

OMB APPROVAL

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SECURITIES AND EXCHANGE COMMISSION
 WASHINGTON, D.C. 20549
 Form 19b-4

File No.* SR - 2021 - * 015

Amendment No. (req. for Amendments *)

Filing by Financial Industry Regulatory Authority

Pursuant to Rule 19b-4 under the Securities Exchange Act of 1934

Initial * <input checked="" type="checkbox"/>	Amendment * <input type="checkbox"/>	Withdrawal <input type="checkbox"/>	Section 19(b)(2) * <input checked="" type="checkbox"/>	Section 19(b)(3)(A) * <input type="checkbox"/>	Section 19(b)(3)(B) * <input type="checkbox"/>
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Rule

Pilot <input type="checkbox"/>	Extension of Time Period for Commission Action * <input type="checkbox"/>	Date Expires * <input type="text"/>	<input type="checkbox"/> 19b-4(f)(1)	<input type="checkbox"/> 19b-4(f)(4)
			<input type="checkbox"/> 19b-4(f)(2)	<input type="checkbox"/> 19b-4(f)(5)
			<input type="checkbox"/> 19b-4(f)(3)	<input type="checkbox"/> 19b-4(f)(6)

Notice of proposed change pursuant to the Payment, Clearing, and Settlement Act of 2010

Security-Based Swap Submission pursuant
 to the Securities Exchange Act of 1934

Section 806(e)(1) * <input type="checkbox"/>	Section 806(e)(2) * <input type="checkbox"/>
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Section 3C(b)(2) *
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Exhibit 2 Sent As Paper Document



Exhibit 3 Sent As Paper Document



Description

Provide a brief description of the action (limit 250 characters, required when Initial is checked *).

Proposed rule change to amend FINRA Rules 1210 (Registration Requirements) and 1240 (Continuing Education Requirements).

Contact Information

Provide the name, telephone number, and e-mail address of the person on the staff of the self-regulatory organization prepared to respond to questions and comments on the action.

First Name *	Afshin	Last Name *	Atabaki
Title *	Special Advisor and Associate General Counsel		
E-mail *	Afshin.Atabaki@finra.org		
Telephone *	(202) 728-8902	Fax	(202) 728-8264

Signature

Pursuant to the requirements of the Securities Exchange Act of 1934,

has duly caused this filing to be signed on its behalf by the undersigned thereunto duly authorized.

(Title *)

Date 06/03/2021

Senior Vice President and Deputy General Counsel

By Patrice Gliniecki

(Name *)

Patrice Gliniecki,

NOTE: Clicking the button at right will digitally sign and lock this form. A digital signature is as legally binding as a physical signature, and once signed, this form cannot be changed.

SECURITIES AND EXCHANGE COMMISSION
WASHINGTON, D.C. 20549

For complete Form 19b-4 instructions please refer to the EFFT website.

Form 19b-4 Information *

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The self-regulatory organization must provide all required information, presented in a clear and comprehensible manner, to enable the public to provide meaningful comment on the proposal and for the Commission to determine whether the proposal is consistent with the Act and applicable rules and regulations under the Act.

Exhibit 1 - Notice of Proposed Rule Change *

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The Notice section of this Form 19b-4 must comply with the guidelines for publication in the Federal Register as well as any requirements for electronic filing as published by the Commission (if applicable). The Office of the Federal Register (OFR) offers guidance on Federal Register publication requirements in the Federal Register Document Drafting Handbook, October 1998 Revision. For example, all references to the federal securities laws must include the corresponding cite to the United States Code in a footnote. All references to SEC rules must include the corresponding cite to the Code of Federal Regulations in a footnote. All references to Securities Exchange Act Releases must include the release number, release date, Federal Register cite, Federal Register date, and corresponding file number (e.g., SR-[SRO]-xx-xx). A material failure to comply with these guidelines will result in the proposed rule change being deemed not properly filed. See also Rule 0-3 under the Act (17 CFR 240.0-3)

Exhibit 1A- Notice of Proposed Rule Change, Security-Based Swap Submission, or Advance Notice by Clearing Agencies *

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The Notice section of this Form 19b-4 must comply with the guidelines for publication in the Federal Register as well as any requirements for electronic filing as published by the Commission (if applicable). The Office of the Federal Register (OFR) offers guidance on Federal Register publication requirements in the Federal Register Document Drafting Handbook, October 1998 Revision. For example, all references to the federal securities laws must include the corresponding cite to the United States Code in a footnote. All references to SEC rules must include the corresponding cite to the Code of Federal Regulations in a footnote. All references to Securities Exchange Act Releases must include the release number, release date, Federal Register cite, Federal Register date, and corresponding file number (e.g., SR-[SRO]-xx-xx). A material failure to comply with these guidelines will result in the proposed rule change, security-based swap submission, or advance notice being deemed not properly filed. See also Rule 0-3 under the Act (17 CFR 240.0-3)

Exhibit 2 - Notices, Written Comments, Transcripts, Other Communications

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Exhibit Sent As Paper Document

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Copies of notices, written comments, transcripts, other communications. If such documents cannot be filed electronically in accordance with Instruction F, they shall be filed in accordance with Instruction G.

Exhibit 3 - Form, Report, or Questionnaire

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Exhibit Sent As Paper Document

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Copies of any form, report, or questionnaire that the self-regulatory organization proposes to use to help implement or operate the proposed rule change, or that is referred to by the proposed rule change.

Exhibit 4 - Marked Copies

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The full text shall be marked, in any convenient manner, to indicate additions to and deletions from the immediately preceding filing. The purpose of Exhibit 4 is to permit the staff to identify immediately the changes made from the text of the rule with which it has been working.

Exhibit 5 - Proposed Rule Text

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The self-regulatory organization may choose to attach as Exhibit 5 proposed changes to rule text in place of providing it in Item I and which may otherwise be more easily readable if provided separately from Form 19b-4. Exhibit 5 shall be considered part of the proposed rule change.

Partial Amendment

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If the self-regulatory organization is amending only part of the text of a lengthy proposed rule change, it may, with the Commission's permission, file only those portions of the text of the proposed rule change in which changes are being made if the filing (i.e. partial amendment) is clearly understandable on its face. Such partial amendment shall be clearly identified and marked to show deletions and additions.

1. Text of the Proposed Rule Change

(a) Pursuant to the provisions of Section 19(b)(1) of the Securities Exchange Act of 1934 (“Act” or “Exchange Act”),¹ the Financial Industry Regulatory Authority, Inc. (“FINRA”) is filing with the Securities and Exchange Commission (“SEC” or “Commission”) a proposed rule change to amend FINRA Rule 1240 (Continuing Education Requirements). The proposed rule change also makes conforming amendments to FINRA Rule 1210 (Registration Requirements). Among other changes, the proposed rule change requires that the Regulatory Element of continuing education be completed annually rather than every three years and provides a path through continuing education for individuals to maintain their qualification following the termination of a registration.

The text of the proposed rule change is attached as Exhibit 5.

(b) Not applicable.

(c) Not applicable.

2. Procedures of the Self-Regulatory Organization

The FINRA Board of Governors authorized the filing of the proposed rule change with the SEC. No other action by FINRA is necessary for the filing of the proposed rule change.

If the Commission approves the proposed rule change, FINRA will announce the implementation dates of the proposed rule change in a Regulatory Notice to be published no later than 90 days following Commission approval.

¹ 15 U.S.C. 78s(b)(1).

3. Self-Regulatory Organization’s Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

(a) Purpose

(i) Background

The continuing education program for registered persons of broker-dealers (“CE Program”) currently requires registered persons to complete continuing education consisting of a Regulatory Element and a Firm Element. The Regulatory Element, which is administered by FINRA, focuses on regulatory requirements and industry standards, while the Firm Element is provided by each firm and focuses on securities products, services and strategies the firm offers, firm policies and industry trends. The CE Program is codified under the rules of the self-regulatory organizations (“SROs”). The CE Program for registered persons of FINRA members is codified under Rule 1240.²

a. Regulatory Element

Rule 1240(a) (Regulatory Element) currently requires a registered person to complete the applicable Regulatory Element initially within 120 days after the person’s second registration anniversary date and, thereafter, within 120 days after every third registration anniversary date.³ FINRA may extend these time frames for good cause

² See also Rule 1210.07 (All Registered Persons Must Satisfy the Regulatory Element of Continuing Education).

³ See Rules 1240(a)(1) (Requirements) and (a)(4) (Reassociation in a Registered Capacity). An individual’s registration anniversary date is generally the date they initially registered with FINRA in the Central Registration Depository (“CRD[®]”) system. However, an individual’s registration anniversary date would be reset if the individual has been out of the industry for two or more years and is required to requalify by examination, or obtain an examination waiver, in order to reregister. An individual’s registration anniversary date would also be reset if the individual obtains a conditional examination waiver that requires them to complete the Regulatory Element by a specified date. Non-registered individuals who are

shown.⁴ Registered persons who have not completed the Regulatory Element within the prescribed time frames will have their FINRA registrations deemed inactive and will be designated as “CE inactive” in the CRD system until the requirements of the Regulatory Element have been satisfied.⁵ A CE inactive person is prohibited from performing, or being compensated for, any activities requiring FINRA registration, including supervision. Moreover, if registered persons remain CE inactive for two consecutive years, they must requalify by retaking required examinations (or obtain a waiver of the applicable qualification examinations).⁶

participating in the waiver program under Rule 1210.09 (Waiver of Examinations for Individuals Working for a Financial Services Industry Affiliate of a Member) (“FSAWP participants”) are also subject to the Regulatory Element. See also Rule 1240(a)(5) (Definition of Covered Person). The Regulatory Element for FSAWP participants correlates to their most recent registration(s), and it must be completed based on the same cycle had they remained registered. FSAWP participants are eligible for a single, fixed seven-year waiver period from the date of their initial designation, subject to specified conditions. Registered persons who become subject to a significant disciplinary action, as specified in Rule 1240(a)(3) (Disciplinary Actions), may be required to retake the Regulatory Element within 120 days of the effective date of the disciplinary action, if they remain registered. Further, their cycle for participation in the Regulatory Element may be adjusted to reflect the effective date of the disciplinary action rather than their registration anniversary date.

⁴ See Rule 1240(a)(2) (Failure to Complete).

⁵ See supra note 4. Individuals must complete the entire Regulatory Element session to be considered to have “completed” the Regulatory Element; partial completion is the same as non-completion.

⁶ This CE inactive two-year period is calculated from the date such persons become CE inactive, and it continues to run regardless of whether they terminate their registrations before the end of the two-year period. Therefore, if registered persons terminate their registrations while in a CE inactive status, they must satisfy all outstanding Regulatory Element prior to the end of the CE inactive two-year period in order to reregister with a member without having to requalify by examination or having to obtain an examination waiver.

The Regulatory Element consists of a subprogram for registered persons generally, and a subprogram for principals and supervisors.⁷ While some of the current Regulatory Element content is unique to particular registration categories, most of the content has broad application to both representatives and principals.⁸

The Regulatory Element was originally designed at a time when most individuals had to complete the Regulatory Element at a test center, and its design was shaped by the limitations of the test center-based delivery model. In 2015, FINRA transitioned the delivery of the Regulatory Element to an online platform (“CE Online”), which allows individuals to complete the content online at a location of their choosing, including their private residence. This online delivery provides FINRA with much greater flexibility in updating content in a timelier fashion, developing content tailored to each registration category and presenting the material in an optimal learning format.

b. Firm Element

Rule 1240(b) (Firm Element) currently requires each firm to develop and administer an annual Firm Element training program for covered registered persons.⁹ The rule requires firms to conduct an annual needs analysis to determine the appropriate

⁷ The S101 (General Program for Registered Persons) and the S201 (Registered Principals and Supervisors).

⁸ The current content is presented in a single format leading individuals through a case that provides a story depicting situations that they may encounter in the course of their work.

