

Novelties in the extraordinary risk insurance and the compulsory third-party automobile insurance

A number of important new developments have entered into effect starting on 1 July 2016, with respect to the legislation regulating the activity of the Consorcio de Compensación de Seguros (CCS), which significantly benefit all of the insured who take out automobile insurance policies, regardless of the greater or lesser degree of the coverage they decide to contract. The new developments affect the two principal environments in which the CCS carries out its activity as an insurer: the extraordinary risk insurance and the compulsory third-party automobile insurance. Essentially the change involves added coverage and at the same time a reduction in the surcharges collected for the CCS, paid by the insured through their automobile insurance premium receipts.

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1. New developments in the extraordinary risk insurance



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1.1. Extension of the coverage to all motor vehicles without exception

Since the very origin of the Spanish extraordinary risk coverage program, the CCS has paid compensation for the damages caused by these risks to motor vehicles whenever these were insured by a policy that included some kind of cover for damage to the insured's own vehicle (for example, windscreen cover, theft or the so-called all-risk insurance policies). Therefore, motor vehicles covered solely by civil liability insurance (policies commonly known as "compulsory insurance" and "third-party insurance") have always remained outside of the scope of extraordinary risk insurance and, consequently, without the right to compensation in the event of damage caused by any of the risks included in this insurance program: flood, battering waves, earthquakes, atypical cyclonic storms (windstorm), terrorist attacks, among others.

The eighth final provision of Act 20/2015, of 14 July, on the regulation, supervision and solvency of insurance and reinsurance companies (LOSSEAR, see the article on this subject in issue 3 of the magazine Consorseguros Digital), amended article 7 of the revised text of the Articles of Association of the CCS to extend the coverage of extraordinary risks to all motor vehicles with Spanish registration insured in Spain under an automobile insurance policy, without exception. This is therefore a truly historic extension of the insurance coverage provided by the CCS, which became

effective starting on 1 July 2016 for the new automobile insurance contracts, and will be applied to current insurance contracts prior to their first renewal as from that date.

The extension of this coverage benefits the more than six and a half million vehicles which, according to sector statistics, only carry civil liability insurance at the present time. In these cases, the CCS will pay compensation for damages up to a limit equivalent to the value of the vehicle in its condition at the time immediately prior to the occurrence of the loss, according to generally accepted purchase prices in the market. The same occurs in the case of "own damage" automobile insurance policies, where no deductible will be required to be paid by the insured in these situations.

In the case of current policies covering third-party liability alone, insurance companies must inform policyholders about this new extension of coverage at the time of the first renewal of their policies starting as from 1 July 2016. For this purpose, the new CCS cover must appear on their premium payment receipts for the renewal of their policies or be notified through any of the means normally used by insurers to maintain contact with their policyholders.

1.2. Reduction of the surcharge for the CCS in motor vehicles

At the same time, the CCS analysed the losses occurring over the last few years due to extraordinary risks involving motor vehicles and the projections of revenues from surcharges and payments for losses made in relation to the vehicles added to the coverage program according to the new situation described above. The result was a significant reduction in the extraordinary risk surcharge tariff for the CCS applicable to motor vehicles. Therefore, for example, in the case of passenger cars and commercial vehicles up to 3,500 Kg, the surcharge applicable up to now in the amount of 3.50 € has been reduced to 2.10 €; for lorries, the surcharge has been lowered from 17.60 € to 9 €, while the surcharge for industrial vehicles of 14.60 € is now 10.50 €; and in the scope of two-wheel vehicles, mopeds and similar, the current 0.60 € surcharge has been cut by half to 0.30 €, and motorcycles from 2.30 € to 1.20 €.

This change in the extraordinary risk surcharge tariff for motor vehicles entered into effect on 1 July 2016, and therefore applies both to the new contracts signed as well as to the renewals of contracts which take place as from that date.

1.3. New clauses in extraordinary risk coverage by the CCS

Finally, and also at the same time, an update and revision of the content of the clauses stipulating the covers provided by the extraordinary risk insurance have been carried out, for mandatory inclusion in the ordinary insurance policies issued by insurance companies. The updating of these clauses stems from the need to include these and other new recent legal developments in terms of extraordinary risk insurance, and is also an opportunity for clarifying and simplifying their content and adapting them to the new management procedures introduced by the CCS with respect to the reporting and processing of extraordinary risk losses. This updating has affected the texts of three types of clauses: property damage and civil liability insurance for land motor vehicles, personal injury insurance and combined coverage.

The new clauses must be included, at the latest, in the new insurance contracts signed starting as from 30 June 2017. In relation to the rest of the contracts –that is, those already in effect and gradually being renewed and the new contracts entered into up to 30 June 2017- insurers must send the policyholders copies of these clauses or inform them about the clauses through the contact channels they normally use, prior to the date indicated. Insurance companies and the CCS must also publish the new clauses on their respective websites.

2. New development in the compulsory third-party automobile insurance: reduction of the surcharge paid to the CCS

In the same way as the tariff of the surcharges to be paid to the CCS has been reduced for the coverage of damages to motor vehicles due to extraordinary risks, the surcharge paid to the CCS for the performance of its functions as a guarantee fund for compulsory third-party automobile insurance has also been reduced.

Through these guarantee fund functions, the CCS pays compensation for the damages caused in traffic accidents by motor vehicles operating illegally without compulsory insurance, by unidentified vehicles, by stolen vehicles or vehicles used without permission and by vehicles insured by insolvent Spanish companies undergoing compulsory liquidation or in a winding-up process taken over by the CCS itself, or in bankruptcy.

The surcharge used for financing these functions was set traditionally for a number of decades at 3% of the amount of the commercial premium of each compulsory third-party automobile insurance policy and was reduced for the first time on 1 July 2009, placing it at 2%.

However, the more effective control of the obligation to insure vehicles and the ensuing progressive reduction of the losses caused by uninsured vehicles, together with the small number of winding-up processes of automobile insurance companies entrusted to the CCS, have made it possible to proceed with yet another reduction in the surcharge by an additional 25%. Consequently, starting on 1 July 2016, the surcharge is established at 1.5% of the commercial premiums of compulsory third-party automobile insurance.