centres became more and more diversified. The proliferation of terminals in remote locations, together with the variety of services and, above all, a huge number of users highlighted the urgent need to adopt different forms of

security, not hitherto necessary. Our business world cannot imagine an integral security system which is not made up of physical security and data security. Much has been written about physical security and its evolution and continual improvements: but if we stop to think, we will see that the most spectacular improvements themselves go through computerized control systems. Computerization has brought about this remarkable change, but in its turn has increased the need to take steps to ensure its own security.

Thus every company of today should consider the security of its information systems as an integral part of its general policies, and take it into account when developing its computer plans.

Security is often seen as an abstract idea, centred exclusively on technological aspects, when it should in fact be an all-embracing policy covering staff, procedures, methods, and the equipment used to protect the company's property. It is also a state of mind for all the company's employees. This message should be spread throughout the company, using all the most up-to-date communication and training methods, and presenting security not as an end in itself, which is not really the case, but as a vital step towards the achievement of certain targets within each company, such as: safeguarding jobs, maintaining technological leads, improvement of the products and services provided, etc.

The implementation of a suitable computer security plan also implies the appointment of a person to be responsible for Information System security, whose role will be to advise Senior Computer Management in the choice of investments; to design and control the security plan; to develop rules and instructions; to ensure the implementation of protective measures and their subsequent follow-up; to appoint and train assistants in each operating unit; to heighten the awareness of and train the whole staff; and to keep General Management informed of the security situation.

## Basic Structure of Data Security

Once individual needs have been established, and a range of observations made, we can set out the following as the basic structure of a Data Security system:

- physical security of computer installations;
- security of data storage;
- security in data access procedures;
- security of data once it leaves the computer.

## Contingency Plan

There is no doubt that today the performance of a company and the achievement of its objectives depends to a great extent on the proper functioning of its computer installations.

Any part of the computer network whose normal operation is affected for whatever reason may have an adverse effect on the whole company.

This influence would result in some sort of interruption of a greater or lesser degree, but in any case it would affect the company itself.

The Contingency Plan is created to offset these negative effects. It may be defined as follows:

«The whole range of preventive procedures, the purpose of which is to provide the necessary infrastructure to set in motion the recovery of the system in case of disaster».

The following steps should be considered in a Contingency Plan:

- Risk management;
  - \* Risk analysis;
  - \* Measures to be taken;

- \* Risk finance.
- Physical protection systems.
- Data protection systems.
- Recovery systems.

### *Parameters for the choice of back-up centre strategy*

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The main factors to be defined when choosing alternatives in the viability study of a back-up centre are as follows:

- \* Level of cover.

Definition of critical services. Critical services are those banking services whose interruption would cause losses for the company.

- \* Time Frame.

Maximum time which can be allowed to elapse without restarting the process.

- \* System Architecture.

Hardware, communications, basic software and applications.

### ● **Locality and general features of the site**

- Safe zone:
  - \* Low seismic activity.
  - \* Away from airports.
  - \* Low flood risk.
- Ease of access by air and/or road.
- Access for loading and unloading, etc.

### ● **Layout of centre**

The centre should consist of the following rooms or offices: Computer room, Staff area, Tape library, Warehouse, Technical Area (UPS's, TRF's); Telephone switchboard, Access control and surveillance system, etc.

### ● **Basic Equipment**

- Temperature and humidity monitors, Converter sets, Moisture detectors, Fire control system, Air conditioning, Controlled access to computer room, Electrical installations, Auxiliary equipment, etc.

# CIVIL LIABILITY INSURANCE AND COMPULSORY COVER IN SPAIN

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## Do compulsory insurances really exist?

For the first time, and at the request of Spanish authorities, a list of compulsory insurances has been compiled in an attempt to tidy up the mass of regulations issued in recent years by a very diverse standards group. This proposal was not a success since, although admittedly a daunting task precisely because of its wide legal ramifications, some extremely important sectors of insurance were left out.

In fact, if we look at circular 2/1990 of the Attorney-General's Office on the application of the Penal Code reform decreed in Organic Law 3/89, we see paradoxically a declaration that «in our law there is no such thing as compulsory insurance», but the very fact that it is mentioned leaves us unclear as to the policy of recourse, or what should take its place; however, in spite of this, the appendix to the circular contains a list of insurances which the Law imposes without exception: that is, Compulsory Insurances applicable under our Practical Law.

With the principle expressed in such a way, and trying to apply a certain amount of rationality to this intellectual process, we would have to come to the conclusion that the existence of «compulsory and unavoidable insurance» is not acknowledged; but that the idea of compulsory presentation to the appropriate authorities of «a document certifying cover of certain liabilities demanded for specific activities» would indeed be acceptable.

Thus could be observed two different levels of obligation, as follows:

- **Typical compulsory insurances, based on a special set of rules covering Objective Civil Liability:** Motor vehicles, Hunting, Nuclear Installations, Air traffic.
- **Insurances with «compulsory cover»,** for those «classified» activities which require the holding of a licence, the acquisition of a permit, or membership of an association, etc.

In this second example, although the liabilities insured tend to be fairly specific in certain cases (transport, toxic waste, machine safety), this is not always so, since for no apparent reason the securing of a policy is also required in order to carry out totally «mobile» activities or professions.

## Justification of compulsory insurance

The result of the work of the Commission on General Civil Liability of the European Insurance Committee took shape in a report published in 1983. The updating of this report is being debated this year, when the proliferation of this type of insurance is linked to three contributory factors:

- a) **The development of case law** on civil liability, related to what has been called the «inevitable progress towards a responsible society or towards the civilization of risk».

**b) The increased concerns about safety** with relation to the marketing of massproduced products, provision of bulk services, or carrying out of particular activities.

**c) Protection of the interests of Consumers,** extremely important in national terms, where we are following the guidelines of the Paris Conference of 1972, which set out the principles of the First Action Programme on Consumer matters.

### Categories of compulsory insurance

The report of the European Insurance Committee mentioned above comments that **«there are certain clear signs that some types of activity tempt legislators to promote compulsory insurance».**

a) Activities where simple negligence can lead to **serious bodily injury:** hunting, pleasure boating, blood transfusions, medicine, horse-riding, water theme parks, etc.

b) Activities which can lead to **numerous victims as a result of a single event:** cable cars, railways, sporting events, public celebrations, nuclear installations, oil pipeline management, etc.

c) Activities which can cause a **succession of serious losses of a purely financial nature:** lawyers, solicitors, travel agencies, auditors, pension fund managers.

d) Finally, there is a fourth group of miscellaneous activities.

### Insurance and funds

Linked to the last point and expanding on a matter touched on above, it should be made clear that the introduction of compulsory liability insurance does not automatically mean that parties affected by a particular incident will be indemnified.

We should not forget one aspect which is frequently overlooked: **civil liability insurance is intended to pay claims for civil liability against the insured party.** Therefore the duty to compensate derives from the verification of three basic elements within the pure theory of Civil Liability: **action or omission, damages and causality.**

In order to avoid delays and insolvencies public, private, or mixed **specific funds** have been set up to provide compensation of pre-set amounts on a virtually automatic basis to victims of certain incidents who should not have to tolerate some types of damage or simple nuisance, but who are not in a position to claim against the administration for compensation for the provision of public services.

### Civil Liability Insurance and Deposits

First, it may be useful to make a few brief comments about the difference between liability insurance and deposits, since the legal sources which insist on the taking-out of this type of insurance all too often confuse the contents of the two sorts of contract.

In this sense, the regulations governing some professions demand the setting-up of a guarantee which is basically needed to cover the fulfilment of obligations arising from the provision of services **and which may consist of a deposit, a bank guarantee or a bail bond.**

### Compulsory Insurance under Spanish Law

#### **1. Raising the question**

It has already been remarked how, over the last few years, there has been a proliferation of different legal provisions —**Laws, Royal Decrees, Ministerial Orders, ordinary Resolutions, and even Municipal by-laws**— which include,

as well as regulations about their principal subject, the obligation to take out insurance.

## 2. Legal Basis

One of the most widely-discussed points in this issue is its controversial legal basis, going so far in some cases as to question some of the stipulations in force because of the «doubtful legality» of these types of requirement when they arise in the course of other matters of minor importance.

Thus, using the different levels of priority given to parliamentary and administrative orders, according to their rank in the regulatory hierarchy, we can see that the requirement for compulsory insurance arises in the following regulations: State Budget Law, General laws, Regional laws, Royal decrees, Ministerial, state and Regional orders, Ministerial Resolutions, Municipal by-laws.

## 3. List of compulsory insurances

I — Insurance against Civil Liability arising from the use and circulation of motor vehicles, compulsorily covered, Hunter's Civil Liability Insurance, Compulsory Insurance of travellers, Civil Liability Insurance for nuclear damage.

II — Extraordinary risk insurance, Combined agricultural insurance, Forest fire insurance.

III — Obligation to take out insurance specified in other circumstances.

## *The Insurance Company and Compulsory Insurance*

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At first sight, this may not seem to be a good time to impose compulsory insurance, especially if we take into account the fact that the «liberalization fever» of the last few years should, at least in theory, lead to a situation where the market itself sets the guidelines for insurance in a situation of free competition and acceptance on the part of the insurers.

However, the fact is that such insurances do exist and, in general, as the 1983 Report of the European Insurance Committee pointed out, «**the attitude of the insurance industry faced with the imposition of compulsory insurance is somewhat reserved**». At first sight, it may seem strange that insurers do not appear to approve of compulsory Civil Liability Insurance, since:

— The growth of the number of insured parties would permit better use of «**the economies of scale**».

### **There would be a tendency to avoid antiselection.**

However, in contrast to these favourable factors there are other arguments against this type of insurance:

a) A demand for insurance in those activities which are of high risk, leaving out those economic sectors which are less reluctant to take out cover.

b) The importance of the inadequate technical development of insurance, leading to some confusion in the provision of adequate cover.

c) Interference with the normal practices of Civil Liability Insurance regarding individualized analysis of each risk and application of special conditions according to the peculiarities of each insured party.

d) In this case, for example, the idea of franchises and other limitations are incompatible with compulsory insurance.

## *Compulsory insurances which lie in wait*

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Certain regulations are being worked on at the present moment which will be of great importance to the insurance sector. So far it is not clear whether the sector's opinions have been sought, so it would not be surprising if the same problems arose as before: **compulsory insurance without insurers.**

1. Compulsory Civil Liability Insurance.
2. Compulsory Civil Liability Insurance for producers and treaters of waste products.
3. Compulsory insurance for housing developers.
4. Compulsory Civil Liability Insurance for insurance brokers.

### Corollary

The proliferation throughout Europe of compulsory or practically compulsory types of insurance is only a reflection of social progress. Therefore the tendency towards the apportionment of liability more or less automatically leads to the creation of obligatory insurance. This practice might be perfectly acceptable when the panoply of the law seeks to protect the highest level of values: life, honour, the physical well-being of the individual or the natural resources of mankind. However, it is less easy to understand the creation of this type of insurance when it aims to protect liabilities falling outside these basic

categories, since they seek to make insurance take on risks which affect only the pockets of private individuals.

This list should be narrowed down and the issue should be brought within fairer limits since, in some cases, it is essential to look carefully at the legislator's intentions in requiring the insurance: particularly when the activities to be covered have a high risk-factor and where the scope of the actual insurance is not clearly defined.

It is on this last point that the insurance world should make a particular effort, presenting proposals on and obtaining solutions to the technical principles of the insurability of risks, as well as the ability of the companies to play in a ball-game with previously agreed rules. Otherwise we shall witness the common but none the less regrettable spectacle of compulsory insurance without an insurer who is prepared to accept it.

Since the subject is obviously not yet settled, the different Public Administrations with competence in the matter should do adequate research before they put such measures into practice. For, as we said before: **HAVING INSURANCE WILL NOT AUTOMATICALLY MAKE THINGS WORK ANY BETTER.**

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English Appendix

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