⁹ The rule defines “covered registered persons” as any registered person who has direct contact with customers in the conduct of a member’s securities sales, trading and investment banking activities, any individual who is registered as an Operations Professional or a Research Analyst, and the immediate supervisors of any such persons. See Rule 1240(b)(1) (Persons Subject to the Firm Element).

training.¹⁰ Currently, at a minimum, the Firm Element must cover training in ethics and professional responsibility as well as the following items concerning securities products, services and strategies offered by the member: (1) general investment features and associated risk factors; (2) suitability and sales practice considerations; and (3) applicable regulatory requirements.¹¹

A firm, consistent with its needs analysis, may determine to apply toward the Firm Element other required training. The current rule does not expressly recognize other required training, such as training relating to the anti-money laundering (“AML”) compliance program and training relating to the annual compliance meeting,¹² for purposes of satisfying Firm Element training.

c. Termination of a Registration

Currently, individuals whose registrations as representatives or principals have been terminated for two or more years may reregister as representatives or principals only if they requalify by retaking and passing the applicable representative- or principal-level examination or if they obtain a waiver of such examination(s) (the “two-year qualification period”).¹³ The two-year qualification period was adopted prior to the

¹⁰ See Rule 1240(b)(2) (Standards for the Firm Element).

¹¹ See supra note 10.

¹² See FINRA Rules 3310(e) and 3110(a)(7).

¹³ See Rule 1210.08 (Lapse of Registration and Expiration of SIE). The two-year qualification period is calculated from the date individuals terminate their registration and the date FINRA receives a new application for registration. The two-year qualification period does not apply to individuals who terminate a limited registration category that is a subset of a broader registration category for which they remain qualified. For instance, it would not apply to an individual who maintains his registration as a General Securities Representative but who

creation of the CE Program and was intended to ensure that individuals who reregister are relatively current on their regulatory and securities knowledge.

(ii) Proposed Rule Change

After extensive work with the Securities Industry/Regulatory Council on Continuing Education (“CE Council”) and discussions with stakeholders, including industry participants and the North American Securities Administrators Association (“NASAA”), FINRA proposes the following changes to the CE Program under Rule 1240.¹⁴

terminates his registration as an Investment Company and Variable Contracts Products Representative. Such individuals have the option of reregistering in the more limited registration category without having to requalify by examination or obtain an examination waiver so long as they continue to remain qualified for the broader registration category. Further, the two-year qualification period only applies to the representative- and principal-level examinations; it does not extend to the Securities Industry Essentials (“SIE”) examination. The SIE examination is valid for four years, but having a valid SIE examination alone does not qualify an individual for registration as a representative or principal. Individuals whose registrations as representatives or principals have been revoked pursuant to FINRA Rule 8310 (Sanctions for Violation of the Rules) may only requalify by retaking the applicable representative- or principal-level examination in order to reregister as representatives or principals, in addition to satisfying the eligibility conditions for association with a firm. Waivers are granted either on a case-by-case basis under Rule 1210.03 (Qualification Examinations and Waivers of Examinations) or as part of the waiver program under Rule 1210.09.

¹⁴ The proposed changes are based on the CE Council’s September 2019 recommendations to enhance the CE Program. See Recommended Enhancements for the Securities Industry Continuing Education Program, available at <http://cecouncil.org/media/266634/council-recommendations-final-.pdf>. The CE Council is composed of securities industry representatives and representatives of SROs. The CE Council was formed in 1995 upon a recommendation from the Securities Industry Task Force on Continuing Education and was tasked with facilitating the development of uniform continuing education requirements for registered persons of broker-dealers.

a. Transition to Annual Regulatory Element for Each Registration Category

As noted above, currently, the Regulatory Element generally must be completed every three years, and the content is broad in nature. Based on changes in technology and learning theory, the Regulatory Element content can be updated and delivered in a timelier fashion and tailored to each registration category, which would further the goals of the Regulatory Element.¹⁵ Therefore, to provide registered persons with more timely and relevant training on significant regulatory developments, FINRA proposes amending Rule 1240(a) to require registered persons to complete the Regulatory Element annually by December 31.¹⁶ The proposed amendment would also require registered persons to complete Regulatory Element content for each representative or principal registration category that they hold, which would also further the goals of the Regulatory Element.¹⁷

¹⁵ When the CE Program was originally adopted in 1995, registered persons were required to complete the Regulatory Element on their second, fifth and 10th registration anniversary dates. See Securities Exchange Act Release No. 35341 (February 8, 1995), 60 FR 8426 (February 14, 1995) (Order Approving File Nos. SR-AMEX-94-59; SR-CBOE-94-49; SR-CHX-94-27; SR-MSRB-94-17; SR-NASD-94-72; SR-NYSE-94-43; SR-PSE-94-35; and SR-PHLX-94-52). The change to the current three-year cycle was made in 1998 to provide registered persons more timely and effective training, consistent with the overall purpose of the Regulatory Element. See Securities Exchange Act Release No. 39712 (March 3, 1998), 63 FR 11939 (March 11, 1998) (Order Approving File Nos. SR-CBOE-97-68; SR-MSRB-98-02; SR-NASD-98-03; and SR-NYSE-97-33).

¹⁶ See proposed Rules 1240(a)(1) and (a)(4). Some commenters supported the proposed change to an annual requirement, while others disagreed with it or expressed concerns with the burdens it would impose on firms and registered persons. See infra Item 5(a) and (b)(i).

¹⁷ See proposed Rules 1210.07 and 1240(a)(1). Commenters generally supported the development of tailored content that is specific to each registration category. See infra Item 5(a). However, some commenters questioned whether there would be sufficient content for certain registration categories in a given year, while

Under the proposed rule change, firms would have the flexibility to require their registered persons to complete the Regulatory Element sooner than December 31, which would allow firms to coordinate the timing of the Regulatory Element with other training requirements, including the Firm Element.¹⁸ For example, a firm could require its registered persons to complete both their Regulatory Element and Firm Element by October 1 of each year.

Individuals who would be registering as a representative or principal for the first time on or after the implementation date of the proposed rule change would be required to complete their initial Regulatory Element for that registration category in the next calendar year following their registration.¹⁹ In addition, subject to specified conditions, individuals who would be reregistering as a representative or principal on or after the implementation date of the proposed rule change would also be required to complete their initial Regulatory Element for that registration category in the next calendar year following their reregistration.²⁰

Consistent with current requirements, individuals who fail to complete their Regulatory Element within the prescribed period would be automatically designated as CE inactive.²¹ However, the proposed rule change preserves FINRA's ability to extend

others were concerned that some individuals could be subject to duplicate or excessive content. See infra Item 5(a) and (b)(i).

¹⁸ See proposed Rules 1240(a)(1) and (a)(4).

¹⁹ See proposed Rule 1240(a)(1).

²⁰ See proposed Rule 1240(a)(4).

²¹ See proposed Rule 1240(a)(2). In Regulatory Notice 20-05 (February 2020), FINRA had proposed a 15-day grace period prior to being designated as CE

the time by which a registered person must complete the Regulatory Element for good cause shown.²²

FINRA also proposes amending Rule 1240(a) to clarify that: (1) individuals who are designated as CE inactive would be required to complete all of their pending and upcoming annual Regulatory Element, including any annual Regulatory Element that becomes due during their CE inactive period, to return to active status;²³ (2) the two-year CE inactive period is calculated from the date individuals become CE inactive, and it continues to run regardless of whether individuals terminate their registrations;²⁴ (3) individuals who become subject to a significant disciplinary action may be required to complete assigned continuing education content as prescribed by FINRA;²⁵ (4) individuals who have not completed any Regulatory Element content for a registration category in the calendar year(s) prior to reregistering would not be approved for registration for that category until they complete that Regulatory Element content, pass

inactive, provided that the member documented the reasons for the individual's failure to complete the Regulatory Element within the prescribed calendar year and retained the documentation for recordkeeping purposes. Some commenters noted that the proposed grace period would increase administrative and operational burdens, while one commenter requested that FINRA provide a longer grace period. See infra Item 5(b)(i). FINRA has determined to eliminate the proposed grace period to avoid any unnecessary burdens.

²² See supra note 21. The proposed rule change clarifies that the request for an extension of time must be in writing and include supporting documentation, which is consistent with current practice.

²³ See supra note 21.

²⁴ See supra note 21.

²⁵ See proposed Rule 1240(a)(3). As previously noted, Rule 1240(a)(3) currently provides that such individuals may be required to retake the Regulatory Element. See supra note 3.

an examination for that registration category or obtain an unconditional examination waiver for that registration category, whichever is applicable;²⁶ and (5) the Regulatory Element requirements apply to individuals who are registered, or in the process of registering, as a representative or principal.²⁷ In addition, FINRA proposes making conforming amendments to Rule 1210.07.

Under the proposed rule change, the amount of content that registered persons would be required to complete in a three-year, annual cycle for a particular registration category is expected to be comparable to what most registered persons are currently completing every three years.²⁸ In some years, there may be more required content for some registration categories depending on the volume of rule changes and regulatory issues. In addition, an individual who holds multiple registrations may be required to complete additional content compared to an individual who holds a single registration because, as noted above, individuals would be required to complete content specific to each registration category that they hold.²⁹ However, individuals with multiple registrations would not be subject to duplicative regulatory content in any given year. The more common registration combinations would likely share much of their relevant

²⁶ See proposed Rule 1240(a)(4).

²⁷ See proposed Rule 1240(a)(5).

²⁸ As previously noted, some commenters questioned whether there would be sufficient annual content for certain registration categories and some commenters were concerned that some individuals might be subject to duplicate or excessive content on an annual basis. See *supra* note 17; see *infra* Item 5(a) and (b)(i).

²⁹ As discussed in the economic impact assessment, individuals with multiple registrations represent a smaller percentage of the population of registered persons.

regulatory content each year. For example, individuals registered as General Securities Representatives and General Securities Principals would receive the same content as individuals solely registered as General Securities Representatives, supplemented with a likely smaller amount of supervisory-specific content on the same topics. The less common registration combinations may result in less topic overlap and more content overall.

b. Recognition of Other Training Requirements for Firm Element and Extension of Firm Element to All Registered Persons

To better align the Firm Element requirement with other required training, FINRA proposes amending Rule 1240(b) to expressly allow firms to consider training relating to the AML compliance program and the annual compliance meeting toward satisfying an individual's annual Firm Element requirement.³⁰ FINRA also proposes amending the rule to extend the Firm Element requirement to all registered persons, including individuals who maintain solely a permissive registration consistent with Rule 1210.02 (Permissive Registrations), thereby further aligning the Firm Element requirement with other broadly-based training requirements.³¹ In conjunction with this proposed change, FINRA proposes modifying the current minimum training criteria under Rule 1240(b) to

³⁰ See proposed Rule 1240(b)(2)(D). Commenters overwhelmingly supported this proposed change. See *infra* Item 5(b)(ii).

³¹ See proposed Rule 1240(b)(1). As noted earlier, the current requirement only applies to “covered registered persons” and not all registered persons. Not all commenters agreed with this proposed change. See *infra* Item 5(b)(ii).

instead provide that the training must cover topics related to the role, activities or responsibilities of the registered person and to professional responsibility.³²

c. Maintenance of Qualification After Termination of Registration

FINRA proposes adopting paragraph (c) under Rule 1240 and Supplementary Material .01 and .02 to Rule 1240 to provide eligible individuals who terminate any of their representative or principal registrations the option of maintaining their qualification for any of the terminated registrations by completing continuing education.³³ The proposed rule change would not eliminate the two-year qualification period.³⁴ Rather, it would provide such individuals an alternative means of staying current on their regulatory and securities knowledge following the termination of a registration(s). Eligible individuals who elect not to participate in the proposed continuing education

³² See proposed Rule 1240(b)(2)(B). In Regulatory Notice 20-05, FINRA had proposed to retain the current minimum training criteria under Rule 1240(b)(2)(B). One commenter stated that the current criteria is overly prescriptive and that the requirement should be more flexible. See infra Item 5(b)(ii). FINRA is revising the rule in response.

³³ Commenters overwhelmingly supported this proposed change. See infra Item 5(b)(iii). The proposed option would also be available to individuals who terminate any permissive registrations as provided under Rule 1210.02. However, the proposed option would not be available to individuals who terminate a limited registration category that is a subset of a broader registration category for which they remain qualified. As previously noted, such individuals currently have the option of reregistering in the more limited registration category without having to requalify by examination or obtain an examination waiver so long as they continue to remain qualified for the broader registration category. In addition, the proposed option would not be available to individuals who are maintaining an eliminated registration category, such as the category for Corporate Securities Representative, or individuals who have solely passed the Securities Industry Essentials examination, which does not, in and of itself, confer registration.

