

Hogan Lovells practical guide (Q&A)

Training requirements for insurance and reinsurance distributors

Following the entry into force of Royal Decree-Law 3/2020¹, it was only a matter of time before new training requirements were published for those who hold positions in the governance structure of insurance or reinsurance distributors, as well as for those employees who, where applicable, are directly involved in their distribution.

Accordingly, Royal Decree 287/2021², replaces Royal Decree 764/2010³, regulating, among others (i) the requirements to participate in training courses; (ii) their duration according to three different levels (Level 1, Level 2 and Level 3); (iii) the recognition of prior knowledge to allow the adjustment of the courses that a candidate has to take; continuing training, etc.

The main content of RD 287/2021 is set out below through the following list of questions and answers (Q&A):

1. [When will the new regulations on training requirements introduced by RD 287/2021 be applicable?](#)

RD 287/2021 was published in the Spanish Official State Gazette (*Boletín Oficial del Estado*) on April 21, 2021 and entered into force on the day following its publication, i.e. April 22, 2021.

¹ *Royal Decree-Law 3/2020 of 4 February on urgent measures transposing into Spanish law various European Union directives in the field of public procurement in certain sectors; private insurance; pension plans and funds; taxation and tax litigation ("RDL 3/2020").*

² *Royal Decree 287/2021, of 20 April, on the training and submission of statistical-accounting information by insurance and reinsurance distributors. ("RD 287/2021").*

³ *Royal Decree 764/2010, of 11 June, developing Law 26/2006, of 17 July, on private insurance and reinsurance mediation in the field of statistical-accounting and business information, and professional competence.*

2. Subjective scope: who must comply with the training requirements under RD 287/2021?

The training requirements apply to all insurance and reinsurance distributors, whether natural or legal persons, and their relevant staff. In other words, the following insurance and reinsurance distributors must comply with the training requirements ("Distributors"):

- a) Insurance and reinsurance entities when undertaking direct distribution activities;
- b) Insurance and reinsurance brokers;
- c) Linked insurance agents; and
- d) Bancassurance operators.

Where the Distributor is a legal entity, these requirements shall extend to:

- i. Their employees, external collaborators⁴ or persons directly involved in the distribution of private insurance and reinsurance on behalf of the Distributors by providing information or advice to clients or potential clients; and
- ii. The person responsible for the distribution activity (the former "Technical Director") or the persons who are members of the management body responsible for the distribution activity.

3. Objective scope: what training should distributors have?

There are three new levels of training (Levels 1, 2 and 3) which replace the former Groups A, B and C.

LEVEL	TO WHOM IT APPLIES	INITIAL TRAINING	CONTINUING TRAINING
1	<ul style="list-style-type: none">✓ The persons responsible for distribution (or half of the management body responsible for distribution) of the insurance and reinsurance entities;✓ Insurance brokers⁵; and✓ The persons responsible for distribution (or half of the management body responsible for distribution) of the bancassurance operators.	300 class hours	25 class hours / annually

⁴ In the case of external collaborators which are legal persons, the person responsible for the insurance distribution collaboration activity or, where applicable, half of the members of the management body responsible for the insurance distribution collaboration activity.

⁵ In the case of insurance brokers which are legal persons, Level 1 training shall be completed by the person responsible for distribution or, where applicable, by half of the members of the body responsible for distribution of the insurance broker.

2	<ul style="list-style-type: none"> ✓ Insurance agents that provide advice to clients⁶; ✓ Employees of insurance entities that provide advice to clients; ✓ Employees of any Distributor that provide advice to clients; ✓ Persons involved in the distribution networks of bancassurance operators that provide advice to clients; and ✓ External collaborators that provide advice to clients⁷. 	200 class hours	25 class hours / annually
3	<ul style="list-style-type: none"> ✓ Insurance agents who provide information (not advice)⁸; ✓ Employees of insurance entities that provide information (not advice); ✓ Employees of any Distributor that provide information (not advice); ✓ Persons involved in the distribution networks of bancassurance operators that provide information (not advice); and ✓ External collaborators that provide information (not advice)⁹; 	150 class hours	15 class hours / annually

This means that the number of hours required of those who previously had to pass Group A training courses (similar to the current Level 1) has been **reduced**, but the number of hours required of those who previously had to pass Group C training courses (similar to the current Level 3) has been considerably **increased**, from 50 to 150 class hours.

Furthermore, the RD 287/2021 establishes as a new requirement that continuing training of between 15 and 25 hours annually shall be undertaken.

⁶ In the case of insurance agencies which are legal persons, Level 2 training shall be completed by the person responsible for distribution or, where applicable, by half of the members of the body responsible for distribution of the insurance agency providing advice.

⁷ In the case of external collaborators which are legal persons, Level 2 training shall be completed by the person responsible for collaboration or, where applicable, by half of the members of the body responsible for collaboration of the external collaborator providing advice, as well as the employees providing advice.

⁸ In the case of insurance agencies which are legal persons, Level 3 training shall be completed by the person responsible for distribution or, where applicable, by half of the members of the body responsible for distribution of the insurance agency providing information (not advice).

⁹ In the case of external collaborators which are legal entities, Level 3 training shall be completed by the person responsible for collaboration or, where applicable, by half of the members of the body responsible for collaboration of the external collaborator providing information, as well as the employees providing information.

