



Guide to Firm Element Needs Analysis and Training Plan Development

Background

Self-regulatory organization (“SRO”) rules, including FINRA Rule 1250 (Continuing Education Requirements) require each broker-dealer to maintain a continuing and current education program for its “covered registered persons” to enhance their securities knowledge, skills and professionalism. A “covered registered person” includes any person registered with a member who has direct contact with customers in the conduct of the member's securities sales, trading and investment banking activities, any person registered as a research analyst, or any person registered as an operations professional pursuant to FINRA Rule 1230, and the immediate supervisors of such persons. Pursuant to FINRA Rule 1250, FINRA’s continuing education requirements consist of a Regulatory Element and a Firm Element.

The Firm Element requires each firm to evaluate and prioritize its training needs and develop a written training plan on an annual basis. The annual training plan developed and administered by the firm for purposes of the Firm Element requirement must update and inform covered registered persons of job- and product-related subjects relevant to the firm’s business. The firm must annually evaluate and prioritize training needs by conducting a Needs Analysis, and then develop a written Training Plan.

In planning, developing, and implementing a Firm Element plan, a firm must consider its size, structure, and the scope of its business activities, as well as any regulatory developments, and the performance of its registered employees in the Regulatory Element program(s). Outlined below are several issues and concepts that firms should incorporate as part of completing and documenting their Firm Element program, including the two main components of the Firm Element: the Needs Analysis and the Written Training Plan.

Needs Analysis

A first step in developing a Firm Element Program is to analyze a firm's training needs. The Needs Analysis determines potential training issues for the firm and establishes a starting point for training priorities and the development of the written training plan. Critical components to developing an effective Needs Analysis are



data collection and an analysis of the firm and its associated persons, and general industry matters.

When developing the Needs Analysis, firms should avoid being too general. The Needs Analysis should address the firm's specific business lines and demographics, analyze the data collected and define the training issues that will be the basis for the Written Training Plan. Generally, a thorough Needs Analysis produces a list of needs that must be carefully prioritized in order to produce a workable training plan. The process of identifying training priorities should be carefully documented and should include: (1) who was involved in the decision-making process; (2) the basis for their judgments; and (3) all covered registered persons (by position, business unit, or individual) for whom specific training is appropriate. A step-by-step process for developing a Needs Analysis is outlined below:

(1) GATHER AND ANALYZE INFORMATION

Gathering relevant information, including general information about the firm and specific data relevant to the firm's business, is a critical component of a successful Needs Analysis. Information should be gathered from as many available and pertinent sources as necessary and then analyzed to determine potential training needs. In gathering and analyzing information, firms should identify and consider:

- **Covered job functions at the firm and the persons who perform those functions**
 - The various roles and responsibilities of each covered registered person, the knowledge required for each covered registered person to perform his or her assigned job functions, and the issues such persons should be aware of;
 - The experience of the firm's personnel, not only in the industry generally, but with the various products and services offered by the firm; and
 - Any reportable events and disciplinary histories of firm personnel, particularly in products or services offered by the firm.
- **Products and services the firm offers its customers**
 - Taking into consideration topics identified in the semi-annual Firm Element Advisory, and to the extent the topics contained in the Advisory are offered by the firm or impact the firm, the type of products and services offered to customers as well as the complexity and risks of those particular products or services.



- **Customer complaints, litigations, arbitrations, and regulatory actions for the firm or its covered registered persons by product and/or service**
 - Gathering and reviewing data for the firm and its personnel in these areas, which may identify patterns in products or services that could warrant training for firm personnel. Firms should consider the recent and long-term trends for the firm in these areas.
- **Changes to industry rules, regulations or related laws, as well as changes to firm policy and/or procedures**
 - A review of changes to the regulatory landscape, as well as changes to firm policies and procedures, either as a result of regulation changes or for other reasons, in order to identify training needs.
- **Regulatory Element Performance**
 - Based on the aggregate quarterly performance of the firm's registered individuals in the Regulatory Element, firms should review the performance of its registered persons since the last Needs Analysis to determine if any modules or topic areas within those modules appear to warrant additional training.
- **Internal Input and Feedback**
 - Firms are obligated to obtain feedback and evaluations from personnel participating in existing training programs. This feedback, as well as feedback or input on potential training issues from sources such as the firm's compliance, legal, internal audit, trading, and operations departments, should be evaluated. Input from management and registered personnel using surveys, interviews, focus groups, etc., regarding perceived training needs is also a valuable tool. These reviews should also include analyses of performance reviews, internal disciplinary actions, and business plans to identify training needs for individuals or groups within the firm.

(2) DETERMINE TRAINING OBJECTIVES

After completing the first step in the Needs Analysis, firms should identify the training objectives and goals of their plans based on the analysis of the data and information gathered.

- **Prioritize Needs**
 - Firms should consider priorities for implementing a training plan. Considerations should include business initiatives, volume or percentage of



business in a particular area or needs pertaining to such area, and primary regulatory and compliance issues.

- **Identify Specific Training Objectives**
 - Based on the prioritized needs, firms should identify what the objectives for each aspect of the training will be. This should include identifying specific goals (e.g., pass rates (if applicable)) for each objective.
- **Connect Training Objectives to Personnel**
 - While some training objectives may be applicable to the entire firm, it may also be appropriate to develop and implement training specific to certain groups or individuals. Training objectives that are differentiated for each applicable group of covered registered persons (e.g., registered representatives, supervisors) tend to make the impact of the training more meaningful and applicable to each group.
- **Articulate the Goals of Training Objectives**
 - The goals of the various training objectives should be documented.

(3) DOCUMENT THE NEEDS ANALYSIS

All steps involved in developing the Needs Analysis should be well documented in one place as part of the Firm Element program and should include a record of what information was gathered, time frames during which the information was collected and applicable, and the analysis of the information.