³⁴ One commenter requested that FINRA eliminate the two-year qualification period. See infra Item 5(b)(iii).

program would continue to be subject to the current two-year qualification period. The proposed rule change is generally aligned with other professional continuing education programs that allow individuals to maintain their qualification to work in their respective fields during a period of absence from their careers (including an absence of more than two years) by satisfying continuing education requirements for their credential.

The proposed rule change would impose the following conditions and limitations:

- individuals would be required to be registered in the terminated registration category for at least one year immediately prior to the termination of that category;³⁵
- individuals could elect to participate when they terminate a registration or within two years from the termination of a registration;³⁶
- individuals would be required to complete annually all prescribed continuing education;³⁷

³⁵ See proposed Rule 1240(c)(1).

³⁶ See proposed Rule 1240(c)(2). Individuals who elect to participate at the later date would be required to complete, within two years from the termination of their registration, any continuing education that becomes due between the time of their Form U5 (Uniform Termination Notice for Securities Industry Registration) submission and the date that they commence their participation. In addition, FINRA would enhance its systems to notify individuals of their eligibility to participate, enable them to affirmatively opt in, and notify them of their annual continuing education requirement if they opt in.

³⁷ See proposed Rule 1240(c)(3). However, upon a participant's request and for good cause shown, FINRA would have the ability to grant an extension of time for the participant to complete the prescribed continuing education. A participant who is also a registered person must directly request an extension of the prescribed continuing education from FINRA. The continuing education content for participants would consist of a combination of Regulatory Element content and content selected by FINRA and the CE Council from the Firm Element content catalog discussed below. One commenter suggested that the content,

- individuals would have a maximum of five years in which to reregister;³⁸
- individuals who have been CE inactive for two consecutive years, or who become CE inactive for two consecutive years during their participation, would not be eligible to participate or continue;³⁹ and
- individuals who are subject to a statutory disqualification, or who become subject to a statutory disqualification following the termination of their

subject matter and volume of training be the same for both participants and registered persons. See infra Item 5(b)(iii). The content would correspond to the registration category for which individuals wish to maintain their qualifications. Participants who are maintaining their qualification status for a principal registration category that includes one or more corequisite representative registrations must also complete required annual continuing education for the corequisite registrations in order to maintain their qualification status for the principal registration category. In Regulatory Notice 20-05, FINRA had proposed that participants complete the prescribed continuing education annually. The proposed rule change clarifies that the prescribed continuing education must be completed by December 31 of the calendar year, which is consistent with the timing for the proposed annual Regulatory Element.

³⁸ See proposed Rule 1240(c). As described in greater detail in Item 5 of this filing, in Regulatory Notice 20-05, FINRA had proposed a seven-year participation period, and some commenters suggested that there should not be any time limit on the participation period. See infra Item 5(b)(iii). However, based on discussions with NASAA and its support for a participation period of five years, the proposed rule change provides a five-year participation period in the interest of consistency and promoting registration efficiency. See infra Item 5(b)(iii). The proposed five-year participation period would continue to serve the diversity and inclusion goals of the proposed rule change. In addition, individuals applying for reregistration must satisfy all other requirements relating to the registration process (e.g., submit a Form U4 (Uniform Application for Securities Industry Registration or Transfer) and undergo a background check).

³⁹ See proposed Rules 1240(c)(4) and (c)(5).

registration or during their participation, would not be eligible to participate or continue.⁴⁰

The proposed rule change also includes a look-back provision that would, subject to specified conditions, extend the proposed option to individuals who have been registered as a representative or principal within two years immediately prior to the implementation date of the proposed rule change and individuals who have been FSAWP participants immediately prior to the implementation date of the proposed rule change.⁴¹

⁴⁰ See proposed Rules 1240(c)(1) and (c)(6). Individuals who are subject to a statutory disqualification would not be eligible to enter the proposed continuing education program. Individuals who become subject to a statutory disqualification while participating in the proposed continuing education program would not be eligible to continue in the program. Further, any content completed by such participants would be retroactively nullified upon disclosure of the statutory disqualification. The following example illustrates the application of the proposed rule change to individuals who become subject to a statutory disqualification while participating in the proposed continuing education program. Individual A participates in the proposed continuing education program for four years and completes the prescribed content for each of those years. During year five of his participation, he becomes subject to a statutory disqualification resulting from a foreign regulatory action. In that same year, FINRA receives a Form U4 submitted by a member on behalf of Individual A requesting registration with FINRA. The Form U4 discloses the statutory disqualification event. FINRA would then retroactively nullify any content that Individual A completed while participating in the proposed continuing education program. Therefore, in this example, in order to become registered with FINRA, he would be required to requalify by examination. This would be in addition to satisfying the eligibility conditions for association with a FINRA member firm. See Exchange Act Sections 3(a)(39) and 15(b)(4) and Article III of the FINRA By-Laws.

⁴¹ See proposed Supplementary Material .01 to Rule 1240. Such individuals would be required to elect whether to participate by the implementation date of the proposed rule change. If such individuals elect to participate, they would be required to complete their initial annual content by the end of the calendar year in which the proposed rule change is implemented. In addition, if such individuals elect to participate, their initial participation period would be adjusted based on the date that their registration was terminated. The current waiver program for FSAWP participants would not be available to new participants upon implementation of the proposed rule change. See proposed Rule 1210.09.

In addition, the proposed rule change includes a re-eligibility provision that would allow individuals to regain eligibility to participate each time they reregister with a firm for a period of at least one year and subsequently terminate their registration, provided that they satisfy the other participation conditions and limitations.⁴² Finally, FINRA proposes making conforming amendments to Rule 1210, including adding references to proposed Rule 1240(c) under Rule 1210.08.

The proposed rule change will have several important benefits. It will provide individuals with flexibility to address life and career events and necessary absences from registered functions without having to requalify each time. It will also incentivize them to stay current on their respective securities industry knowledge following the termination of any of their registrations. The continuing education under the proposed option will be as rigorous as the continuing education of registered persons, which

However, individuals who are FSAWP participants immediately prior to the implementation date of the proposed rule change could elect to continue in that waiver program until the program has been retired. As noted above, FSAWP participants may participate for up to seven years in that waiver program, subject to specified conditions. See supra note 3. In Regulatory Notice 20-05, FINRA had proposed to eliminate the FSAWP given that the participation period of seven years for FSAWP participants would have been the same for participants in the proposed continuing education program. As discussed above, the proposed rule change provides a five-year participation period for participants in the proposed continuing education program. So as not to disadvantage FSAWP participants, FINRA has determined to preserve that waiver program for individuals who are participating in the FSAWP immediately prior to the implementation date of the proposed rule change. Because the proposed rule change transitions the Regulatory Element to an annual cycle, FSAWP participants who remain in that waiver program following the implementation of the proposed rule change would be subject to an annual Regulatory Element requirement. See proposed Rule 1240(a)(1). Finally, the proposed rule change preserves FINRA's ability to extend the time by which FSAWP participants must complete the Regulatory Element for good cause shown. See proposed Rule 1240(a)(2).

⁴² See proposed Supplementary Material .02 to Rule 1240.

promotes investor protection. Further, the proposed rule change will enhance diversity and inclusion in the securities industry by attracting and retaining a broader and diverse group of professionals. Moreover, if the proposed rule change is implemented, FINRA will evaluate its efficacy following implementation to ensure that it is meeting its goals.

Significantly, the proposed rule change will be of particular value to women, who continue to be the primary caregivers for children and aging family members and, as a result, are likely to be absent from the industry for longer periods.⁴³ In addition, the proposed rule change will provide longer-term relief for women, individuals with low incomes and other populations, including older workers, who are at a higher risk of a job loss during certain economic downturns and who are likely to remain unemployed for longer periods.⁴⁴

d. Other Enhancements to CE Program

FINRA and the CE Council also plan to enhance the CE Program in other ways.⁴⁵ FINRA will work with the CE Council to incorporate a variety of instructional formats to present the Regulatory Element content. In addition, FINRA will work with the CE

⁴³ See The Female Face of Family Caregiving (November 2018), available at <https://www.nationalpartnership.org/our-work/resources/economic-justice/female-face-family-caregiving.pdf>.

⁴⁴ See The COVID-19 Recession is the Most Unequal in Modern U.S. History (September 30, 2020), available at <https://www.washingtonpost.com/graphics/2020/business/coronavirus-recession-equality/> and Unemployment's Toll on Older Workers Is Worst in Half a Century (October 21, 2020), available at <https://www.aarp.org/work/working-at-50-plus/info-2020/pandemic-unemployment-older-workers>.

⁴⁵ These additional enhancements do not require any changes to the FINRA rules. Most commenters supported these enhancements, while some commenters had concerns and questions. See infra Item 5(b)(iv).

Council to publish in advance the Regulatory Element learning topics for the next year.⁴⁶ This will allow firms to review the Regulatory Element topics when developing their Firm Element training plan to avoid unnecessary duplication of topics. The proposed transition to an annual Regulatory Element requirement would increase the number of registered persons who would be required to complete the Regulatory Element on an annual basis. To assist compliance with this proposed change, FINRA would enhance its systems to provide firms and registered persons with additional notification, management and tracking functionality. In response to comments, FINRA would also make the Regulatory Element available via a mobile compatible format.⁴⁷

FINRA and the CE Council also will improve the guidance and resources available to firms to develop effective Firm Element training programs, such as updated guidance for developing and documenting training plans and specific principles. Further, FINRA and the CE Council will develop a catalog of continuing education content that would serve as an optional resource for firms to select relevant Firm Element content and create learning plans for their registered persons. The catalog would include content developed by third-party training providers, FINRA and the other SROs participating in the CE Program. Firms would have the option of using the content in the catalog for purposes of their Firm Element training; they would not be obligated to select content from the catalog.

⁴⁶ If there are any other critical rule changes or other regulatory developments that arise during a given year, FINRA and the CE Council will work to provide registered persons timely and sufficient training on such rule changes and developments.

⁴⁷ See infra Item 5(b)(i).

As noted in Item 2 of this filing, if the Commission approves the proposed rule change, FINRA will announce the implementation dates of the proposed rule change in a Regulatory Notice to be published no later than 90 days following Commission approval.

(b) Statutory Basis

The proposed rule change is consistent with the provisions of Section 15A(b)(6) of the Act,⁴⁸ which requires, among other things, that FINRA rules must be designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, and, in general, to protect investors and the public interest, and Section 15A(g)(3) of the Act,⁴⁹ which authorizes FINRA to prescribe standards of training, experience and competence for persons associated with FINRA members.

FINRA believes that the proposed changes to the Regulatory Element and Firm Element will ensure that all registered persons receive timely and relevant training, which will, in turn, enhance compliance and investor protection. Further, FINRA believes that establishing a path for individuals to maintain their qualification following the termination of a registration will reduce unnecessary impediments to requalification and promote greater diversity and inclusion in the securities industry without diminishing investor protection.

⁴⁸ 15 U.S.C. 78o-3(b)(6).

⁴⁹ 15 U.S.C. 78o-3(g)(3).

4. Self-Regulatory Organization's Statement on Burden on Competition

FINRA does not believe that the proposed rule change would result in any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. All members would be subject to the proposed rule change.

Economic Impact Assessment

FINRA has undertaken an economic impact assessment, as set forth below, to further analyze the regulatory need for the proposed rule change, its potential economic impacts, including anticipated costs, benefits, and distributional and competitive effects, relative to the current baseline, and the alternatives FINRA considered in assessing how best to meet its regulatory objective.

Regulatory Need

FINRA is proposing to make changes to the CE Program, including the related FINRA rules, as part of ongoing efforts to address and implement the CE Council's recommendations. As described above, the proposed rule change focuses on: (1) ensuring that all registered persons receive relevant and sufficient Regulatory Element and Firm Element training on an annual basis; (2) providing a path through continuing education for individuals to maintain their qualification following the termination of a registration; and (3) providing firms with the guidance and resources necessary to design effective and efficient Firm Element training programs.

The proposed rule change is expected to result in a more efficient CE Program that addresses relevant regulatory requirements and provides individuals with improved tools and resources to understand and comply with such requirements, enhancing investor protection. Moreover, the proposed rule change would provide new channels for

individuals to maintain their qualification status for a terminated registration category and, in so doing, could increase the likelihood that professionals who need to step away from the industry for a period could return, subject to satisfying all other requirements relating to the registration process.