4. How should "advice" be interpreted for the purposes of RD 287/2021?

It is necessary to take into account the definition of this concept in Article 128 of RDL 3/2020. This Article defines the concept of "advice" as the "*provision of a personal recommendation to a customer, either upon their request or at the initiative of the insurance distributor, in respect of one or more insurance contracts*".

5. Is it necessary to certify some kind of previous qualification to access level 1, 2 and/or 3 training?

Article 8 of RD 287/2021 requires the following prior qualification to be accredited before accessing each of the 3 levels:

LEVEL	PRIOR QUALIFICATION
1	High school diploma or equivalent.
2	Secondary Education Diploma or equivalent.
3	No prior educational qualifications are required.

Holders of diplomas corresponding to foreign education systems must provide proof of official validation of these diplomas.

6. In case of holding a qualification from a university or other professional training, is it possible to reduce the number of class hours to access the training corresponding to levels 1, 2 and/or 3?

Yes. In the case of persons who are in possession of an official university or professional training qualification, the duration and content of the training course will be reduced in those areas that coincide with the content of the official university or professional training qualification that they hold.

7. In case of having exercised mediation activity in another member state, is there any way to equate that exercise with passing the training required for levels 1, 2 and/or 3?

Yes. Natural persons who have taken up the activity of mediation as insurance or reinsurance intermediaries resident or domiciled in other Member States of the European Union other than Spain shall be deemed to have passed the courses corresponding to Levels 1, 2 and/or 3 as accreditation of the effective exercise of the activities carried out in those Member States, respectively, by the persons included in Levels 1, 2 and 3.

8. If group a, b or c training has already been completed under the previous regulations, is it necessary to validate this training or to undertake any additional training?

The Additional Provision of RD 287/2021 establishes the following with regards to those persons who already hold a qualifying qualification for the practice of insurance and reinsurance distribution activities:

- a) The possession of the diploma of Qualified Insurance Mediator shall have the same effect as the successful completion of the training course required for Level 1;
- b) Persons holding Group A training qualifications shall not be required to complete the training courses required to perform the activities of Level 1;
- c) Persons holding Group B training qualifications shall not be required to complete the training courses required to perform the activities of Levels 2 and 3; and
- d) Conversely, persons holding Group C qualifications shall complete within one year (i.e. until April 21, 2022) the training required to perform the activities corresponding to Level 3, however, during this period they may continue to engage in insurance or reinsurance distribution by providing information on insurance or reinsurance products, without providing advice, under the direction and on the responsibility of the distributor on whose behalf they are acting.

Notwithstanding this, these persons will have to comply with the new continuing education requirements.

9. Who is allowed to provide the continuing training required by RD 287/2021?

The training may be organised by the Distributor itself, by public or private universities or by external persons or entities certifying training, in accordance to Articles 12(2) and 12(3) of RD 287/2021, and the provisions stipulated by resolution of the Directorate General for Insurance and Pension Funds (“DGSFP”).

10. Consequently, can distributors themselves organise training courses (both initial and continuing) for their relevant staff?

Yes. Distributors may organise initial and/or continuing training courses for their relevant staff.

To this end, Distributors shall, among other requirements, have human resources and materials, procedures and an organisational structure that ensures that the relevant staff have the adequate knowledge and skills.

11. Do the organisers/instructors of training courses have to make any kind of communication to / request an authorisation from the DGSFP in order to organise such courses?

Yes. The following authorisations and/or communications must be obtained and/or made, depending on the training intended to be provided by the Distributor:

LEVEL	AUTHORISATION / COMMUNICATION
1	Authorisation (not required for insurance entities)
2	Communication
3	Communication

12. In addition to the validation of subjects on the basis of previous performance of the activity in another member state or on the basis of a university degree and/or professional training, are there any other ways to reduce the number of hours of initial training?

Yes, but only with regards to training courses corresponding to Levels 2 and 3.

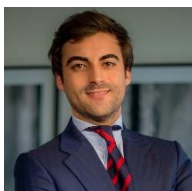
Article 7 of RD 287/2021 establishes that, based on the principle of proportionality, taking into account the nature and complexity of the service to be provided and of the insurance products on which advice is given (for Level 2) or information is provided (Level 3), the Distributor may establish the allocation of a lower number of hours of training.

13. How shall distributors provide accreditation of compliance with the training requirements established by RD 287/2021?

Distributors must keep records regarding the accreditation of their qualifications, knowledge and skills and of their relevant staff. To this end, they must have an up-to-date list of relevant staff that includes, for each person, the following:

- a) Evidence of the qualifications acquired to date (by means of an appropriate certificate); and
- b) Accreditation of the continuous training received¹⁰.

Authors



Felipe Vázquez
Senior Associate, Madrid
T +34 91 349 82 97
felipe.vazquez@hoganlovells.com



Guillermo Ruiz Barrilero
Associate, Madrid
T +34 91 349 82 41
guillermo.ruiz@hoganlovells.com



Andrea Campos
Legal Trainee, Madrid
T +34 91 349 80 27
andrea.campos@hoganlovells.com

¹⁰ Where training and assessment of continuing training are provided by the Distributor itself, the training provided, the assessment of the knowledge acquired and the results of the assessment shall be recorded for each person in the individual's record.