





# CE Council Guide to Firm Element Continuing Education Programs

## General Overview

Firm Element programs apply to all registered persons and include the following components:

- needs analysis;
- written training plan; and
- books and records maintenance.

Additionally, Firm Element programs cover the following topics:

- ethics and professional responsibility; and
- securities products, services and strategies offered by the firm, including the following elements:
  - general investment features and associated risk factors;
  - suitability and sales practice considerations; and
  - applicable regulatory requirements.

A firm should identify the person(s) responsible for overseeing the Firm Element program; developing, implementing and maintaining its core components; and ensuring it evolves with the business, industry trends and the progress of the registered persons. These responsibilities include:

- performing a needs analysis;
- developing and implementing a written training plan;
- establishing a time frame and schedule to deliver training;
- documenting course titles, content and participation;
- retaining training-related documents for books and records;
- managing the annual process of updating the needs analysis and implementing the written training plan;
- reviewing training objectives and modifying as needed (*e.g.*, quarterly or twice-a-year review or ad hoc modifications due to unforeseen regulatory concerns); and
- establishing and maintaining the firm's policies and procedures to meet CE requirements.

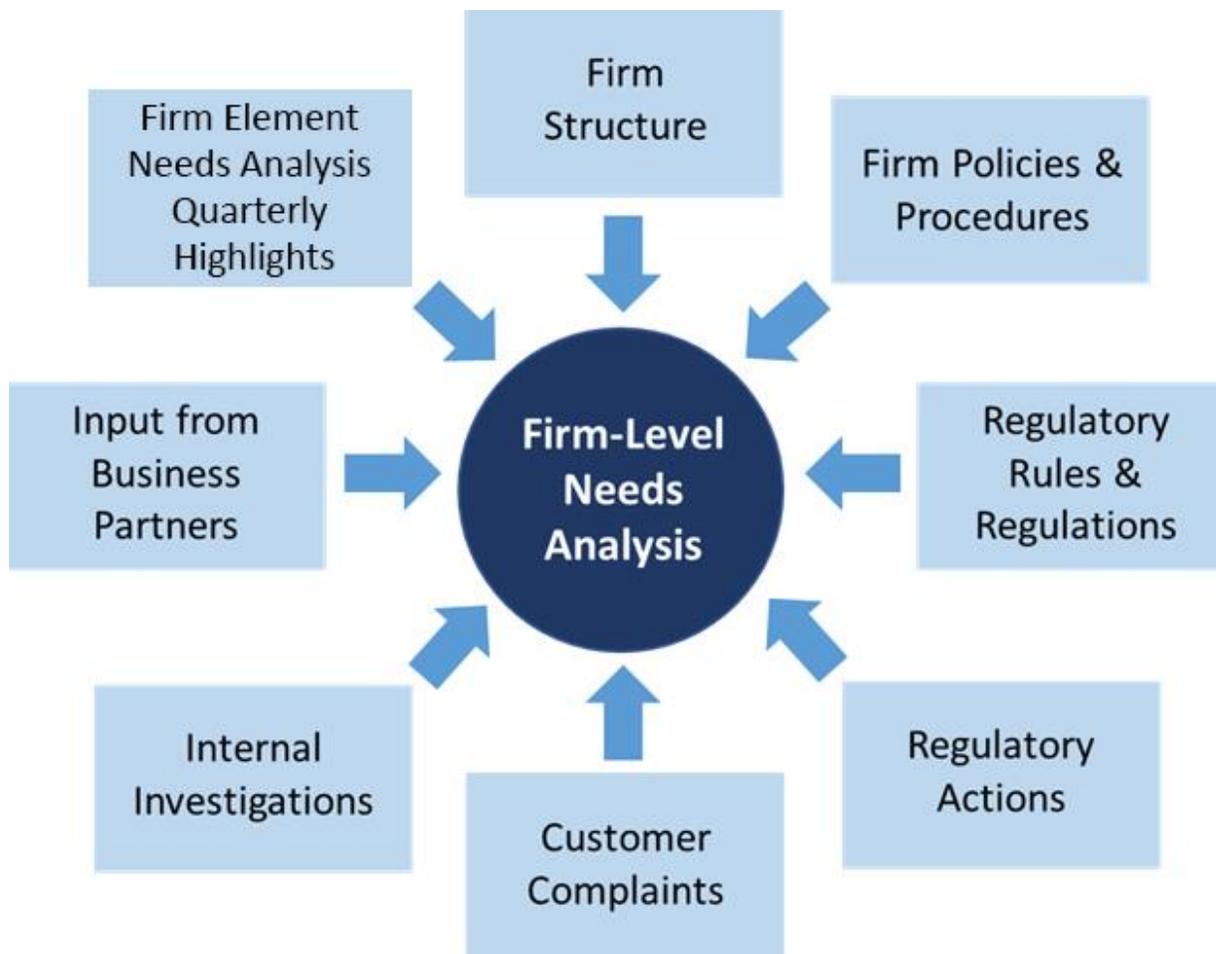


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## Needs Analysis

An initial step in developing a Firm Element program is to analyze a firm's training needs. A needs analysis identifies potential training opportunities for the firm's registered persons and serves as a starting point for developing a written training plan.

When conducting a needs analysis, firms should be as specific as possible. A needs analysis should address a firm's products, services it offers and business model, bearing in mind the demographics of its customer base. A needs analysis should be well documented and include the various factors considered in identifying the training needs. The below is a nonexclusive list of suggested considerations to help a firm perform the needs analysis.





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## **Firm Structure:**

- Business model, job functions and the required knowledge, skills and responsibilities
- Changes to the firm's structure and supervision framework
- Knowledge and experience level of the firm's registered persons
- Customer base and level of sophistication
- Location(s) and jurisdiction(s) of the firm's registered persons

