



## CE Council

### Firm Element Frequently Asked Questions

*Nothing in this Frequently Asked Questions (FAQ) document creates any new requirements for Continuing Education (CE) the Firm Element. Furthermore, following this FAQ document does not guarantee compliance with Firm Element requirements or provide a safe harbor from regulatory responsibility. The FAQ document is provided only as a helpful starting point to walk firms through planning, developing and implementing a firm's Firm Element program. Each firm must consider its size, structure, scope of business, regulatory concerns and applicable requirements to ensure that its training program is in accordance with its annual needs analysis and written training plan. Firms are responsible for ensuring that their training program meets the requirements set forth by the various self-regulatory organization (SRO) rules to which the firm is subject.*

#### **Q. What are the Firm Element requirements?**

**A.** The rules and regulations of various SROs of the securities industry (refer to CE rules table in the [Council Guide to Continuing Education Firm Element Programs](#) document) require firms to establish an annual Firm Element program that enhances the securities knowledge, skills and professionalism of their covered registered persons. A firm should refer to the applicable rules and regulations for specific requirements. Generally, the Firm Element rules require firms to evaluate and prioritize annually their training needs, *i.e.*, conduct a needs analysis, and develop a written training plan. In planning, developing and implementing the Firm Element training, each firm should take into consideration its size, structure, scope of business, regulatory concerns, and various other factors.

#### **Q. Who is required to participate in Firm Element training?**

**A.** The Firm Element requirements typically apply to all covered registered persons. The term "covered registered persons" is generally defined as registered persons, including representatives, supervisors, principals, assistant representatives, research analysts, investment bankers, and operations professionals.

#### **Q. Are branch managers and supervisors/principals covered registered persons within the Firm Element CE Program?**

**A.** Yes, if they directly supervise covered registered persons. If a branch manager or supervisor/principal also has customer accounts, then their immediate supervisor is a covered registered person as well.

#### **Q. Are registered research analysts covered registered persons within the Firm Element?**

**A.** Yes, if they interact with customers. This would include responding to customer questions or assisting institutional salespersons in direct dealings with customers of the firm.

#### **Q. Are registered sales assistants or registered investment company shareholder servicing agents, who handle service calls from customers, covered registered persons within the Firm Element?**



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**A.** Yes, if their activities include conducting a securities business in a sales context and otherwise require registration. The fact that such persons are registered and that there is enough potential for customer contact of the type prescribed by the rules, these persons should be considered covered registered persons.

**Q. If a firm prescribes that a particular covered registered person take part in the Firm Element training, must the covered registered person do so?**

**A.** Yes. SRO rules and regulations require covered registered persons to participate in training as prescribed by their firms. Failure to do so could result in disciplinary action against the covered registered person by their firm or by a regulatory authority.

**Q. Is any covered registered person exempt from the Firm Element?**

**A.** No. No covered registered person is exempt from the Firm Element requirement.

**Q. Can covered registered persons who volunteer or are called into active military duty obtain relief from Firm Element obligations for the period of time that they are on active duty?**

**A.** Contact the applicable regulator. For example, FINRA (see [Notice to Members 06-08](#)) provides relief from both Regulatory and Firm Element obligations to registered persons who volunteer or are called into active military duty.

**Q. What should a firm consider when undertaking its annual needs analysis?**

**A.** In general, each firm is required to analyze and evaluate its training needs considering the firm's size, organizational structure, scope of business, types of products and services it offers, regulatory concerns and applicable requirements, among other factors. Particular emphasis should be placed on changes to firm or industry demographics from the prior year. New products, new rules related to firm business, and problems the firm has experienced, such as complaints, regulatory or legal actions, are other particularly important considerations. Refer to [Council Guide to Continuing Education Firm Element Programs](#) document for additional information.

Each firm must then administer its Firm Element program in accordance with its annual needs analysis and written training plan and must maintain records documenting the content of the program and completion of the program by Firm Element participants.

**Q. Must a firm utilize a questionnaire from its covered registered persons as part of its needs analysis?**



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**A.** Questionnaires from covered registered persons are not required, although they are one way in which a needs analysis can be conducted. They can be beneficial for covered registered persons to inform the firm about actual educational needs.

**Q. Does the needs analysis require specific review of training needs for supervisors or principals?**

**A.** Yes. Firms are required to specifically address training needs of supervisors or principals in the annual needs analysis and written training plan. Best practices may include a review of the firm's internal supervisory policies, the effective use of internal monitoring or supervisory systems, and the sources of information or assistance available to supervisors within the firm.

**Q. Should a firm document its needs analysis as a part of its written training plan?**

**A.** Yes. Subject to applicable rules and regulations, a firm should describe the methodology it uses in conducting its needs analysis. It should identify the factors considered by the firm, the kinds of information reviewed, and the conclusions reached from the analysis. Refer to Documentation of the CE Firm Element Program in the [Council Guide to Continuing Education Firm Element Programs](#) document for additional information.

**Q. Does a firm that is a sole proprietorship have to prepare a needs analysis and written training plan, and how detailed does it have to be?**

**A.** Regardless the size or type of firm, every firm must conduct a needs analysis and prepare a written training plan that is reasonable for the size and type of business it conducts or plans to conduct.