Economic Baseline

The economic baseline for the proposed rule change is the existing CE Program. As described above, registered persons of broker-dealers are required to participate in continuing education consisting of a Regulatory Element and a Firm Element. The Regulatory Element is generally delivered every three years and focuses on regulatory requirements and industry standards, while the Firm Element is an annual requirement and focuses on securities products, services and strategies firms offer, firm policies and industry trends.

As stated above, under the current regime, individuals generally have a two-year window from the termination of their association with a member to reregister without requalifying by examination or obtaining a waiver. According to FINRA's analysis, the total number of registered persons, approximately 620,000, has shown a slow decrease over the past few years even as individual registered persons regularly change their status by ending and renewing their association with a firm.⁵⁰ Across this pool of registered persons, approximately 65% hold only one FINRA registration category (for example either a General Securities Representative (Series 7) registration or an Investment

⁵⁰ The number of registered persons has been decreasing at an annual rate of approximately 1% per year. See, e.g., 2020 FINRA Industry Snapshot, available at <https://www.finra.org/rules-guidance/guidance/reports-studies/2020-industry-snapshot>.

Company and Variable Contracts Products Representative (Series 6) registration), 25% hold two FINRA registrations (for example a General Securities Representative registration and an Investment Banking Representative registration), and the remainder hold three FINRA registrations or more. Moreover, across the pool of registered persons, in addition to the FINRA registration, approximately 90% hold at least one state registration, and 50% hold more than five state registrations. With respect to registration with a FINRA member, in recent years, out of the approximately 620,000 registered persons, approximately 90,000 end their registration with all firms with whom they are registered at some point during the year. Out of these, about half do not renew their registration and are considered to have left the securities industry.

Under the current baseline, registered persons who terminate a registration are given a two-year grace period in which they can reregister without being required to retake a qualification examination or obtain an examination waiver. Individuals who seek to reregister more than two years after terminating their association are required to requalify by passing an examination or obtaining an examination waiver. Requalification imposes costs in the form of time spent preparing for and taking the examinations, potential limitations to the activities permitted to be conducted until the requalification is completed, opportunity costs for the individual and the potential employers in terms of lost business, and the direct registration costs. FINRA understands anecdotally that these costs currently deter some significant portion of the population that give up their registrations from reregistering.

Figure 1, as an example, presents a plot of the number of registered persons that reregister within a given number of years after having terminated their registrations for at

least 60 days.⁵¹ The focus is on registered persons who terminated their registrations in either 2007, 2008 or 2009 and the period of time until they reregister with the same or a different firm.⁵² Each bar in Figure 1 represents a 100-day period and, roughly speaking, three-and-a-half bars represent one year. As can be observed in Figure 1, for all three origination years, there is an increase in the number of previously registered persons who reregister towards the end of the second year from their date of termination. This is consistent with the incentive in the current rule permitting individuals to reregister without having to requalify by passing an examination or having to obtain an examination waiver (i.e., the current two-year qualification period) and supports the assumption that the requalification process imposes direct and indirect economic costs. After this point, there is a significant drop in the number of individuals who reregister.

Moreover, following the end of the second year after terminating their registrations, the number of individuals reregistering remains low and tapers off slowly. Finally, an analysis of the stage in the Regulatory Element cycle at which registered persons terminate their registrations, on average, across the time period of 2007–2016, suggests that registered persons who terminate their registrations tend to do so

⁵¹ The minimum 60 days for employment gap follows the definition used in the 2020 FINRA Industry Snapshot, available at <https://www.finra.org/rules-guidance/guidance/reports-studies/2020-industry-snapshot>.

⁵² The period of 2007–2009 covers the events before, during and after the 2008 financial crisis. These events had an effect on the number of individuals leaving the industry, which indeed rose during this period. However, the trends observed for these years do not appear to be extreme outliers and, moreover, potentially reflect changes in labor markets that the proposed rule change is targeting. Further, the three years selected for the analysis provide the means to study the trends of individuals returning to the industry for up to a period of 10 years of being away from it.

approximately 530 days before their next Regulatory Element would be due (i.e., on average in the middle of a current three-year Regulatory Element cycle).

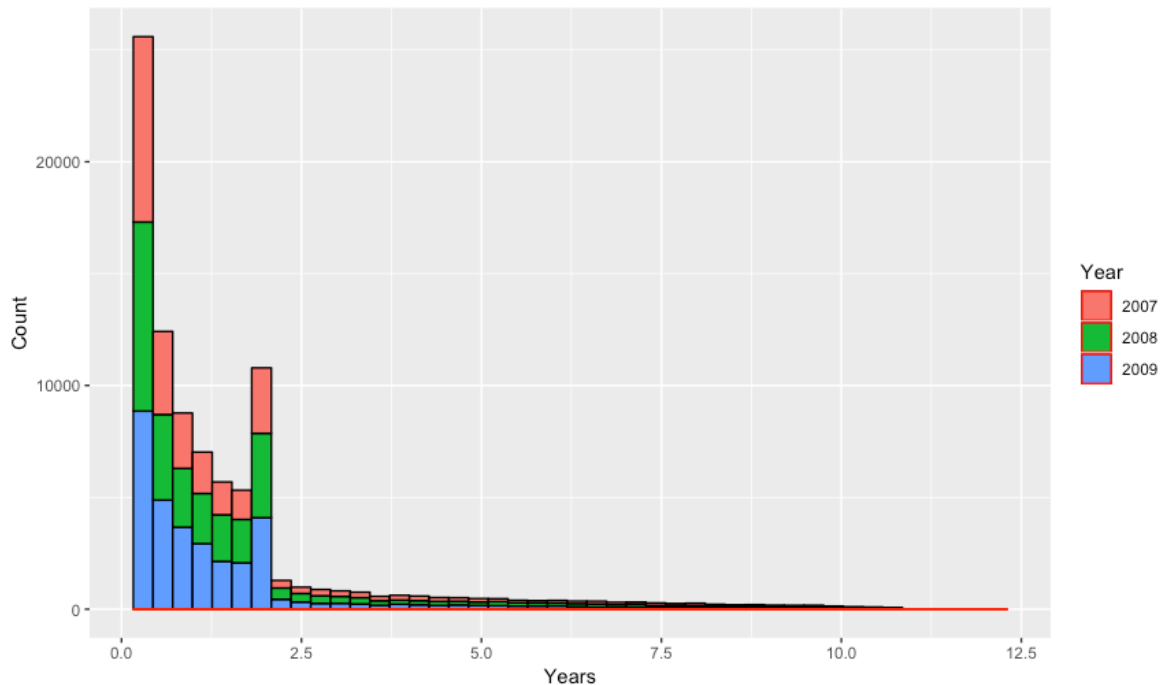


Figure 1: Plot of the number of previously registered persons that reregister within a given number of years after having terminated their registrations for at least 60 days in either 2007, 2008 or 2009. Each bar represents 100 days, and every year is accordingly represented by approximately three-and-a-half bars.

With respect to firms, the economic baseline is derived from the current processes and procedures used to implement the existing CE Program. Firms are currently responsible for the appropriate monitoring of the compliance of their registered persons with the three-year Regulatory Element cycle and for administering the annual Firm Element. Further, firms may experience material negative impact where they are not able

to retain qualified experienced persons because of professional and personal events that require such individuals to take an extended leave of absence from the industry.

Economic Impacts

FINRA believes that economic impacts of the proposed rule change would result in both benefits and costs to firms and registered persons and would potentially benefit the investor community. FINRA will undertake an evaluation of the efficacy of the program within a reasonable period following the implementation date. The aim of such an evaluation is to ensure that the program is meeting its goals and objectives, without resulting in unintended diminished investor protections, or unintended increase in regulatory burden on any relevant parties.

Anticipated Benefits

FINRA believes that the proposed rule change would result in two main benefits to registered persons.

First, as discussed above, the proposed rule change would transition the Regulatory Element from a three-year requirement to an annual requirement. Such an annual requirement is implemented for other professionals, such as Certified Public Accountants (“CPAs”), Chartered Financial Analysts (“CFAs”) and lawyers.⁵³ The 2015

⁵³ In general, the CFA requires 20 hours of continuing education on an annual basis. See CFA’s Continuing Education (CE) Program, available at <https://www.cfainstitute.org/en/membership/professional-development/pl>. The American Institute of CPAs (“AICPA”) requires 120 credit hours of continuing education over a three-year period, with the requirement of 40 credit hours per year. See AICPA’s Continuing Professional Education (CPE) Requirements for CPAs, available at <https://www.aicpa.org/cpe-learning/cperequirements.html>. The continuing education requirement for lawyers is different across states, but it generally ranges between 10-15 credit hours per year. See https://www.americanbar.org/content/dam/aba/directories/policy/aba_model_rule_comparison_by_state_meet_model_rule_noted.pdf. None of these three

transition to CE Online resulted in a more efficient program and added a new dimension of flexibility to the CE Program in terms of the content, timing and availability of the program. This change would allow the Regulatory Element to focus on current issues and recent regulatory changes and enhance registered persons' understanding of the changes through more frequent assessments. A transition to an annual cycle is expected to benefit registered persons by helping to ensure that they understand recent regulatory changes and are thus able to perform their work in a compliant and effective manner. Under the current program, a regulatory change could take place in the beginning of a three-year Regulatory Element cycle and thus result in some portion of the individuals in that cycle being assessed on their knowledge of the change at a significantly later date.

Second, FINRA believes that a significant benefit of the proposed rule change for registered persons would be the increased flexibility in terms of maintaining their qualification for a terminated registration category. As can be observed in Figure 1, there is an increase in the number of individuals who reregister towards the end of the two-year period, which is the current grace period for maintaining their qualification status. Extending this period to five years through the completion of continuing education would provide flexibility to individuals, as well as potentially result in increased retention of expertise in the industry.

With respect to increased flexibility, extending the current two-year period to five years would allow individuals to manage significant life events, including professional changes and development (such as pursuing educational goals, a career change to a role

professions requires members to be active practitioners to maintain their credentials.

in the firm that is not part of the broker-dealer, working overseas for an extended period due to a career change or an attempt at a different career path) or personal life events (such as birth or adoption of a child, unexpected loss in the family or relocation due to family needs).⁵⁴ Through discussions with industry representatives, FINRA has learned that the proposed rule change could potentially lower the barrier to reentry to the industry. Some firms indicated that a significant benefit may arise in cases where an individual leaves the broker-dealer to gain experience in an affiliate of a parent company, for instance in an affiliated commercial bank, investment adviser or foreign affiliate. Other firms indicated that the proposed rule change could potentially be relevant for

⁵⁴ See, e.g., Christy Spivey, *Time Off at What Price? The Effects of Career Interruptions on Earnings*, 59(1) *Indus. & Lab. Rel. Rev.* 119-140 (2005); Jill K. Hayter, *Career Interrupted for What Reason? Job Interruptions and Their Wage Effects*, 30(4) *J. App. Bus. Res.* 1197-1210 (2014). Spivey (2005) uses the National Longitudinal Survey of Youth (“NLSY”) data, and finds that the total time spent out of the labor force for men was 2.9 years on average, with a standard deviation of 3.7. The paper finds that women spent on average 5.3 years out of the labor force, with a standard deviation of 5.1. Finally, the paper reports that the average number of interruptions was 2.53 for women and 0.93 for men. Hayter (2014) also studies the NLSY data. The paper reports the percentage of women and men in the sample who experienced various types of employment disruptions, and the average cumulative length of disruptions by type, conditional on having at least one interruption. Non-family disruptions are found to have similar impacts across genders. However, women are much more likely (15% versus 2%) to experience family-related disruptions and the total reported length out of the work force resulting from the disruption is three times longer for women versus men (150 weeks versus 53 weeks).

under-represented populations in the securities industry, such as, for example, female registrants.⁵⁵

With respect to firms, FINRA believes that the proposed rule change will result in three main benefits. First, FINRA believes that the transition to an annual Regulatory Element cycle will reduce firms' regulatory risk, as well as enhance compliance and reduce compliance-related costs. This benefit would potentially result from the enhanced timeliness and relevance afforded by the proposed annual cycle.