## **Firm Policies & Procedures:**

- New and updated firm policies and procedures
- Products and services offered and any changes to features or processes
- New products and services offered
- Complexity and risks of products and services
- Changes in market conditions that may impact products and services offered by the firm
- New technology or operational processes
- Marketing strategies that may impact the firm's sales practices considering best interest and suitability obligations

## **Regulatory Laws, Rules & Regulations:**

- Annual regulatory examination priority letters
- Regulatory sweep letters
- Applicable changes to securities industry laws, rules and regulations
- Clearing firm notifications and frequent surveillance exceptions

## **Regulatory Actions:**

- Regulatory actions and examination findings against the firm and its associated persons
- Securities industry regulatory actions, notices and news releases

## **Customer Complaints:**

- Incidents of customer complaints, litigation and arbitrations

## **Internal Investigations:**

- Internal investigations and terminations for cause of the firm's associated persons
- Review of findings and remediations from internal audits, compliance testing, operational risk and control assessments, and operational losses or near misses (*e.g.*, incidents that could have led to monetary loss)



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## Input from Business Partners:

- Heads of business departments
- Product sales
- Operations
- Internal audit
- Privacy office
- Cyber security office
- Supervision
- Risk management
- Legal
- Compliance

## CE Council Firm Element Needs Analysis Quarterly Highlights:

- Available online at: <http://cecouncil.com/firm-element/>

Please keep in mind that the data sources identified above are not an exhaustive list, and the written training plan may not need to include all of the factors identified in this guidance document. Each firm will need to make the final determination as to what is included in the plan. To help prioritize the training needs identified in the needs analysis, firms may consider scoring or ranking the identified training needs based on business and risk factors at the firm. Business and risk factors to consider may include business initiatives, percentage business volume, regulatory inquiries and violations, compliance issues, etc. A robust needs analysis that includes training prioritization helps support the development of a risk-based written training plan.



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## Written Training Plan

A written training plan is another component of an effective Firm Element program. A written training plan is essentially a roadmap that identifies the who, what, when, where and how of a Firm Element CE program.