Written Training Plan

The Written Training Plan is the second overall component of an effective Firm Element program. The Written Training Plan represents the implementation of the objectives identified in the Needs Analysis. In seeking to develop an effective Written Training Plan, firms should:

- Identify the person(s) responsible for ensuring that the training plan is implemented in accordance with its stated scope and objectives;
- Identify the general objectives and the specific knowledge and skills to be imparted by the programs;
- Address the topics determined as part of the needs analysis;
- State the specific training needs and programs;
- Link training programs to specific individuals/groups;



- Describe the form or format in which training will be conducted;
- Establish a delivery time frame for training;
- Provide for and capture feedback for the next analysis/plan;
- Document participation; and
- Review and update the plan at least annually.

IDENTIFY TRAINING TOPICS

Review the gathered and analyzed information from the Needs Analysis in order to identify specific training programs to be used by the firm for its various covered registered persons. Training topic considerations may include, but are not limited to:

- Specific Training on Products and Services
 - Training should incorporate any new products and services the firm has offered since its last training plan administration. This should also incorporate any new product lines or changes made to a firm's business resulting from expansions of business or modifications to agreements with an SRO.
- Marketing Strategies
 - Training should incorporate changes in sales or marketing strategies of existing products and services that may precipitate new suitability or regulatory issues.
- New Rules, Regulations, and Other Legal and Regulatory Developments
 - Sources for such information include the SEC and websites of SROs.
- Regulatory Sources
 - Training should address regulatory reviews, investigations, and disciplinary actions involving the firm and its agents. Broad-based comments or findings by industry regulators, including any suggestions developed and disseminated.
- Unique or Recurring Events at the Firm
 - Training should consider complaints, arbitrations, and litigations; customer complaints or legal actions entered against the firm that may be indicative of recurring problems or trends; and terminations for cause and internal disciplinary actions.
- Economic Conditions and Market Environment
 - Training should address the effects of changes in market conditions on products or services.



Training materials used by the firm may be prepared by the firm or procured from outside sources. In either case, the training materials must:

- Be appropriate for the firm's size, scope of business, and method of operation;
- Address the products, services, or strategies offered to customers, including general investment features of products, services, or strategies and applicable fees and charges;
- Address features and factors a reasonable person would consider relevant in evaluating a product or service including:
 - Basic factors that determine the value of investment products, services, or strategies,
 - Associated risk factors, e.g., business risk, interest rate risk, inflation risk, market risk, and political risk,
 - Features that may affect a product's liquidity, taxability, callability, convertibility, and legality for certain classes of investors,
 - Suitability for different types of investors, considering their investment objectives and constraints, financial status, experience, and level of sophistication, and
 - Applicable regulatory requirements including communications with the public.

SUGGESTIONS FOR AN EFFECTIVE WRITTEN TRAINING PLAN

- Thoroughly develop a training plan, not merely a repetition of the Needs Analysis, taking into account the level of detail appropriate for the firm as well as the training needs of both groups and individuals.
- Be flexible. Develop a process to review training objectives and modify when necessary.
- Establish a clear link from the training needs identified in a firm's Needs Analysis to the resulting Written Training Plan.

The Council notes that because many plans do not clearly identify the process by which some training needs were selected over others, firms should document the decision-making process for determining the training topics in the firm's annual training plan. This allows firms to more easily reassess and amend their training plans as circumstances within the firm or industry change. In developing a Written Training Plan, firms should thoughtfully set priorities for those topics selected for



inclusion and should carefully document the process and criteria for setting priorities.

EFFECTIVE IMPLEMENTATION OF THE WRITTEN TRAINING PLAN

- Identify the individual(s) with overall responsibility for the firm's continuing education program(s) and others to whom responsibility is delegated.
- Ensure the firm's written policies and procedures include the processes followed to meet continuing education requirements.
- Make sure that training programs and materials meet standards for content as stipulated in the rules.
- When using outside vendors or externally-developed training materials, make certain the firm retains the overall responsibility to ensure that the content, delivery, and documentation are appropriate for its Firm Element needs. Please note that SROs do not approve any vendors or training material.
- Remind covered registered persons and senior management that not only is Firm Element training required under SRO rules, but also that such training keeps personnel current with industry trends.
- Keep records and track progress of participation throughout the training programs.
- Establish a regular schedule of training and monitor progress against the training schedule.
- Ask the firm's Internal Audit Department, Compliance Department, or Compliance Officer to periodically review the firm's compliance with their Firm Element requirements, in addition to conducting ongoing reviews of the Firm Element processes and programs.

OTHER CONSIDERATIONS FOR THE WRITTEN TRAINING PLAN

- The annual compliance meeting required under FINRA Rule 3110(a)(7) is only one aspect of a firm's Firm Element training and is generally not sufficient to meet all of a firm's obligations under the Firm Element.
- Training focused exclusively on selling skills or prospecting does not meet Firm Element program requirements.



- Some training offered in conjunction with the requirements of another industry (e.g., insurance and financial planning) may be used to meet Firm Element requirements if those courses are consistent with the topics identified in the firm's Needs Analysis and the specific job functions and training needs of the individual.

Documenting the Firm Element

Rules 17a-3 and 17a-4 under the Securities Exchange Act of 1934 require that Firm Element books and records must be maintained as part of the firm's books and records. Properly documenting the Firm Element includes preparing and retaining detailed records reflecting how the Firm Element plan was developed, implemented, administered, and monitored, including:

- All components of the Needs Analysis, such as data sources, participants, methods and materials used, results and conclusions.
- The Written Training Plan.
- Actual training materials and outlines.
- Records of covered registered persons' participation in training programs.
- Feedback and evaluation.