Second, the proposed rule change would further enhance and streamline the Firm Element requirement. These changes include an express recognition of existing firm training programs, such as the annual compliance meeting, toward satisfying a registered individual's Firm Element requirement, potentially saving firms compliance resources currently devoted to developing and implementing different training programs. In addition, in conjunction with the proposed rule change, FINRA and the CE Council would develop a content catalog, managed by FINRA, that would serve as an optional resource from which firms could select or supplement their Firm Element content.⁵⁶ Such a catalog could provide firms with a more cost-efficient resource for Firm Element

⁵⁵ FINRA has repeated the analysis presented in Figure 1, separating registered persons by gender. The analysis found that female registered persons are underrepresented, at an approximate ratio of one to four. With respect to the pattern of reregistering under the baseline that is presented in Figure 1, the analysis found that the pattern was similar for either male or female registered persons, when studied separately. However, this does not rule out that female registrants could especially benefit from the proposed rule change, for the reasons discussed above.

⁵⁶ See supra Item 3(a)(ii)d.

content.

Third, with respect to the extended time period for maintaining a qualification status, FINRA believes that the proposed rule change could result in added flexibility for firms in terms of hiring qualified candidates. This could ultimately extend the potential pool of securities industry professionals and potentially benefit firms regardless of their size. Through discussions with industry representatives, FINRA has learned that this could permit firms to better retain skilled professionals, more easily provide individuals with professional development outside the broker-dealer, and facilitate the hiring process for experienced professionals who have required the career flexibility.

In addition, FINRA believes that the investor community will ultimately benefit from the proposed rule change. These benefits will stem from the potential increase in the knowledge and ongoing training of registered persons, as well as through the increased flexibility of retention of skill and experience in the industry.

Finally, FINRA notes that these benefits may be limited for individuals seeking to maintain FINRA and state registrations if there are significant differences between the relevant requirements across the various regulatory frameworks. For instance, currently, state regulators require an individual to retake examinations for terminated licenses after two years. Some individuals may be dissuaded from remaining in the industry where the state requirements are more binding than those proposed in this filing. Others may be dissuaded from taking advantage of the flexibility provided by the proposed rule change at the expense of other obligations. As discussed above, approximately 90% of registered individuals hold some combination of FINRA and state registrations. This may serve as an upper bound on an estimate of the proportion of the population that may be limited in

the full advantages of the proposed rule change, depending on the combinations of registrations held and individual state rules.⁵⁷

Anticipated Costs

FINRA believes that, alongside the anticipated benefits discussed above, the proposed rule change would also result in costs for both firms and registered persons.

With respect to registered persons, FINRA anticipates three main costs that may result from the proposed rule change. First, the move to an annual Regulatory Element cycle will increase the frequency of the required training and the associated impact of failing to complete the annual content.⁵⁸ Further, this anticipated increase in burdens is

⁵⁷ As of November 2020, out of the approximately 620,000 FINRA registered persons, approximately 84% held a Series 7 or a Series 6. This population is expected to potentially be impacted by regulatory differences (or an estimate of the percentage of the relevant population that may be constrained by differences between FINRA and state rules). Further, approximately 78% of the total registered persons population have at least one state license. Depending on roles and responsibilities of FINRA registered persons, there is not always a state licensure requirement (specifically, non-customer-facing roles). The anticipated benefits of the proposed rule change might be more fully achieved for these individuals. Finally, the impacts of the potential differences may be particularly pronounced in a few states that have more than 200,000 individuals licensed in them. For these states, approximately 90% of these individuals (on average across these states) hold a Series 7 or a Series 6.

⁵⁸ However, as discussed above, the amount of content that registered persons would be required to complete in a three-year, annual cycle for a particular registration category is expected to be comparable to what most registered persons are currently completing every three years. See supra Item 3(a)(ii)a. Some commenters expressed concerns regarding the costs and burdens that the proposed annual requirement would impose on firms and registered persons. See infra Item 5(a) and (b)(i). FINRA recognizes that the transition to an annual Regulatory Element requirement may result in potential costs and burdens. However, FINRA believes that any such costs and burdens are appropriate and justified given the significant regulatory benefit of more tailored and timelier Regulatory Element. Further, FINRA believes that some of the potential costs and burdens would be mitigated by the proposed enhancements to the program.

expected to be smaller for individuals with a single registration category than for individuals with more than one registration category. Individuals with more than one registration category (approximately 35% of registered persons) may have more Regulatory Element content (including the associated time commitment) in a given year, in comparison to individuals with only a single registration category. Second, the introduction of Regulatory Element notifications directly to registered persons could shift some of the time management burden to them. Third, the eligibility requirements for maintaining a qualification status for a terminated registration category will require an individual to have been registered with FINRA in that registration category for at least one year, which could limit potential career changes that may occur within a shorter period.

With respect to firms, FINRA anticipates some costs that may result from the proposed rule change. The transition to an annual Regulatory Element requirement could ultimately increase the administrative and operational burden on firms due to changes to compliance systems. This is anticipated in terms of the resources required to implement and monitor compliance with the program on an annual basis. These resources would also need to be potentially further increased to address the proposed extension of the Firm Element requirement to all registered persons.⁵⁹

It is anticipated that costs stemming from the change to an annual Regulatory

⁵⁹ Some commenters noted that the extension of the Firm Element to all registered persons could result in unnecessary costs and burdens, and they also noted that this proposed change could have a disparate impact on firms with large home offices and firms with large numbers of registered support staff and others holding permissive registrations. See infra Item 5(b)(ii).

Element requirement will tend to increase with the number of representatives at a firm and thus be higher in aggregate at larger firms. However, economies of scale likely exist in the application of the proposed requirements. Thus, the average additional cost per representative at larger firms will likely be lower than that at smaller firms.⁶⁰

Alternatives Considered

FINRA has considered a range of alternatives in developing the proposed rule change. These included alternative frequency of the Regulatory Element requirement (periodic versus annual), alternative time periods for becoming eligible to maintain a qualification status for a terminated registration category (one year versus more than one year) and alternative time periods for maintaining a qualification status (seven years versus 10 or five years).

The proposed rule change reflects a consideration of the various alternatives. Within each of these alternatives there is a trade-off between providing the flexibility to encourage more registered persons to remain in the industry when other, outside demands arise versus ensuring that those individuals are likely to be aware of current regulations and best practices. For example, with respect to maintaining qualifications, FINRA believes that a length of five years could achieve the main goals and anticipated benefits of the program. FINRA considered whether a seven-year period would better balance flexibility against investor protection risks. Such a seven-year period would also likely provide a reasonable upper limit on the length of the proposed requalification option, in so far as a longer period might erode the benefits of the proposed option. While the

⁶⁰ One commenter suggested that the transition to an annual Regulatory Element could increase administrative workloads and costs on smaller firms and independent contractors. See infra Item 5(b)(i).

proposed participation period of five years may limit some individuals' ability to remain in the industry, it may better mitigate the impact of differences with state licensing requirements.⁶¹ Considering the discussion above regarding economic impacts, issues stemming from other regulatory frameworks, as well as the views expressed by commenters in response to Regulatory Notice 20-05, including NASAA's support for a participation period of five years, FINRA believes that a five-year period is more appropriate.⁶²

5. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received from Members, Participants, or Others

(a) Comments Relating to Regulatory Notice 18-26

In September 2018, the CE Council published an initial document outlining several potential enhancements to the CE Program under consideration by the CE Council. In support of the CE Council, FINRA published Regulatory Notice 18-26 (September 2018) ("Notice 18-26") requesting comment on the potential enhancements. In response to Notice 18-26, FINRA, on behalf of the CE Council, received 22 comment letters. A copy of Notice 18-26 is attached as Exhibit 2a. Copies of the comment letters received in response to Notice 18-26 are attached as Exhibit 2b.

Most commenters generally supported the potential enhancements outlined by the CE Council. The commenters expressed overwhelming interest in implementing a mechanism for allowing previously registered individuals to maintain their qualification after the termination of their registrations for longer than the current two-year period. In

⁶¹ Some commenters expressed support for an indefinite participation period. See infra Item 5(b)(iii).

⁶² See infra Item 5(b)(iii).

addition, most commenters agreed that there is value in moving to an annual Regulatory Element requirement in order to provide registered persons with more timely and relevant education and training. However, many expressed concern that doing so could increase the administrative and operational burden on both firms and registered persons, particularly for firms with a narrowly focused business model (e.g., the sale of mutual funds and variable annuities). One commenter expressed concern that increasing the frequency of the Regulatory Element may exacerbate the existing burden on those without ready access to a high-speed internet connection, which is currently required for online access. Many commenters supported Regulatory Element content that is tailored and specific to each registration category rather than content that applies generally to all registered persons. Some of these commenters questioned whether there are sufficient regulatory developments occurring annually that would be relevant to individuals with limited registrations, such as registered persons engaged in the sale of mutual funds and variable annuities. Further, commenters widely supported the creation of a content catalog that firms could leverage for administering education and training for their Firm Element programs. Finally, several commenters requested more guidance on the Firm Element component, including express guidance that other training requirements may count toward satisfying the Firm Element requirement.

Following a review of the public comments and further discussions with industry and SRO participants, in September 2019, the CE Council published its recommendations

to enhance the CE Program.⁶³ As previously noted, the proposed rule change is based on the CE Council's recommendations.⁶⁴

(b) Comments Relating to Regulatory Notice 20-05

The proposed rule change was published for comment in Regulatory Notice 20-05 (February 2020) ("Notice 20-05"). FINRA received 26 comment letters in response to Notice 20-05. A copy of Notice 20-05 is attached as Exhibit 2c. Copies of the comment letters received in response to Notice 20-05 are attached as Exhibit 2e.⁶⁵

Below is a summary of the comments on Notice 20-05 and FINRA's responses.

(i) Transition to Annual Regulatory Element for Each Registration Category

Most of the commenters addressing the proposed annual Regulatory Element requirement supported the change. Some of these commenters qualified their support. ARM supported the proposed change if individuals with multiple registrations would not be subject to additional or duplicative requirements. SIFMA, Morgan Stanley, LPL and Fidelity suggested an annual "cap" on the number of modules that individuals must complete. Huntington was concerned about the potential increase in compliance and supervisory burdens and duplicative training. Monahan & Roth requested that the cost of the annual requirement be proportionately less. STANY requested that FINRA be mindful of the impact of costs and compliance efforts, especially for smaller firms.

⁶³ See supra note 14.

⁶⁴ See supra note 14.

⁶⁵ See Exhibit 2d for a list of abbreviations assigned to commenters.

Further, Integrated Solutions suggested that registrations that have been held for longer periods be subject to less frequent Regulatory Element. CFA suggested that an individual's "primary" registration be subject to an annual requirement and that the individual's other registrations be subject to less frequent Regulatory Element. PFS requested that Investment Company and Variable Contracts Products Representatives be subject to less frequent Regulatory Element because there may not be enough material to develop annual content for such individuals. Morgan Stanley suggested that FINRA consider a phased approach followed by a cost-benefit analysis to further assess the impact of the transition. ARM and Foreside stated that the 15-day grace period for completing the Regulatory Element, which was originally proposed in Regulatory Notice 20-05, would increase administrative and operational burdens. Morgan Stanley requested that FINRA provide a 30-day grace period. Morgan Stanley and SIFMA also requested that FINRA provide hiring firms with information regarding an individual's Regulatory Element status at the prehire stage, subject to the individual's consent.

Several commenters did not support the proposed annual Regulatory Element requirement or raised other concerns with the proposed change. Executive Advisors, MML, Nationwide and Pacer did not support the proposed annual requirement. FSI stated that the proposed change would potentially increase administrative workloads and costs on smaller firms and independent contractors as well as duplicative training. FSI also requested clarification regarding the impact of a CE inactive status on an individual's state registrations, including advisory registrations, and adequate time for firms to implement the proposed rule change. PFS stated that the proposed change to an

annual requirement would disparately impact those without broadband internet, which is currently required to complete the Regulatory Element.

Registered persons would not be subject to duplicative regulatory content in any given year, regardless of how many registrations they hold. Further, FINRA does not believe that it is necessary to establish an annual “cap” on the amount of regulatory content as suggested by some commenters. Rather, with respect to individuals who hold a significant number of registrations, FINRA and the CE Council would review the amount of content that such individuals would be required to complete each year and, if necessary, the amount would be adjusted so that it is reasonable and balanced. FINRA will file a separate proposed rule change to establish the session fee for the proposed annual Regulatory Element; we generally expect that the fee for the annual Regulatory Element would be reduced and be the same for all registered persons, regardless of the amount of content that they would be required to complete (that is, an individual who holds multiple registrations would be subject to the same annual fee as an individual who holds a single registration).

