

The History of the Insurance Market in Spain

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Résumé de l'article

Nous passons en revue l'évolution du marché de l'assurance en Espagne jusqu'à la fin du XXe siècle. Depuis les premiers documents écrits d'assurance datant de 1435 à Barcelone, nous retraçons la forte influence que les marchés des autres pays d'Europe Occidentale ont eue sur le marché espagnol. Nous décrivons comment les réglementations ont imposé des mesures pour promouvoir une plus grande libéralisation et harmonisation et comment la création de l'Union européenne a conduit à la consolidation de la présence de nombreux assureurs multinationaux sur le marché espagnol. L'industrie d'aujourd'hui est arrivée à maturité, mais le degré de pénétration de l'activité d'assurance dans l'économie espagnole et dans de nombreux pays dans lesquels les assureurs espagnols ont élargi leurs affaires est encore loin de celui des économies dominantes.

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RÉSUMÉ

Nous passons en revue l'évolution du marché de l'assurance en Espagne jusqu'à la fin du XX^e siècle. Depuis les premiers documents écrits d'assurance datant de 1435 à Barcelone, nous retraçons la forte influence que les marchés des autres pays d'Europe Occidentale ont eue sur le marché espagnol. Nous décrivons comment les réglementations ont imposé des mesures pour promouvoir une plus grande libéralisation et harmonisation et comment la création de l'Union européenne a conduit à la consolidation de la présence de nombreux assureurs multinationaux sur le marché espagnol. L'industrie d'aujourd'hui est arrivée à maturité, mais le degré de pénétration de l'activité d'assurance dans l'économie espagnole et dans de nombreux pays dans lesquels les assureurs espagnols ont élargi leurs affaires est encore loin de celui des économies dominantes.

ABSTRACT

We review the evolution of the insurance market in Spain up to the end of the 20th century. From a detailed account of the earliest written records of insurance dating from 1435 in Barcelona, we trace the strong influence that the markets in other West European countries have had on the Spanish market. We report how national insurance regulators have taken steps to promote greater liberalization

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and harmonization, while the creation of the European Union has led to the consolidation of the presence of many multinational insurers in the Spanish market. Today's industry is mature, but the market penetration of insurance in Spain, and in the many countries in which Spanish insurers have expanded their business, still lags behind that of the leading economies.

I. INTRODUCTION

Throughout history primitive forms of insurance have constantly emerged. For instance, individual savings, in all its possible forms adapted to different historical periods, is a mode of risk transfer based on self-insurance and on the fact that consumption needs can be pooled over time. Similarly, in ancient and medieval times storing products such as cereals in temples or in the granaries of the feudal lords was an early form of insurance against crop failure. The basic principles of insurance can also be found in some of the agreements drawn up by medieval guilds, whose members would help each other when facing human or material loss.

In Spain, the development of insurance can be divided into seven periods. In the sections that follow we examine each in chronological order and in the last section we briefly discuss the expansion of the Spanish banking and insurance sector.

2. INSURANCE THROUGH TO THE EIGHTEENTH CENTURY IN SPAIN

In the Middle Ages two types of insurance emerged: one was profit-oriented and designed to cover business risk, especially commercial transportation; the other was clearly non-profit and used rudimentary forms of mutualism to cover burials, thefts, illnesses and accidents.

Marine insurance was introduced in many Mediterranean cities, especially Italian and Spanish, that traded with each other in the second half of the 14th century. The first written records of marine insurance can be found in Barcelona and date from the first half of the 15th century. These documents, known as the *Ordinances*, bear the date 1435 and can be considered the first written records of insurance anywhere in the world. Some of the most interesting paragraphs from these records are reproduced here in the Appendix (Jados, 1975).

The Ordinances that were drafted in Barcelona established rules for insurance on behalf of the city itself and their primary purpose was stated as being to remove all possibilities of deceit or fraud that, at the time, led to abuses in ship transportation around the Mediterranean. One of the most common forms of deception was faked or deliberate losses in order to collect insurance. To avoid these practices, the regulations stipulated that insurance could not be contracted for the full value (ship and cargo), but for no more than three quarters of this value, so that the insured party had an interest in doing their utmost to preserve the convoy. Furthermore, it was also forbidden to contract more than a single insurance coverage for the same object. However, in some instances it was in fact possible to protect the full value, typically in relation to subsistence goods intended for local supply. The ordinances of 1435 were followed by a second codification in 1458 and a third and final one in 1484.