### Who:

Firms may want to consider:

- identifying registered persons at the firm who are required to participate in the Firm Element program;
- grouping individuals by business or support area and/or by job function;
- assigning training topics that are universal whereby they are applicable to the entire firm;
- developing and implementing specific training to certain groups or individuals;
- including training objectives that are differentiated for each applicable group of registered persons (*e.g.*, registered representatives, principals, supervisors) as differentiated objectives tend to make the impact of the training more meaningful and applicable to each group; and
- keeping in mind whether the individual is client-facing.

### What:

Firms may want to consider:

- identifying the content and training courses to be completed by the firm's registered persons;
- deciding whether they want to take a risk-based approach to prioritize the training courses by applying a scoring system to topics and events identified in the needs analysis;
- varying the training topics and include areas outside the business focus or role of the registered person—topics broadly additive to their knowledge and skills of the financial industry and its peripheral influences; and
- preparing training materials internally or procure content from outside sources. When assessing the use of third-party providers and content, firms should consider certain factors such as:
  - industry reputation of the vendor;
  - whether the vendor or developer specializes in securities or financial industry topics;
  - whether the topic contributes to professional development;
  - whether the content is comprehensive, timely and topical;
  - whether the content offers value-added information;
  - whether the subject is broadly relevant to sales, trading, capital markets, economics, market data and business planning, etc.



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- The [FINRA Compliance Vendor Directory](#) (CVD) provides firms a convenient way to search for vendors that offer the following compliance-related services: compliance consulting, cybersecurity, data management, information archive, exam prep & firm CE, insurance brokers, monitoring & surveillance, PCAOB registered accountants and registration services.

*Please note that SROs* do not endorse the products listed in the CVD and firms are not obligated to use them. SROs do not ensure the accuracy or completeness of vendor responses and do not endorse any vendors. SROs strongly suggest that firms perform their own due diligence—including technical and financial reviews—before making any vendor decisions. The use of these services does not ensure compliance with SRO rules or other regulations or laws. Vendors may not explicitly state or imply otherwise through any means of communication.

### When:

Firms may want to consider:

- identifying the time frame within which the firm’s registered persons must complete the assigned training;
- setting the timing for delivery of the training program;
- determining, depending on the size and scope of training topics, whether to condense the training schedule into one quarter or spread throughout the year;
- being sensitive to the workload of the individuals and avoid overwhelming schedules with training, if possible; and
- whether to budget extra time to allow for last minute make-up sessions or permit a brief grace period where extenuating circumstances prevent the individual from completing a course by the due date.

### Where:

Firms may want to consider:

- identifying the location(s) where the firm’s training will take place;
- determining the appropriate training venue(s) based on their business model and footprint, (*e.g.*, training can be conducted as part of a branch visit or at the main office as part of a national/regional meeting); and
- utilizing firm technology to administer training in a virtual manner, both self-directed and live webinars.



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## How:

Firms may want to consider:

- identifying the delivery method(s) the firm will use to administer the assigned training. Below are a few suggestions; however, firms may use any delivery method so long as the training content and participation can be documented and retained. Suggested methods include:
  - in-person training sessions;
  - regularly scheduled morning/afternoon business meetings;
  - online webinars;
  - online computer-based training courses;
  - compliance bulletins;
  - town halls; and
  - annual compliance meeting.

## **Documentation of the Firm Element Program**

The rules and regulations of the various SROs of the securities industry require firms to maintain records documenting the content and completion of the Firm Element programs by registered persons.

Properly documenting Firm Element programs includes preparing and retaining detailed records reflecting how the Firm Element program was developed, implemented, administered and monitored, including but not limited to:

- all components of the needs analysis, such as data sources, participants, methods and materials used, results and conclusions;
- the written training plan;
- training materials and outlines;
- records of registered persons' participation in CE;
- feedback and evaluation; and
- ensure that the firm's written policies and procedures include the process followed to meet CE requirements.