FINRA believes that the implementation of less frequent Regulatory Element for certain registration categories or a phased implementation as suggested by some commenters would be overly complex and cause confusion. FINRA will work with the CE Council to ensure that there is sufficient and appropriate content for each registration category. With respect to the originally proposed 15-day grace period prior to being designated as CE inactive, FINRA has eliminated the grace period from the proposed rule change to avoid any unnecessary burdens on firms and registered persons, as was suggested by some commenters. However, the proposed rule change preserves the ability

of a firm to request an extension of time for an individual, if necessary. In addition, as is currently the case, an individual's CE inactive status would impact the individual's ability to function in a FINRA-registered capacity. As is the case today, any questions regarding the impact of a CE inactive status on state registrations should be directed to the appropriate state securities regulator.

Finally, in conjunction with the proposed rule change, FINRA would enhance its systems to reduce the overall burden on firms and registered persons. As part of these enhancements, FINRA would work with firms to determine what information would be helpful and appropriate prior to associating with or hiring individuals. FINRA would also provide firms with adequate time to implement the proposed rule change. Further, to mitigate any potential disparate impact on individuals who do not have ready access to a high-speed internet connection, FINRA would make the Regulatory Element available via a mobile compatible format.

(ii) Recognition of Other Training Requirements for Firm Element and Extension of Firm Element to All Registered Persons

Commenters overwhelmingly supported the express recognition of AML compliance program training and annual compliance meeting training toward satisfying the Firm Element. Some of these commenters requested additional flexibility and clarification regarding the Firm Element requirement.

Foreside requested that firms be provided with the flexibility to combine the requirements of the Regulatory Element, Firm Element and annual compliance meeting. Cambridge suggested that completion of additional modules of Regulatory Element be applied toward satisfying the Firm Element. Cambridge also recommended that ethics and professional responsibility training be included in the Regulatory Element rather than

the Firm Element. Monahan & Roth stated that the current Firm Element training criteria is overly prescriptive and that the requirement should be more flexible, allowing firms to train to the scope of their business and changing environment. NRS stated that other training should count toward satisfying Firm Element training if the other training is applicable to an individual's job function. STANY requested that industry conferences count toward satisfying the Firm Element. SIFMA requested that firms should continue to have the flexibility to determine if leveraging other training makes sense given their business model and the flexibility to cover the topics in the Regulatory Element in Firm Element training. SIFMA also requested that the Firm Element requirement recognize the unique needs of limited purpose broker-dealers and suggested that Firm Element training be designed to apply to other professional designations or training requirements. NASAA stated that satisfaction of AML compliance program training or annual compliance meeting training alone should not satisfy Firm Element training.

Not all commenters supported the extension of the Firm Element requirement to all registered persons. FSI and STANY recommended that it be optional for registered persons who are not currently covered under the rule. STANY stated that extending the requirement to individuals holding permissive registrations could create unnecessary burdens and discourage permissive registrations. LPL stated that the proposed change may result in unnecessary costs. MML stated that it would have a disparate impact on firms with large home offices. SIFMA stated that it would be overly burdensome, particularly for firms with large numbers of registered support staff and others holding permissive registrations who are not currently covered under the rule.

The Regulatory Element cannot be combined with other training requirements. Registered persons must complete prescribed regulatory content provided by FINRA to establish that they have an appropriate level of knowledge relating to regulatory requirements. However, the Firm Element and annual compliance meeting may be combined, provided that the criteria for each requirement is satisfied.

FINRA and the CE Council will consider the possibility of making additional Regulatory Element topics available to firms, which they could apply toward satisfying Firm Element training based on their needs analysis. FINRA and the CE Council will also consider whether ethics and professional responsibility training should be covered in the Regulatory Element.

In response to comments, FINRA has revised the proposed rule change to replace the current prescriptive Firm Element criteria with a requirement that the training cover topics related to the role, activities or responsibilities of the registered person and to professional responsibility. Nothing in the proposed rule change would preclude firms from covering the Regulatory Element topics in their Firm Element training, consistent with their needs analysis. Further, consistent with their needs analysis, firms would continue to have the flexibility to determine whether other training, including industry conferences, may be applied toward the Firm Element. In addition, the CE Council will consider issuing best practices and guidance to help firms evaluate other financial industry continuing education programs for purposes of satisfying the Firm Element.

The recognition of other training requirements toward satisfying the Firm Element would still require firms to conduct a needs analysis to determine the appropriateness of applying such other training toward the Firm Element. However, based on a needs

analysis, a firm may determine that such other training requirements fully satisfy the Firm Element requirement. FINRA is not considering developing Firm Element training specifically to satisfy other professional designations or training requirements, but some existing training is, and would continue to be, appropriate for both Firm Element and other professional requirements.

The extension of the Firm Element requirement to all registered persons would ensure that firms enhance the securities knowledge, skill and professionalism of all registered persons, which is consistent with the overall goal of the Firm Element. It would also ensure that registered persons are provided more specific learning materials relevant to their day-to-day activities, which will provide each registered person a more complete training cycle. As indicated by commenters, some firms already require that all their registered persons complete Firm Element training. In addition, while firms with a larger number of registered persons, including individuals who are permissively registered, may incur additional burdens in implementing the proposed rule change, some of that burden would be mitigated based on the express recognition of other training requirements toward satisfying the Firm Element requirement. In some cases, registered persons may not have to complete any additional training beyond what they are required to complete today. For example, with respect to permissively registered persons working in a clerical or administrative capacity for a firm, the firm may determine, based on a needs analysis, that such individuals have satisfied the annual Firm Element requirement by participating in the firm-wide annual compliance meeting.

(iii) Maintenance of Qualification After Termination of Registration

Commenters overwhelmingly supported the proposed change to provide individuals the option of maintaining their qualification following the termination of a registration by completing annual continuing education. Some commenters requested additional changes, which are discussed below.

NASAA supported the goals of the proposed rule change, but it had concerns regarding the seven-year participation period originally proposed in Regulatory Notice 20-05. NASAA has expressed support for a participation period of five years. CFA, Fidelity, Foreside, Integrated Solutions and STANY stated that there should not be any time limit on the participation period. FSI, Foreside, MML, SIFMA and STANY requested that the proposed rule change also extend to state licenses.

Cambridge suggested that the content, subject matter and volume of training be the same for both participants and registered persons. Cambridge also suggested that the learning topics for participants be available to firms so that they may elect to apply it to their registered persons. FSI recommended that individuals who elect to participate at a later date following their Form U5 submission should not be required to complete any content that is outdated. MML wanted to know what would happen if a participant misses an annual cycle. In addition, MML requested that individuals who became CE inactive within three years prior to the implementation date of the proposed rule change should be able to participate. SIFMA requested that hiring firms be provided with information regarding a participant's status. CFA recommended that the current two-year qualification period be eliminated.

The proposed time limit for participation is necessary to ensure that previously registered individuals maintain an appropriate level of securities experience throughout their professional careers. FINRA believes that a seven-year period better serves the diversity and inclusion goals of the proposed rule change. However, FINRA also recognizes the benefits to the industry of having further alignment between FINRA qualification requirements and state licensing requirements. Therefore, in the interest of consistency and promoting registration efficiency, the proposed rule change provides individuals a maximum of five years in which to reregister, which will still serve the diversity and inclusion goals. As noted above, following implementation of the proposed rule change, FINRA will review the efficacy of the program, which will include a review of the participation period. In addition, FINRA will work with NASAA and state regulators to provide for an appropriate process and system support to allow states to track and process registration requests for individuals operating under the two- or five-year examination provisions.

Participants, including registered persons who elect to participate for a terminated registration category, may be subject to more overall content compared to registered persons who are not participants because participants would be required to complete a minimum amount of non-regulatory content selected by FINRA and the CE Council. FINRA and the CE Council will consider publishing the learning topics for participants for those firms that may elect to apply it to their registered persons. FINRA and the CE Council will also work to ensure that eligible individuals who elect to participate are not subject to outdated content.

Participants who miss an annual cycle for a registration category would be provided with an opportunity to continue by completing any missed content, provided that the registration category has not been terminated for two or more years.⁶⁶

Individuals who have been CE inactive for two consecutive years prior to the implementation date of the proposed rule change would not be eligible to participate because of the long lapse in continuing education. FINRA would work with firms to determine what information regarding a participant's status would be helpful and appropriate. The current two-year qualification period would not be eliminated because participation is optional and eligible individuals may elect not to participate.⁶⁷

⁶⁶ Participants who fail to complete the required annual content for a registration category that has been terminated for two or more years would not be eligible to continue. For example, if the proposed rule change were implemented on January 1, 2022, a participant who completes the required annual content for the General Securities Representative category in 2022, 2023 and 2024 but fails to complete the 2025 annual content would not be eligible to continue beyond 2025. In the example above, if the individual reregisters with a firm as a General Securities Representative in 2025, the individual would be required to complete any annual Regulatory Element applicable to the General Securities Representative registration category by December 31, 2025. If the individual fails to complete such Regulatory Element by December 31, 2025, the individual would be designated as CE inactive in the CRD system beginning on January 1, 2026. Alternatively, if the individual decides to reregister with a firm as a General Securities Representative at any point beyond 2025, the individual would be required to requalify by examination, or obtain an examination waiver, in order to reregister.

⁶⁷ In this regard, it should be noted that if an individual who holds a single registration terminates that registration and elects not to participate, the registration would be subject to the two-year qualification period. Similarly, if an individual with multiple registration categories terminates only some of those registration categories (that is, files a partial termination) and elects not to participate, the terminated registration category or categories would also be subject to the two-year qualification period, unless the terminated category is a subset of a broader registration category for which they remain qualified.

(iv) Other Enhancements to CE Program

Most commenters supported the other enhancements to the CE Program. However, some commenters had concerns and questions. SIFMA requested that consideration be given to potential technical limitations and challenges of registrants when designing diverse instructional formats for the Regulatory Element. FSI, MML and SIFMA requested that the Regulatory Element learning topics for each upcoming year be published early.

SIFMA suggested that firms be allowed to set the timing and frequency of FINRA-generated notifications to registered persons, especially where the firm's Regulatory Element deadline is sooner than December 31. SIFMA also suggested that FINRA should consider providing firms with the means to "audit" notifications sent to registered persons regarding the Regulatory Element via the FINRA Financial Professional Gateway ("FinPro[®]") system and that continuing education completion information, including information relating to participants who elect the proposed option, should be displayed on BrokerCheck[®]. Morgan Stanley requested that FINRA provide firms with the option to communicate directly with registered persons so firms may set their own internal timelines to fulfill the annual Regulatory Element requirement. MML suggested that sending a notification to the personal email of a registered person via the FinPro system is inconsistent with general supervision and recordkeeping requirements relating to business-related electronic communications.

NRS supported the development of a centralized Firm Element content directory, which includes course title, description and length, intended audience, learning objectives and skill level, rather than the development of a content catalog. Among other reasons,

NRS stated that SROs should not create Firm Element content because it may have the unintended consequence of being considered regulatory guidance.

FINRA and the CE Council will work to create optimal instructional formats for the Regulatory Element, taking into consideration the user experience. Further, FINRA and the CE Council will consider the possibility of publishing the Regulatory Element learning topics for each upcoming year early to provide firms with sufficient time to design their training for the upcoming year. FINRA will work with firms to determine the necessary enhancements to the FinPro system to facilitate the proposed transition to an annual Regulatory Element requirement. The use of the FinPro system notification functionality would not be inconsistent with the requirements relating to electronic communications. Firms that elect to use the functionality would receive copies of the system-generated notifications, which they could review and retain.

With respect to the availability of continuing education information on BrokerCheck, an individual's CE inactive status is currently displayed on BrokerCheck and it will continue to be displayed under the proposed rule change. FINRA will also consider whether the continuing education status of participants who elect the proposed option should be displayed on BrokerCheck. Finally, with respect to the development of a Firm Element content catalog, which most commenters supported, SROs have historically created Firm Element content and have provided firms with the option of using such content. FINRA and the CE Council are considering creating a centralized location for such content and to partner with third-party training providers to include their content in the catalog. Based on the comments and industry feedback, a content catalog

would be a valuable resource and would facilitate compliance by all firms, regardless of firm type.