Later in 1536, the Consulate of Burgos drafted another set of Ordinances that were approved by Emperor Charles V in 1538. Thus, until the creation of insurance companies in England and other countries including Spain, at the end of the 17th century, insurance was a private matter, expressed in a contract, typically between merchants. The main maritime business of the Burgos merchants was the export of wool to Flanders. Marine insurance policies were divided into parts or shares, in a similar fashion to stocks, the sums of which was equal to the amount insured. Trading insurers covered one or more of these policies. For them it was a kind of investment: the owner or operator of the vessel paid to endorse the policy and, if there was no loss, the insurer would keep the premium. When there was an accident, the insurer limited its loss to the amount that had been underwritten.

In Burgos the tradition and spirit apparent in these early contracts were still far removed from the conditions that led to the foundation of the first insurance companies. Only a few commercial companies in the city reserved a certain amount of their capital to guarantee their insurance agreements and these funds were sufficient to face all possible claims for compensation. Specialized agents, experts in the provision of insurance, and brokers did operate but few dedicated themselves exclusively to the business of insurance. These brokers helped traders find the requisite number of insurers to cover all their risk, charging a commission that increased in case of disaster. The brokers also carried out the necessary procedures for recovering the compensation due (Basas, 1963). The price of insurance varied according to the value of the object insured and other factors such as the nature of the goods, the ship's characteristics, the trading route and destination, whether the ship sailed alone or in convoy, and the season in which the voyage was undertaken. The records in this regard of captain and crew were a guarantee of the merchant's prestige.

The ordinance included a model policy that in principle had to be signed for the contract to be considered fully binding. However, many contracts were entered into without this formality, simply by signing an agreement before a notary: these so-called “in confidence” contracts probably accounted for the majority of policies before the ordinances were adopted in 1538. The reason why these contracts continued to be used after this date was undoubtedly the desire to avoid payment of consular fees. The ordinance of Burgos permitted the party to insure 90% of the value of the object (while in Barcelona, this proportion was originally 75%, but subsequently raised to 80%). The uninsured tenth part of the object was referred to as the “tithe” of insurance. The compensation payable in case of loss was indicated in the policy in terms of a percentage of the total insured value. The policies of the Burgos merchants were subject to a steady increase in premiums in the second half of the 16th century because of the instability generated by wars between Spain and England and between Spain and the Netherlands.

In the 16th century Spain and America initiated wide-ranging trading relations. Trading ships at this time were vulnerable to many dangers, hence the need to insure both cargo and boats. In 1543, the Consulate of Seville was given responsibility for this insurance and all other matters related to overseas trade. The Consular Ordinances drawn up later in 1556 dedicated more than half of their provisions to insurance, which included model policies. Yet, there remained a general dearth of expertise among insurance providers in the market.

By the 17th century, therefore, marine insurance was well established and organized throughout the Mediterranean areas. Traders were used to pooling their risks and obtaining joint commercial credit. For instance, a form of loan could be granted to merchants to finance a trading expedition. The interest rate for this credit was, however, higher than that available on the market; in case of disaster the merchants could simply default on the credit. In this way, “insurance trust” was gradually fostered. It became the custom to strike private, as opposed to public, deals, many of which were agreed without any documentary evidence. The practice was obviously cheap and easy for all parties, but it gave rise to many cases of abuse resulting in litigation. Fraud became widespread and there was little regulatory activity; as a result, some merchants decided to create more formal groups and structures.

The insurers that began to operate in Spain at this time were mostly Genoese, although others were Flemish, German and English. By the late 17th century, there was still no entirely Spanish company operating. Indeed, no Spanish firm dedicated itself exclusively to the task of insuring ships and their goods until the second half of the 18th century.

During the 18th century, transatlantic trade recovered after the depression of the 17th century, and in the late 18th century brokers began to be regulated as insurance companies. The Decree of Free Trade of 1778 saw insurance companies flourish in Cadiz: for example, in 1791 *La Sagrada Familia* was founded and in 1800 another insurance company, *Reina María Luisa*, was established (Tortella, 2011).