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## *Other Industry Best Practices*

In addition to the guidance provided above, firms may also want to consider the following additional best practices, shared from securities industry firms in response to a CE Council survey, when developing their CE Firm Element programs:

- Encourage firms to implement communications relating to the value of CE Firm Element programs and evaluate disincentives or other ramifications for failure to complete CE.
- Confirm that training programs and materials meet standards for content stipulated in the rules and regulations of the securities industry.
- Use training sessions to highlight the importance and reasons for continuous education and training of registered persons.
- Perform a quality assurance review of the CE Firm Element program, including course content and processes, against regulatory requirements.
- Educate registered persons and senior management about the importance and value of CE Firm Element programs, as well as the fact that it is mandatory.
- Expand the scope of the CE Firm Element program to include other associated persons.
- Ask the firm's internal audit department, compliance department, or compliance officer to periodically review the firm's compliance with its Firm Element requirements, in addition to conducting ongoing reviews of the Firm Element processes and programs.
- Diversify breadth of training topics to include courses that may impact individuals across roles (*e.g.*, ethics, conflicts of interest, cybersecurity, elder financial exploitation).
- Leverage training material offered in other financial industries (*e.g.*, insurance and financial planning) if courses are consistent with the topics identified in the needs analysis and may support the professional development of the individual.
- Firms may consider training relating to their anti-money laundering (AML) compliance program and annual compliance meeting toward satisfying an individual's annual Firm Element requirement.
- Identify learning content to improve compliance with firm policies, securities laws, rules and regulations.



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## CE Rules for SROs

| SROs                     | CE Rules  |
|--------------------------|---|
| BOX Exchange             | <a href="#">Rule 2040 Restrictions, IM2040-4 &amp; IM2040-5</a>   |
| Cboe Exchange            | <a href="#">Rule 3.33 Continuing Education for Registered Persons</a>   |
| Cboe BYX Exchange        | <a href="#">Rule 2.5.02 Continuing Education Requirements</a>   |
| Cboe BZX Exchange        | <a href="#">Rule 2.5.02 Continuing Education Requirements</a>   |
| Cboe C2 Exchange         | <a href="#">Chapter 3, Section B, TPH Registration</a>  |
| Cboe EDGA Exchange       | <a href="#">Rule 2.5.02 Continuing Education Requirements</a>   |
| Cboe EDGX Exchange       | <a href="#">Rule 2.5.02 Continuing Education Requirements</a>   |
| FINRA                    | <a href="#">Rule 1240 Continuing Education Requirements</a>   |
| Long-Term Stock Exchange | <a href="#">Rule 2.160(p) Continuing Education Requirements</a>   |
| MEMX LLC                 | <a href="#">Rule 2.5 Restrictions, Policy 02 Continuing Education Requirements</a>  |
| MIAX Options             | <a href="#">Rule 1903 Continuing Education Requirements</a>   |
| MIAX Emerald             | <a href="#">Rule 1903 Continuing Education Requirements</a>   |
| MIAX Pearl               | <a href="#">Rule 3103 Continuing Education Requirements</a>   |
| MSRB                     | <a href="#">Rule G-3 (i) Continuing Education Requirements</a>  |
| NYSE                     | <a href="#">Rule 345A Continuing Education for Registered Persons</a>   |
| NYSE American            | <a href="#">Section 4. Employees and Admission of Members and Member Organizations, Rule 341A Continuing Education for Registered Persons</a> |
| NYSE Arca                | <a href="#">Rule 2.24 Registration—Employees of ETP Holders</a>   |
| NYSE National            | <a href="#">Rule 2.2. Obligations of ETP Holders and the Exchange</a>   |
| NYSE Chicago             | <a href="#">Article 6 Registration, Supervision and Training, Rules 11 Continuing Education for Registered Persons</a>                        |