**Q. Should a firm make special provisions in its Firm Element training for employees newly hired from other firms? For example, does a covered registered person hired in September need to receive training already delivered earlier in the year?**

**A.** The firm should conduct an evaluation of the individual's experience, training and areas of business relative to what the individual will do at the new firm. It is generally beneficial for a firm to conduct an orientation period or program for covered registered persons hired from other firms to familiarize them with the firm's specific policies, products, and expectations and to determine whether the new employees would benefit from additional training, including material previously covered in the new firm's Firm Element training.

**Q. Is there a deadline by which a firm must complete the needs analysis and written training plan?**



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**A.** Consult the applicable SRO rules and regulations for specific deadlines. The needs analysis and the written training plan for the Firm Element program must be completed on an annual basis and made available for regulatory inspection by the end of each calendar or firm fiscal year.

**Q. Are tools available from the Council to assist firms in building their written training plans?**

**A.** Yes, refer to [Council Guide to Continuing Education Firm Element Programs](#) document for additional information.

**Q. Are firms permitted to use training materials or presentations provided by outside entities such as regulators, industry trade and professional associations, clearing firms, product manufacturers and commercial training vendors?**

**A.** Training materials and presentations available from sources outside the firm can be helpful training vehicles if they are appropriate for the firm. The firm should be able to demonstrate that the training relates to products, services, and strategies offered by the firm.

**Q. Will SROs or the Council preapprove training materials or programs developed by members or providers?**

**A.** Neither the SROs nor the Council will preapprove training materials or training programs. Firms are responsible for training material content regardless of whether it was prepared by the firm or by an outside training provider.

**Q. When must training begin each year?**

**A.** There is no definitive date on when training should begin. Training dates are determined by the firm and incorporated into the training plan. Those dates may vary depending on the firm size and needs.

**Q. How often must a firm conduct training?**

**A.** There is no prescribed frequency on how often a firm must conduct training. For example, firms with limited products or small numbers of covered registered persons might find it appropriate and sufficient to conduct training on only one or two occasions during the year. Conversely, firms with multiple product lines and large numbers of covered registered persons may find it appropriate to conduct training on an on-going basis throughout the year. Whatever the timing and frequency, firms should ensure that training is relevant to identified needs and that it is adequate to convey the desired information.

**Q. Is there a minimum number of hours of CE that each covered registered person must take in the Firm Element program?**



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**A.** Each firm must provide CE that is reasonable and in accordance with the training needs identified by its annual needs analysis. While there are no required minimum number of hours for the Firm Element requirement, a firm may prescribe training measured in hours or credits to keep track of individual's compliance with the Firm Element.

**Q. Can the annual compliance meeting required under FINRA Rule 3110(a)(7) satisfy the firm's Firm Element training?**

**A.** While firms often leverage the opportunity presented by the annual compliance meeting to deliver training, Firm Element training should not be limited to compliance topics if there are identifiable training needs related to products and services offered by the firm. In most instances, Firm Element training should include materials beyond those typically covered to satisfy the annual compliance meeting requirement.

**Q. Can a firm change their written training plan if circumstances change over the course of the year, or as an identified need arises?**

**A.** Yes, a change would be appropriate if the new training improved on or replaced that originally planned, or if it were deemed necessary because changed circumstances suggested new training priorities. The annual training plan should be viewed as an evolving document that can be modified if circumstances warrant and should allow for deviation if experience or unanticipated developments suggest that changes are appropriate.

**Q. May CE for insurance licenses or training taken in conjunction with professional designation programs such as the Certified Financial Planner (CFP) Program satisfy Firm Element requirements?**

**A.** Generally, such other continuing education or training programs may count towards the Firm Element but only to the extent the components of other CE requirements or accreditation programs deal with securities. For example, if the covered registered person is insurance licensed, the firm offers insurance training related to investment-related insurance products such as variable annuities or variable life, and the needs analysis identified such topics as appropriate, then that training would be appropriate for meeting part of Firm Element requirements. Further, for individuals participating in training connected with obtaining or maintaining a professional designation program, if a firm determines that the material adequately covers subjects planned for its own Firm Element, such training can be used. Refer to [Council Guide to Continuing Education Firm Element Programs](#) document for additional information.



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**Q. What records will be needed to document needs analyses, written training plans, program content and covered registered person participation for regulatory examinations?**

A. Refer to Documentation of the CE Firm Element Program in the [Council Guide to Continuing Education Firm Element Programs](#) document for additional information.

**Q. Should a firm develop written procedures that address compliance with the Firm Element requirements?**

A. Yes. Firms should develop written procedures designed to reasonably ensure compliance with the rules governing the Firm Element requirements (refer to the rules that are applicable to your firm). Best practices may include:

- designate an appropriate officer or principal to oversee compliance with the program;
- develop processes for creating and implementing Firm Element programs; and
- monitor and track completion of the requirement.

**Q. If a firm is a member of two or more SROs, is it subject to inspections for compliance with their Firm Element program by each SRO?**

A. Yes, the firm is subject to inspection by each relevant SRO. However, it is possible that the SROs may coordinate their inspection efforts to avoid any overlap. It is also possible that certain SROs may enter into an SEC Rule 17d-2 agreement regarding the allocation of regulatory oversight responsibility for common member firm compliance with applicable Firm Element rule provisions. Please refer to the particular SROs with questions about inspection programs.