6. Extension of Time Period for Commission Action

FINRA does not consent at this time to an extension of the time period for Commission action specified in Section 19(b)(2) of the Act.⁶⁸

7. Basis for Summary Effectiveness Pursuant to Section 19(b)(3) or for Accelerated Effectiveness Pursuant to Section 19(b)(2) or Section 19(b)(7)(D)

Not applicable.

8. Proposed Rule Change Based on Rules of Another Self-Regulatory Organization or of the Commission

Not applicable.

9. Security-Based Swap Submissions Filed Pursuant to Section 3C of the Act

Not applicable.

10. Advance Notices Filed Pursuant to Section 806(e) of the Payment, Clearing and Settlement Supervision Act

Not applicable.

11. Exhibits

Exhibit 1. Completed notice of proposed rule change for publication in the Federal Register.

Exhibit 2a. Regulatory Notice 18-26 (September 2018).

Exhibit 2b. Comments received in response to Regulatory Notice 18-26.

Exhibit 2c. Regulatory Notice 20-05 (February 2020).

Exhibit 2d. List of commenters to Regulatory Notice 20-05.

⁶⁸

15 U.S.C. 78s(b)(2).

Exhibit 2e. Comments received in response to Regulatory Notice 20-05.

Exhibit 5. Text of proposed rule change.

EXHIBIT 1

SECURITIES AND EXCHANGE COMMISSION
(Release No. 34- ; File No. SR-FINRA-2021-015)

Self-Regulatory Organizations; Financial Industry Regulatory Authority, Inc.; Notice of Filing of a Proposed Rule Change to Amend FINRA Rules 1210 (Registration Requirements) and 1240 (Continuing Education Requirements)

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (“Act”)¹ and Rule 19b-4 thereunder,² notice is hereby given that on , the Financial Industry Regulatory Authority, Inc. (“FINRA”) filed with the Securities and Exchange Commission (“SEC” or “Commission”) the proposed rule change as described in Items I, II, and III below, which Items have been prepared by FINRA. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization’s Statement of the Terms of Substance of the Proposed Rule Change

FINRA is proposing to amend FINRA Rule 1240 (Continuing Education Requirements). The proposed rule change also makes conforming amendments to FINRA Rule 1210 (Registration Requirements). Among other changes, the proposed rule change requires that the Regulatory Element of continuing education be completed annually rather than every three years and provides a path through continuing education for individuals to maintain their qualification following the termination of a registration.

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

The text of the proposed rule change is available on FINRA's website at <http://www.finra.org>, at the principal office of FINRA and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, FINRA included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. FINRA has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

(i) Background

The continuing education program for registered persons of broker-dealers ("CE Program") currently requires registered persons to complete continuing education consisting of a Regulatory Element and a Firm Element. The Regulatory Element, which is administered by FINRA, focuses on regulatory requirements and industry standards, while the Firm Element is provided by each firm and focuses on securities products, services and strategies the firm offers, firm policies and industry trends. The CE Program is codified under the rules of the self-regulatory organizations ("SROs"). The CE Program for registered persons of FINRA members is codified under Rule 1240.³

³ See also Rule 1210.07 (All Registered Persons Must Satisfy the Regulatory Element of Continuing Education).

a. Regulatory Element

Rule 1240(a) (Regulatory Element) currently requires a registered person to complete the applicable Regulatory Element initially within 120 days after the person's second registration anniversary date and, thereafter, within 120 days after every third registration anniversary date.⁴ FINRA may extend these time frames for good cause shown.⁵ Registered persons who have not completed the Regulatory Element within the prescribed time frames will have their FINRA registrations deemed inactive and will be designated as "CE inactive" in the CRD system until the requirements of the Regulatory

⁴ See Rules 1240(a)(1) (Requirements) and (a)(4) (Reassociation in a Registered Capacity). An individual's registration anniversary date is generally the date they initially registered with FINRA in the Central Registration Depository ("CRD[®]") system. However, an individual's registration anniversary date would be reset if the individual has been out of the industry for two or more years and is required to requalify by examination, or obtain an examination waiver, in order to reregister. An individual's registration anniversary date would also be reset if the individual obtains a conditional examination waiver that requires them to complete the Regulatory Element by a specified date. Non-registered individuals who are participating in the waiver program under Rule 1210.09 (Waiver of Examinations for Individuals Working for a Financial Services Industry Affiliate of a Member) ("FSAWP participants") are also subject to the Regulatory Element. See also Rule 1240(a)(5) (Definition of Covered Person). The Regulatory Element for FSAWP participants correlates to their most recent registration(s), and it must be completed based on the same cycle had they remained registered. FSAWP participants are eligible for a single, fixed seven-year waiver period from the date of their initial designation, subject to specified conditions. Registered persons who become subject to a significant disciplinary action, as specified in Rule 1240(a)(3) (Disciplinary Actions), may be required to retake the Regulatory Element within 120 days of the effective date of the disciplinary action, if they remain registered. Further, their cycle for participation in the Regulatory Element may be adjusted to reflect the effective date of the disciplinary action rather than their registration anniversary date.

⁵ See Rule 1240(a)(2) (Failure to Complete).

Element have been satisfied.⁶ A CE inactive person is prohibited from performing, or being compensated for, any activities requiring FINRA registration, including supervision. Moreover, if registered persons remain CE inactive for two consecutive years, they must requalify by retaking required examinations (or obtain a waiver of the applicable qualification examinations).⁷

The Regulatory Element consists of a subprogram for registered persons generally, and a subprogram for principals and supervisors.⁸ While some of the current Regulatory Element content is unique to particular registration categories, most of the content has broad application to both representatives and principals.⁹

The Regulatory Element was originally designed at a time when most individuals had to complete the Regulatory Element at a test center, and its design was shaped by the limitations of the test center-based delivery model. In 2015, FINRA transitioned the delivery of the Regulatory Element to an online platform (“CE Online”), which allows

⁶ See supra note 5. Individuals must complete the entire Regulatory Element session to be considered to have “completed” the Regulatory Element; partial completion is the same as non-completion.

⁷ This CE inactive two-year period is calculated from the date such persons become CE inactive, and it continues to run regardless of whether they terminate their registrations before the end of the two-year period. Therefore, if registered persons terminate their registrations while in a CE inactive status, they must satisfy all outstanding Regulatory Element prior to the end of the CE inactive two-year period in order to reregister with a member without having to requalify by examination or having to obtain an examination waiver.

⁸ The S101 (General Program for Registered Persons) and the S201 (Registered Principals and Supervisors).

⁹ The current content is presented in a single format leading individuals through a case that provides a story depicting situations that they may encounter in the course of their work.

individuals to complete the content online at a location of their choosing, including their private residence. This online delivery provides FINRA with much greater flexibility in updating content in a timelier fashion, developing content tailored to each registration category and presenting the material in an optimal learning format.

b. Firm Element

Rule 1240(b) (Firm Element) currently requires each firm to develop and administer an annual Firm Element training program for covered registered persons.¹⁰ The rule requires firms to conduct an annual needs analysis to determine the appropriate training.¹¹ Currently, at a minimum, the Firm Element must cover training in ethics and professional responsibility as well as the following items concerning securities products, services and strategies offered by the member: (1) general investment features and associated risk factors; (2) suitability and sales practice considerations; and (3) applicable regulatory requirements.¹²

A firm, consistent with its needs analysis, may determine to apply toward the Firm Element other required training. The current rule does not expressly recognize other required training, such as training relating to the anti-money laundering (“AML”)

¹⁰ The rule defines “covered registered persons” as any registered person who has direct contact with customers in the conduct of a member’s securities sales, trading and investment banking activities, any individual who is registered as an Operations Professional or a Research Analyst, and the immediate supervisors of any such persons. See Rule 1240(b)(1) (Persons Subject to the Firm Element).

¹¹ See Rule 1240(b)(2) (Standards for the Firm Element).

¹² See supra note 11.

compliance program and training relating to the annual compliance meeting,¹³ for purposes of satisfying Firm Element training.

c. Termination of a Registration

Currently, individuals whose registrations as representatives or principals have been terminated for two or more years may reregister as representatives or principals only if they requalify by retaking and passing the applicable representative- or principal-level examination or if they obtain a waiver of such examination(s) (the “two-year qualification period”).¹⁴ The two-year qualification period was adopted prior to the creation of the CE Program and was intended to ensure that individuals who reregister are relatively current on their regulatory and securities knowledge.

¹³ See FINRA Rules 3310(e) and 3110(a)(7).

¹⁴ See Rule 1210.08 (Lapse of Registration and Expiration of SIE). The two-year qualification period is calculated from the date individuals terminate their registration and the date FINRA receives a new application for registration. The two-year qualification period does not apply to individuals who terminate a limited registration category that is a subset of a broader registration category for which they remain qualified. For instance, it would not apply to an individual who maintains his registration as a General Securities Representative but who terminates his registration as an Investment Company and Variable Contracts Products Representative. Such individuals have the option of reregistering in the more limited registration category without having to requalify by examination or obtain an examination waiver so long as they continue to remain qualified for the broader registration category. Further, the two-year qualification period only applies to the representative- and principal-level examinations; it does not extend to the Securities Industry Essentials (“SIE”) examination. The SIE examination is valid for four years, but having a valid SIE examination alone does not qualify an individual for registration as a representative or principal. Individuals whose registrations as representatives or principals have been revoked pursuant to FINRA Rule 8310 (Sanctions for Violation of the Rules) may only requalify by retaking the applicable representative- or principal-level examination in order to reregister as representatives or principals, in addition to satisfying the eligibility conditions for association with a firm. Waivers are granted either on a case-by-case basis under Rule 1210.03 (Qualification Examinations and Waivers of Examinations) or as part of the waiver program under Rule 1210.09.

(ii) Proposed Rule Change

After extensive work with the Securities Industry/Regulatory Council on Continuing Education (“CE Council”) and discussions with stakeholders, including industry participants and the North American Securities Administrators Association (“NASAA”), FINRA proposes the following changes to the CE Program under Rule 1240.¹⁵

a. Transition to Annual Regulatory Element for Each Registration Category

As noted above, currently, the Regulatory Element generally must be completed every three years, and the content is broad in nature. Based on changes in technology and learning theory, the Regulatory Element content can be updated and delivered in a timelier fashion and tailored to each registration category, which would further the goals of the Regulatory Element.¹⁶ Therefore, to provide registered persons with more timely

¹⁵ The proposed changes are based on the CE Council’s September 2019 recommendations to enhance the CE Program. See Recommended Enhancements for the Securities Industry Continuing Education Program, available at <http://cecouncil.org/media/266634/council-recommendations-final-.pdf>. The CE Council is composed of securities industry representatives and representatives of SROs. The CE Council was formed in 1995 upon a recommendation from the Securities Industry Task Force on Continuing Education and was tasked with facilitating the development of uniform continuing education requirements for registered persons of broker-dealers.

¹⁶ When the CE Program was originally adopted in 1995, registered persons were required to complete the Regulatory Element on their second, fifth and 10th registration anniversary dates. See Securities Exchange Act Release No. 35341 (February 8, 1995), 60 FR 8426 (February 14, 1995) (Order Approving File Nos. SR-AMEX-94-59; SR-CBOE-94-49; SR-CHX-94-27; SR-MSRB-94-17; SR-NASD-94-72; SR-NYSE-94-43; SR-PSE-94-35; and SR-PHLX-94-52). The change to the current three-year cycle was made in 1998 to provide registered persons more timely and effective training, consistent with the overall purpose of the Regulatory Element. See Securities Exchange Act Release No. 39712 (March

and relevant training on significant regulatory developments, FINRA proposes amending Rule 1240(a) to require registered persons to complete the Regulatory Element annually by December 31.¹⁷ The proposed amendment would also require registered persons to complete Regulatory Element content for each representative or principal registration category that they hold, which would also further the goals of the Regulatory Element.¹⁸

Under the proposed rule change, firms would have the flexibility to require their registered persons to complete the Regulatory Element sooner than December 31, which would allow firms to coordinate the timing of the Regulatory Element with other training requirements, including the Firm Element.¹⁹ For example, a firm could require its registered persons to complete both their Regulatory Element and Firm Element by October 1 of each year.