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| SROs   | CE Rules  |
|--|---|
| NASDAQ Stock Market                          | <a href="#">General 4, Section 1.1210 Registration Requirement,.07 All Registered Persons Must Satisfy the Regulatory Element of Continuing Education</a> |
| NASDAQ PHX LLC<br>(Formerly Nasdaq OMX PHLX) | <a href="#">General 4, Section 1.1210 Registration Requirement,.07 All Registered Persons Must Satisfy the Regulatory Element of Continuing Education</a> |
| NASDAQ BX, Inc. (Formerly Nasdaq OMX BX)     | <a href="#">General 4, Section 1.1210 Registration Requirement,.07 All Registered Persons Must Satisfy the Regulatory Element of Continuing Education</a> |
| NASDAQ GEMX LLC<br>(Formerly ISE Gemini)     | <a href="#">General 4, Section 1.1210 Registration Requirement,.07 All Registered Persons Must Satisfy the Regulatory Element of Continuing Education</a> |
| NASDAQ ISE                                   | <a href="#">General 4, Section 1.1210 Registration Requirement,.07 All Registered Persons Must Satisfy the Regulatory Element of Continuing Education</a> |
| NASDAQ MRX                                   | <a href="#">General 4, Section 1.1210 Registration Requirement,.07 All Registered Persons Must Satisfy the Regulatory Element of Continuing Education</a> |
| The Investors Exchange (IEX)                 | <a href="#">Rule 2.160(p) Continuing Education Requirements</a>   |



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## *Firm Element Training -Needs Analysis Template*

This template is provided to assist firms in establishing their Firm Element program to address job- and product-related subjects that may be required by SRO CE rules.

*Nothing in this template creates any new requirements for the Firm Element. Furthermore, following this template does not guarantee compliance with Firm Element requirements or provide a safe harbor from regulatory responsibility. The language in this template 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. If any of the language does not adequately address the firm's Firm Element program in any respect, the firm will need to prepare its own language. Firms are responsible for ensuring that their training program meets the requirements set forth by the various SRO rules to which the firm is subject.*

[Click to download a Word version](#) of the Needs Analysis Template.



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## Firm Element Training — Needs Analysis Template

The self-regulatory organizations (SROs) of the securities industry have established rules addressing Continuing Education (CE) Firm Element programs that apply to member firms and their registered persons as defined by each of the SROs. Please reference the appropriate SRO rule applicable to the firm.

### IDENTIFY REGISTERED PERSONS AND RELEVANT ASSOCIATED PERSONS

**Business Units** (may include but are not limited to revenue-generating unit, client-facing unit, etc.)

**Support Units** (may include but are not limited to operations, compliance, finance, technology, etc.)

### FIRM-WIDE TOPICS (applicable to all areas and job functions)

Suggested themes may include but are not limited to the following:

**Applicable Securities Laws, Rules and Regulations** (*Communications with the Public, Conflicts of Interests, Cybersecurity, Elderly Exploitation, Political Contributions, Information Barriers, Suitability/Best Interest, Code of Ethics, OFAC/ABC/AML, Personal Trading, Outside Business Activities, Private Investments*)

**Changes in Organizational Structure, Business Model, Supervision Framework**

**Complaint Trends**

**Firm Policies and Procedures** (*new, current and updated*)

**Industry Trends Related to Firm Business Model**

**Internal Disciplinary Events**

### BUSINESS-SPECIFIC TOPICS (applicable to a particular business or support area)

Suggested themes may include but are not limited to the following:

**Product** (*new, modified, high risk*)

**Function** (*sales, trading, deal execution, research, operations*)

**Applicable Securities Laws, Rules and Regulations** (*new, modified, existing*)

**Supervision**

**Persistent Surveillance/Monitoring Exceptions**

**Operational Risk and Control Assessment Findings and Remediations**

**Operational Risk Events, Current Events, and Near Misses\***

\*Incidents that could have led to monetary loss

**Internal Audit Findings**

\*



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## REGULATORY DRIVERS

Suggested themes may include but are not limited to the following:

Annual SRO Priorities Letters, Rule Interpretations, Regulatory Notices, Information Notices/Circulars, SEC Guidance

Notices from Clearing Firms (with respect to regulatory items)

Regulatory Enforcement Actions and Disciplinary Cases

Regulatory Findings, Disciplinary Actions, Examination and Interpretive Guidance

Regulatory Inquiries and Sweep Letters

Approved and Reviewed by: