



The Security Traders Association of New York, Inc.

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June 26, 2020

Jennifer Piorko Mitchell
Office of the Corporate Secretary
FINRA
1735 K Street, NW
Washington, DC 20006-1506

RE: FINRA Regulatory Notice 20-05 Continuing Education Program Transformation

Dear Ms. Mitchell:

The Security Traders Association of New York, Inc. (“STANY”)¹ respectfully submits these comments in response to FINRA’s proposal to implement the recommendations of the Securities Industry Regulatory Council on Continuing Education (“CE Council”) enhancing the continuing education requirements for securities industry professionals.

STANY fully supports the CE Council’s efforts to modernize the CE Program. We applaud the effort made by FINRA to evaluate the CE Council’s recommendations and are appreciative of the extension of time to file comments in light of the current pandemic. STANY had submitted a comment letter in response to Reg Notice 18-26 encouraging FINRA to adopt the CE Council’s recommendations. In our comments, STANY:

1. Supported narrowing the focus of the Regulatory Element to rule changes and significant regulatory issues and adopting a modular structure to replace the current Regulatory programs;
2. Supported Annual regulatory requirement obligations, however we suggested that in adopting an annual program FINRA be mindful of costs and minimize added compliance efforts which may be most difficult for smaller firms;
3. Supported publishing the Regulatory Element topics for the coming year in advance and creating a content catalogue to assist firms with their Firm Element programs;
4. Supported adoption of rules to provide a path for previously registered individuals to maintain

¹ STANY is the voice of the trader in the New York metropolitan area and represents approximately 500 individuals who are engaged in the trading of securities. STANY also represents individuals who formerly traded securities but who are currently either unemployed but seeking to reenter the industry or employed in the industry in capacities that do not require registration. STANY is committed to be a leading advocate of policies and programs that foster investor trust, professional ethics and marketplace integrity and that support education of market participants, capital formation and marketplace innovation. As an industry organization of individuals employed in the securities markets, STANY does not represent a single business or business model, but rather provides a forum for trading professionals representing institutions, hedge funds, broker-dealers, ATSS, and trading centers to share their unique perspectives on issues facing the securities markets.

- their qualifications through participation in continuing education;
5. Supported a program whereby previously registered individuals are permitted to maintain their qualification status while associated with a firm but working in a capacity that does not require registration; and
 6. Opposed placing the same constraints on eligibility to maintain qualification status as the Financial Services Affiliate Waiver Program. We expressed our belief that requiring registration for five years within the previous ten-year period would severely limit the application of the proposed program for post termination qualification.

STANY is pleased to see that FINRA has thoughtfully considered the recommendations of the CE Council and comments in response to Reg. Notice 18-26 and has proposed rule changes to implement many of those suggestions. While we support the majority of the proposed rule changes we wish to take this opportunity to provide several suggestions as detailed in the comments below.

Firm Element

STANY is supportive of the development of a content catalog that firms can use as an optional resource from which to select or supplement their Firm Element Content and appreciate that the catalog would include content developed by third-party providers. STANY supports the concept that the content catalog be a tool that assists firms in developing their own Firm Content rather than provide mandatory content. We believe that it is important for firms to have flexibility to develop their own Firm Content consistent with their businesses. Likewise, STANY supports FINRA's proposal to expressly recognize other training requirements, including those relating to the anti-money laundering (AML) compliance program and annual compliance meeting, as part of the Firm Element CE. We also support the recommendation to redesign content to be more tailored and relevant to the registration categories that individuals hold and to incorporate diverse instructional formats.

However, we wish to again suggest that content that meets the Firm Element be expanded in ways that are similar to continuing education in other licensed professions. We would suggest that when considering credits for the Firm Element, FINRA consider a mechanism whereby industry conferences can present their agendas to the CE Content Committee for certification in whole or in part for Firm Element credit. As acknowledged by the CE Council, in addition to in-house programs and outsourced classes, registered individuals in the industry often attend conferences as part of training and development encouraged and supported by their firms. Both registered and unaffiliated securities professionals attend industry conferences hosted by brokerage firms, law firms, and professional associations such as Sifma, STANY, STA, NOIP and the IOC, among others. Unlike in other licensed industries and the securities industry in Canada, this training has not been certified for CE credit. Attorneys participate in continuing legal education provided by many low cost and free sources including conferences whose topics have been pre-approved for CE credit with proof of attendance consisting of a certificate of participation issued by the conference or lecture provider. A similar practice is successfully followed by the Canadian security regulators.