However, life insurance in the Mediterranean developed only as an adjunct to marine insurance, with policies ensuring passengers and sailors on certain voyages. Before the 18th century, only very rudimentary forms of life insurance existed, for example, a certain sum being guaranteed in case of the death of a debtor. What did flourish at this time was the practice of reinsurance underwriting, designed to manage the risk of those that had purchased insurance contracts.

3. THE MODERNIZATION OF INSURANCE COMPANIES DURING THE 19TH CENTURY

Throughout the 18th century a large number of insurance companies were founded in Spain, eventually replacing individual insurers. The process gradually eliminated the need for intermediaries acting between the insurer and the insured, thereby facilitating an increase in insured values. At the same time the insurance business became markedly more professional. The companies initially had unlimited liability and were managed by two main agents: the owner and the treasurer. Later, they were transformed into stock companies and progressively limited the liability of their stockholders.

In the early 19th century, as the institutions of the liberal state were progressively introduced in Spain, the first insurance companies with limited liability were created. At the same time, they began to diversify their insurance business. However, the legislation that regulated these corporations was to remain highly restrictive and erratic until 1869, while the instability of the prevailing legal system did little to facilitate the operations of companies in the insurance sector. Other institutions, such as mutual societies appeared in these years, with the specific mission of providing fire protection and the pooling of risks for groups of policyholders in the case of marine insurance. Between 1836 and 1848 only seventeen insurance companies were in operation in Spain, primarily working out of Madrid, but also Barcelona, Malaga and Bilbao. These companies retained many of their traditional features, with insurance units being referred to as “shares” and with agents receiving the title of “directors”. The latter were responsible for the typical functions of an insurance company, namely underwriting

policies, collecting premiums and paying out compensation, and they received a percentage of the company's annual net profits in remuneration.

Most insurance companies continued to concentrate most of their business in marine insurance, although some began to diversify their portfolios, even providing financial services such as banking and lending. Despite extending their activities along these lines, the companies maintained fairly low levels of capital reserves, their solvency being guaranteed primarily by the prestige of their shareholders, namely aristocrats, politicians, bankers and landlords.

The freedoms enjoyed by insurance companies up to this date disappeared as a result of the enactment of the Companies Act of 28 January, 1848, supplemented by the regulations promulgated on February 17. This legislation led to the rationalization of the insurance industry with companies now being obliged to register at the Commercial Court. This entailed the filing of the company's memorandum and articles of association, satisfying the minimum initial capital requirement, presenting a statement of the number of shares to be issued, etc. As a consequence, only a third of the companies operating before the 1848 Act survived, namely those that were able to satisfy the minimum capital requirement (Pons, 2010).

In addition to the general enactment governing corporations, a number of specific regulatory standards were introduced for insurance companies. For example, for the period between the promulgation of the Order of 3 August 1860 until April 1864, insurance companies were forbidden from using capital funds for purposes other than for insurance. In this way, they could no longer undertake banking and lending activities, and even capital fund investments were prohibited.

4. THE ADVENT OF MULTINATIONALS IN SPAIN (1870-1907)

The Decree of 28 October, 1868, repealed the 1848 Corporations Act and opened the door to Spanish and foreign capitalists alike to create limited liability companies. This led to the foundation of many new companies. Most of these were very local in their operation and they were characterized by low levels of invested capital. As a result, many of them failed to survive more than a few years. In these companies, initial capital funds were unduly dedicated to speculative investments or dividend distributions, unlike the situation in other

companies where all the capital was fully retained and a much more restrictive dividend strategy was operated.

After 1890, the life insurance business eventually began to flourish, even though the use and development of actuarial science in Spain was still in its infancy. In fact the use of scientific actuarial methods was limited to just three companies at that time (*La Previsión*, *Banco Vitalicio de Cataluña* and *La Unión y el Fénix Español*).