With publication of Regulatory Element topics and the development of a Content Catalog for Firm Element CE, industry groups would, if they so choose, be in an excellent position to tailor their offerings to meet specific educational needs of the professionals who attend their conferences. Including approved conferences, or sessions of those conferences as eligible Firm Element education, could relieve a portion of the burden on smaller firms, and more importantly, be used as Firm Element equivalent training by those seeking to maintain qualification post termination. While we understand that a full day conference planned by STANY may not have a full day of content that meets the Firm Element requirement, we would be happy to fashion a portion of our events around relevant Firm Element CE. Similar to the proposed centralized content catalog with courses offered by third-party vendors, industry

conferences, should be encouraged as a way to complete all or part of the Firm Element CE requirement.

We are concerned that expanding Firm Element CE to include persons holding permissive registrations may be unnecessarily burdensome on some firms. Since those holding permissive registrations do not use their licenses day to day, we believe that the burden of expanding their educational programs may outweighs the benefits for firms. Although some of the burden would be mitigated by recognition of AML compliance and annual compliance meetings as a part of Firm Element CE, FINRA acknowledges that additional education may be required. Expanding Firm Element Coverage from covered persons to registered persons could place additional burdens on firms and may discourage some firms from maintaining permissive registrations. The impact of this change may run counter to the CE Council and FINRA's move toward making it easier for people to maintain their licenses. We suggest that FINRA allow firms the option to provide additional training to individuals with permissive registrations rather than requiring compliance with Firm Element CE.

Maintaining Qualification

STANY enthusiastically supports FINRA's recommendation to amend Rule 1240 to establish a continuing education program that would allow individuals who were previously registered in a representative or principal registration category for at least one year to maintain their qualification for a terminated registration category. The proposal would provide previously registered individuals the option of maintaining their qualifications beyond the current two-year limitation by satisfying an annual continuing education requirement. The proposal is an enormous positive step toward aligning the continuing education and license requirements of the securities profession with other professional licenses.

Participants would be eligible to participate in the program for a terminated registration category for up to seven years following the termination of that category, which is generally consistent with the current participation time period under the Financial Services Affiliate Waiver Program ("FSAWP"). STANY previously advocated, and still believes that there need for there to be a specific limit on eligibility to participate in the program. We believe that if the CE required during absence from the industry is robust, it would be appropriate to leave it to employers to hire those whom they feel are suited to the position based on experience and continuing education. It would then be the responsibility of the firm to provide training and oversight to ensure that the registered individual has the knowledge and skills to perform his or her job successfully and in compliance with all securities regulations.

Nevertheless, we support any program that would enable more people to retain their licenses and not have to requalify by examination or obtain a waiver upon returning to the industry. We believe that seven years will significantly assist those who take a break from the industry for personal, professional or other reasons. This program will be even more impactful given the impact of COVID-19 on employment. Therefore, we encourage FINRA to implement amends to Rule 1240 as expeditiously as possible. Waiting until 2022 may significantly harm a large group of professionals who have, or may in the near future lose their jobs or miss employment opportunities due to hiring freezes occasioned by the pandemic.

State Registrations

The proposed CE Program does not address the ability to maintain state registrations, which, along with FINRA registrations, often are required to perform registered activity in the industry. If FINRA has not done so already, we suggest that it coordinate with state securities regulators to allow individuals who were previously registered to maintain their state qualifications. Permitting a previously registered representative or principal to maintain their qualification for a terminated

registration category may be ineffective without the ability to maintain registration at the state-level.

STANY appreciates the consideration of its comments and would be happy to discuss them with FINRA. Please feel free to contact the undersigned at kimu@stany.org with any questions.

Respectfully submitted,

A handwritten signature in black ink that reads "Kimberly Unger". The signature is written in a cursive, flowing style.

Kimberly Unger
CEO & Executive Director