Many multinational companies chose this moment to enter the Spanish insurance market, so that by the end of 1884 a total of nineteen multinationals (13 French, 4 British and 2 American) were operating in Spain. These companies specialized above all in fire insurance, but would quickly extend their business into the life and accident insurance markets. The Spanish insurance market was thus dominated by these multinationals through to the early twentieth century thanks mainly to the absence of any market regulation but also to the non-existent domestic initiative. Foreign companies found a market with little competition and no requirements with respect to paid-up capital, deposits and reserves. This win-win situation for multinational insurers remained until 1893 when the government, faced by a permanent deficit, decided to levy specific taxes on insurance companies (2% on annual premiums and 2% on agents' commissions) and demanded the creation of reserves out of which they were obliged to purchase debt or Spanish bank bonds. These new conditions proved expensive both for Spanish insurance companies and for foreign corporations, but the latter suffered more as their reserves were held in their respective countries of origin. The multinationals strongly objected to having to deposit their reserves in Spain, but nevertheless remained active in Spanish territory until the outbreak of World War One.

Although only a few Spanish insurance companies were created in the 19th century, they survived until the 20th century for the reasons outlined above. Some of them, including *La Unión y el Fénix Español*, *Banco Vitalicio de Cataluña* and *La Catalana* actually expanded their business, and eventually consolidated their position as leaders in the Spanish insurance sector (Pons, 2008).

5. THE REGULATION OF INSURANCE COMPANIES IN SPAIN (1908-1935)

In 1908 the first major regulation of the insurance sector took place with the passing of the Insurance Act on 14 May. Subsequent measures were adopted in 1912. This Act, together with the Workers'

Compensation Act which was passed earlier, was to have a strong influence on the evolution of the insurance market.

The Workers' Compensation Act laid the foundations for what would later become Spain's social security system. However, it also opened up new lines of business for private insurers, stimulating the creation of mutual associations and thus strengthening the role of these mutual societies in the Spanish insurance sector.

The Insurance Act required insurance stock companies to provide supporting documentation to accredit the subscribed social capital as well as to deposit 25% of their capital. However, a company already in operation that could not deposit this amount was exempt if the sum of its statutory reserve along with the actual payout to its shareholders exceeded 25%. As the law did not specifically require a minimum share capital, many companies at the local and regional level were able to pursue their activities by fragmenting their business lines, primarily in sickness and life insurance, and agricultural insurance. This explains why a very large number of small companies that were undercapitalized and presented problems of solvency were able to survive.

The 1908 Act also provided for a mandatory deposit, establishing different amounts depending on the class of insurance being provided. For example, the initial deposit established for life insurance was 200,000 pesetas, while in the other classes of insurance the capital was fixed at 5 per cent, with a minimum of 5,000 pesetas and a maximum of 100,000 pesetas. In addition, the 1908 legislation fixed a list of standards for insurance companies as regards their deposits, premium reserves and current reserves. These bills were typically in the sovereign debt issued by a number of select states or industrial securities quoted on the stock exchange.

In the early decades of the 20th century, the Insurance Advisory Board introduced a number of additional limitations, for example, it increased the minimum required capital and compulsory deposits. This had the effect of reducing the activity of insurance companies with limited capital as well as that of individual companies or mutual societies administered by management companies. After the Spanish Civil War, and shortly before World War Two, only insurance corporations or mutual associations operated in Spain.

The lengthy regulatory process initiated in the first decades of the 20th century led to the growing diversification of portfolios and the birth of general insurance companies, as well as to changes in their methods of marketing and production. The number of Spanish-owned companies increased, while many expanded thanks to the acquisition of the portfolios of those foreign companies that abandoned the Spanish market at the outbreak of World War One. In addition, the rise in

nationalist protectionism in the period 1923 to 1930 saw an intensification of the dominance of Spanish-owned insurance companies. In 1935 Spanish insurance companies enjoyed a market share that rose above 50% in all lines of business (Frax, et al. 1996).

6. THE INSURANCE INDUSTRY AFTER THE SPANISH CIVIL WAR (1939-1953)

The Spanish Civil War (1936-1939) was hugely detrimental to the whole Spanish economy and a major obstacle to the growth of the country's insurance business. At the end of the conflict, the political regime placed the entire insurance market under the control of the National Union of Insurance. In the post-war period, Spain's insurance companies raised their minimum capital requirements and increased their capital investments, as well as their minimum deposit volume. At the same time barriers to impede the entry of foreign companies were established through higher capital expenditure requirements, additional payments and requests for guarantees of reciprocity in their respective countries.

In 1940, the Law for the Regulation of Life Insurance was proclaimed and the Insurance Compensation Consortium was set up to help insurance companies meet their obligations. To finance the Consortium, a 5% annual fee, in the case of life insurance premiums, was charged to policy holders.

7. THE RIGID REGULATION OF THE INSURANCE MARKET (1954-1977)

In 1954 a new Act regulating the insurance market was introduced in order to put an end to certain investment and insurance plans, such as tontines and Chantelusians¹. Throughout the second half of the 20th century the Insurance Compensation Consortium was to play an active role and remains a key player to this day. The Consortium is concerned with providing coverage for extraordinary risk and is at the heart of a public system that provides compensation for catastrophic damage.

Following the Stabilization Plan of 1959, the insurance industry experienced significant growth. The evolution of premiums as a percentage of gross domestic product rose to about 2% of GDP, and workers' compensation disappeared with the advent of a public social security system. The industry growth could have been much higher if

insurance companies' premiums and policy conditions had not been subject to such strict regulation and control.

This expansion of the insurance market was consolidated with the introduction of compulsory motor insurance, which resulted in significant growth in premium volume. However, growth in the motor business was paralleled by a fall in the volume of life insurance as the level of protection and subsidies offered by the Social Security System rose and as a result of high rates of inflation during the early sixties.

8. THE LIBERALIZATION OF THE INSURANCE MARKET (1977-2000)

In 1972 the Third Development Plan identified the need to modernize the Spanish insurance industry by promoting market concentration, liberalizing premium prices and deregulating investment restrictions on technical reserves without affecting the solvency of insurers. In the eighties, ten years after these problems were first diagnosed, the Insurance Contracts Act (1980) and the subsequent Management Act of Private Insurance put an end to intervention in insurance operations. As such, a truly competitive landscape was opened up for insurers. At the same time, Spain became a member of the European Economic Community in 1986, where a single insurance market gave it the obligation to accommodate EU directives on freedom of services, the harmonization of investments linked to technical provisions and the standardization of accounting.

In the last decade of the 20th century, the Spanish insurance market was subject to many changes as a result of the increase in the standard of living of the country's population. Increasing market liberalization and competition explain why new intermediaries, including the Spanish banks and savings banks, became part of the insurance underwriting process. Specific training for actuaries, which had been introduced in the fifties at the Complutense University of Madrid, the University of Barcelona and the University of Bilbao, provided the industry with specialized actuaries and qualified managers.

9. FINAL REMARKS

A summary of is presented in Table 1 to highlight what importance events/developments in the industry were most important in terms of the modern Spanish insurance industry

**TABLE I
FACTS ABOUT THE HISTORY OF INSURANCE IN SPAIN**

Period	Socio economic context	Advances in insurance	Regulatory innovations
14th – 15th century	Low levels of domestic trade High levels of maritime trade: Mediterranean & Atlantic Europe	Marine Insurance	Barcelona Ordinances (1435)
16th – 17th century	Domestic trade: new regulatory institutions Maritime trade: American colonies Monopolistic trade: Consulates Sevilla (1543), Bilbao (1511), Burgos (1494)	Individual insurers No firms	Burgos Ordinances (1538) Bilbao Ordinances (1552) Sevilla Ordinances (1556)
18th century	Transatlantic trade recovered after the depression	First regulated insurance companies Life insurance as a supplement	Free Trade Law (1778)
19th century	Implementation of the liberal state Beginnings of the Industrial Revolution	Insurance companies with limited liability Diversification of insurance business	Companies Act (1848)
1870–1907	Independence of most Spanish colonies Foreign capital inflows Protectionism: agrarian crisis Severe deficit	Multinational insurance companies First developments of Life insurance	Liberalisation decree (1868) Taxes on insurance companies (1893)

Period	Socio economic context	Advances in insurance	Regulatory innovations
1908–1935	2nd Industrial Revolution High industrial growth Spanish neutrality WWI Nationalist protectionism	Creation of mutual associations Birth of general insurance companies 50% market share of Spanish insurance companies	Workers' Compensations Act (1908) Insurance Act (1908)
1939–1953	Spanish Civil War (1936-39) Spanish neutrality WWII Autarky and international economic blockade	Increasing capital requirements for insurance companies	Law for the regulation of Life Insurance and Insurance Compensation Consortium (1940)
1954–1977	Economic Stabilisation Plan (1959) Development Plans (1964-67, 1968-71, 1972-75) High industrial growth	Public Social Security System Increased motor insurance business Decreased life insurance business	Insurance Act (1954) Compulsory motor insurance (1968)
1977–1982	Economic crisis: hyperinflation and unemployment Energy dependence	High level of intervention in insurance market	Moncloa Pacts (1977)
1982–1990	Economic recovery Entry into the EEC (1986) Economic integration	Competitive insurance market	Insurance Contracts Act (1980) Management Act of Private Insurance (1984)

The Spanish insurance market today represents 1.5% of world premiums and has a penetration index (measured as %premiums/GDP) of 5.4%. Recently, Spanish insurance companies have expanded into the emerging economies of Latin America, a natural process given the strong cultural and trading relationship existing between Spain and these countries. The Latin American economies account for about 3% of world premiums, and have recorded a constant increase in premium volume over the last few years. Many strategic alliances have been signed between European companies and local Latin American corporations.

Globalization and the current economic crisis have given rise to the need to establish regulatory bodies that can monitor the complex networks formed by financial institutions and large corporations. Such bodies can also be expected to regulate large-scale economic regions, such as that formed by Latin America and Spain, in which the insurance market shares many natural links and a common historical background.

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Appendix

The following paragraphs are reproduced from the translation of the *Ordinances of the Councilmen of Barcelona Relating to Marine Commerce, proclaimed on the Twenty-first Day of November, A.D. 1435* (see, Jados, 1975).

Upon the recommendations of Their Highness, William de Sent Climent, Cavalier, Judge of Barcelona, and of Mattheu Dezvall, Governor-General of that city, and each of them from within his own jurisdiction, Councilmen and Elders of the city, and in order to protect and regulate the activities of vessels and other craft sailing the seas, and for the protection of such commerce, ordain the following

(...)

2. Furthermore, the formerly mentioned Councilmen and Elders ordain that from this date on, all obligations related to loans involving the usual risks of sea commerce will be executed in an official public act, otherwise it will be impossible to enforce the fulfillment of the terms stated within, as had been explicitly stated above.²

In all such depositions mentioned above the master of the vessel as well as the clerk shall state their consent to such loans and state under oath that all these loans made in pursuance of marine commerce or on the basis of some other agreement that had included the risk clause have been paid off without any attempt at deceit or fraud, and that such loans were negotiated for the needs and purposes of the vessel engaged in a specific voyage. In addition, they must pledge that they shall keep an account of every expense incurred in outfitting and of buying the necessities and supplies for the vessel, which shall be necessary at any place from which the vessel shall depart to continue its voyage, and that all these expenditures shall be entered into the register. All this must be done in order that the loan makers could find within the wording of such agreements made regarding these loans and be able to prove if the need shall arise that the money was used for specific needs, essentials, and expenses, and whether these loans were actually used for the purposes claimed, and if there had been any deceit or fraud attempted by the master of the vessel or the clerks, who are required to observe in most minute detail the intent and meaning of the Barcelona ordinances and the articles of the *Consulate*, and carry them out, each within its proper domain.

If they should violate these ordinances, they shall forfeit their wages and any profit accruing from these enterprises, and their share shall accrue to the other shareholders of the vessel. In addition, clerks of such vessels shall be punished in the manner prescribed in the articles of the *Consulate*.

Furthermore, masters of vessels violating these ordinances are answerable with all their property for these marine loans and other agreements involving marine risks, even if their vessels should be lost due to any circumstance, unless they can prove that the money had been used to repair damage suffered by the vessel, and the money had to be also used to refit the vessel and expended on other essentials for the vessels or other sailing units.

(...)

Notes

1 These products collected funds in one period and subsequently redistributed annuities among the surviving participants.

2 In the original manuscript these ordinances were not numbered. In order to avoid confusion each article starting with the word Item was numbered.