Individuals who would be registering as a representative or principal for the first time on or after the implementation date of the proposed rule change would be required to complete their initial Regulatory Element for that registration category in the next

3, 1998), 63 FR 11939 (March 11, 1998) (Order Approving File Nos. SR-CBOE-97-68; SR-MSRB-98-02; SR-NASD-98-03; and SR-NYSE-97-33).

¹⁷ See proposed Rules 1240(a)(1) and (a)(4). Some commenters supported the proposed change to an annual requirement, while others disagreed with it or expressed concerns with the burdens it would impose on firms and registered persons. See *infra* Item II.C.(a) and (b)(i).

¹⁸ See proposed Rules 1210.07 and 1240(a)(1). Commenters generally supported the development of tailored content that is specific to each registration category. See *infra* Item II.C.(a). However, some commenters questioned whether there would be sufficient content for certain registration categories in a given year, while others were concerned that some individuals could be subject to duplicate or excessive content. See *infra* Item II.C.(a) and (b)(i).

¹⁹ See proposed Rules 1240(a)(1) and (a)(4).

calendar year following their registration.²⁰ In addition, subject to specified conditions, individuals who would be reregistering as a representative or principal on or after the implementation date of the proposed rule change would also be required to complete their initial Regulatory Element for that registration category in the next calendar year following their reregistration.²¹

Consistent with current requirements, individuals who fail to complete their Regulatory Element within the prescribed period would be automatically designated as CE inactive.²² However, the proposed rule change preserves FINRA's ability to extend the time by which a registered person must complete the Regulatory Element for good cause shown.²³

FINRA also proposes amending Rule 1240(a) to clarify that: (1) individuals who are designated as CE inactive would be required to complete all of their pending and upcoming annual Regulatory Element, including any annual Regulatory Element that

²⁰ See proposed Rule 1240(a)(1).

²¹ See proposed Rule 1240(a)(4).

²² See proposed Rule 1240(a)(2). In Regulatory Notice 20-05 (February 2020), FINRA had proposed a 15-day grace period prior to being designated as CE inactive, provided that the member documented the reasons for the individual's failure to complete the Regulatory Element within the prescribed calendar year and retained the documentation for recordkeeping purposes. Some commenters noted that the proposed grace period would increase administrative and operational burdens, while one commenter requested that FINRA provide a longer grace period. See infra Item II.C.(b)(i). FINRA has determined to eliminate the proposed grace period to avoid any unnecessary burdens.

²³ See supra note 22. The proposed rule change clarifies that the request for an extension of time must be in writing and include supporting documentation, which is consistent with current practice.

becomes due during their CE inactive period, to return to active status;²⁴ (2) the two-year CE inactive period is calculated from the date individuals become CE inactive, and it continues to run regardless of whether individuals terminate their registrations;²⁵ (3) individuals who become subject to a significant disciplinary action may be required to complete assigned continuing education content as prescribed by FINRA;²⁶ (4) individuals who have not completed any Regulatory Element content for a registration category in the calendar year(s) prior to reregistering would not be approved for registration for that category until they complete that Regulatory Element content, pass an examination for that registration category or obtain an unconditional examination waiver for that registration category, whichever is applicable;²⁷ and (5) the Regulatory Element requirements apply to individuals who are registered, or in the process of registering, as a representative or principal.²⁸ In addition, FINRA proposes making conforming amendments to Rule 1210.07.

Under the proposed rule change, the amount of content that registered persons would be required to complete in a three-year, annual cycle for a particular registration category is expected to be comparable to what most registered persons are currently

²⁴ See supra note 22.

²⁵ See supra note 22.

²⁶ See proposed Rule 1240(a)(3). As previously noted, Rule 1240(a)(3) currently provides that such individuals may be required to retake the Regulatory Element. See supra note 4.

²⁷ See proposed Rule 1240(a)(4).

²⁸ See proposed Rule 1240(a)(5).

completing every three years.²⁹ In some years, there may be more required content for some registration categories depending on the volume of rule changes and regulatory issues. In addition, an individual who holds multiple registrations may be required to complete additional content compared to an individual who holds a single registration because, as noted above, individuals would be required to complete content specific to each registration category that they hold.³⁰ However, individuals with multiple registrations would not be subject to duplicative regulatory content in any given year. The more common registration combinations would likely share much of their relevant regulatory content each year. For example, individuals registered as General Securities Representatives and General Securities Principals would receive the same content as individuals solely registered as General Securities Representatives, supplemented with a likely smaller amount of supervisory-specific content on the same topics. The less common registration combinations may result in less topic overlap and more content overall.

b. Recognition of Other Training Requirements for Firm Element and Extension of Firm Element to All Registered Persons

To better align the Firm Element requirement with other required training, FINRA proposes amending Rule 1240(b) to expressly allow firms to consider training relating to the AML compliance program and the annual compliance meeting toward satisfying an

²⁹ As previously noted, some commenters questioned whether there would be sufficient annual content for certain registration categories and some commenters were concerned that some individuals might be subject to duplicate or excessive content on an annual basis. See supra note 18; see infra Item II.C.(a) and (b)(i).

³⁰ As discussed in the economic impact assessment, individuals with multiple registrations represent a smaller percentage of the population of registered persons.

individual's annual Firm Element requirement.³¹ FINRA also proposes amending the rule to extend the Firm Element requirement to all registered persons, including individuals who maintain solely a permissive registration consistent with Rule 1210.02 (Permissive Registrations), thereby further aligning the Firm Element requirement with other broadly-based training requirements.³² In conjunction with this proposed change, FINRA proposes modifying the current minimum training criteria under Rule 1240(b) to instead provide that the training must cover topics related to the role, activities or responsibilities of the registered person and to professional responsibility.³³

c. Maintenance of Qualification After Termination of Registration

FINRA proposes adopting paragraph (c) under Rule 1240 and Supplementary Material .01 and .02 to Rule 1240 to provide eligible individuals who terminate any of their representative or principal registrations the option of maintaining their qualification for any of the terminated registrations by completing continuing education.³⁴ The

³¹ See proposed Rule 1240(b)(2)(D). Commenters overwhelmingly supported this proposed change. See *infra* Item II.C.(b)(ii).

³² See proposed Rule 1240(b)(1). As noted earlier, the current requirement only applies to "covered registered persons" and not all registered persons. Not all commenters agreed with this proposed change. See *infra* Item II.C.(b)(ii).

³³ See proposed Rule 1240(b)(2)(B). In *Regulatory Notice* 20-05, FINRA had proposed to retain the current minimum training criteria under Rule 1240(b)(2)(B). One commenter stated that the current criteria is overly prescriptive and that the requirement should be more flexible. See *infra* Item II.C.(b)(ii). FINRA is revising the rule in response.

³⁴ Commenters overwhelmingly supported this proposed change. See *infra* Item II.C.(b)(iii). The proposed option would also be available to individuals who terminate any permissive registrations as provided under Rule 1210.02. However, the proposed option would not be available to individuals who terminate a limited registration category that is a subset of a broader registration category for which they remain qualified. As previously noted, such individuals currently have the option of reregistering in the more limited registration category without having to

proposed rule change would not eliminate the two-year qualification period.³⁵ Rather, it would provide such individuals an alternative means of staying current on their regulatory and securities knowledge following the termination of a registration(s). Eligible individuals who elect not to participate in the proposed continuing education program would continue to be subject to the current two-year qualification period. The proposed rule change is generally aligned with other professional continuing education programs that allow individuals to maintain their qualification to work in their respective fields during a period of absence from their careers (including an absence of more than two years) by satisfying continuing education requirements for their credential.

The proposed rule change would impose the following conditions and limitations:

- individuals would be required to be registered in the terminated registration category for at least one year immediately prior to the termination of that category;³⁶
- individuals could elect to participate when they terminate a registration or within two years from the termination of a registration;³⁷

requalify by examination or obtain an examination waiver so long as they continue to remain qualified for the broader registration category. In addition, the proposed option would not be available to individuals who are maintaining an eliminated registration category, such as the category for Corporate Securities Representative, or individuals who have solely passed the Securities Industry Essentials examination, which does not, in and of itself, confer registration.

³⁵ One commenter requested that FINRA eliminate the two-year qualification period. See infra Item II.C.(b)(iii).

³⁶ See proposed Rule 1240(c)(1).

³⁷ See proposed Rule 1240(c)(2). Individuals who elect to participate at the later date would be required to complete, within two years from the termination of their registration, any continuing education that becomes due between the time of their Form U5 (Uniform Termination Notice for Securities Industry Registration)

- individuals would be required to complete annually all prescribed continuing education;³⁸
- individuals would have a maximum of five years in which to reregister;³⁹

submission and the date that they commence their participation. In addition, FINRA would enhance its systems to notify individuals of their eligibility to participate, enable them to affirmatively opt in, and notify them of their annual continuing education requirement if they opt in.

³⁸ See proposed Rule 1240(c)(3). However, upon a participant's request and for good cause shown, FINRA would have the ability to grant an extension of time for the participant to complete the prescribed continuing education. A participant who is also a registered person must directly request an extension of the prescribed continuing education from FINRA. The continuing education content for participants would consist of a combination of Regulatory Element content and content selected by FINRA and the CE Council from the Firm Element content catalog discussed below. One commenter suggested that the content, subject matter and volume of training be the same for both participants and registered persons. See *infra* Item II.C.(b)(iii). The content would correspond to the registration category for which individuals wish to maintain their qualifications. Participants who are maintaining their qualification status for a principal registration category that includes one or more corequisite representative registrations must also complete required annual continuing education for the corequisite registrations in order to maintain their qualification status for the principal registration category. In *Regulatory Notice* 20-05, FINRA had proposed that participants complete the prescribed continuing education annually. The proposed rule change clarifies that the prescribed continuing education must be completed by December 31 of the calendar year, which is consistent with the timing for the proposed annual Regulatory Element.

³⁹ See proposed Rule 1240(c). As described in greater detail in Item II.C. of this filing, in *Regulatory Notice* 20-05, FINRA had proposed a seven-year participation period, and some commenters suggested that there should not be any time limit on the participation period. See *infra* Item II.C.(b)(iii). However, based on discussions with NASAA and its support for a participation period of five years, the proposed rule change provides a five-year participation period in the interest of consistency and promoting registration efficiency. See *infra* Item II.C.(b)(iii). The proposed five-year participation period would continue to serve the diversity and inclusion goals of the proposed rule change. In addition, individuals applying for reregistration must satisfy all other requirements relating to the registration process (e.g., submit a Form U4 (Uniform Application for Securities Industry Registration or Transfer) and undergo a background check).

- individuals who have been CE inactive for two consecutive years, or who become CE inactive for two consecutive years during their participation, would not be eligible to participate or continue;⁴⁰ and
- individuals who are subject to a statutory disqualification, or who become subject to a statutory disqualification following the termination of their registration or during their participation, would not be eligible to participate or continue.⁴¹

The proposed rule change also includes a look-back provision that would, subject to specified conditions, extend the proposed option to individuals who have been registered as a representative or principal within two years immediately prior to the

⁴⁰ See proposed Rules 1240(c)(4) and (c)(5).

⁴¹ See proposed Rules 1240(c)(1) and (c)(6). Individuals who are subject to a statutory disqualification would not be eligible to enter the proposed continuing education program. Individuals who become subject to a statutory disqualification while participating in the proposed continuing education program would not be eligible to continue in the program. Further, any content completed by such participants would be retroactively nullified upon disclosure of the statutory disqualification. The following example illustrates the application of the proposed rule change to individuals who become subject to a statutory disqualification while participating in the proposed continuing education program. Individual A participates in the proposed continuing education program for four years and completes the prescribed content for each of those years. During year five of his participation, he becomes subject to a statutory disqualification resulting from a foreign regulatory action. In that same year, FINRA receives a Form U4 submitted by a member on behalf of Individual A requesting registration with FINRA. The Form U4 discloses the statutory disqualification event. FINRA would then retroactively nullify any content that Individual A completed while participating in the proposed continuing education program. Therefore, in this example, in order to become registered with FINRA, he would be required to requalify by examination. This would be in addition to satisfying the eligibility conditions for association with a FINRA member firm. See Exchange Act Sections 3(a)(39) and 15(b)(4) and Article III of the FINRA By-Laws.

implementation date of the proposed rule change and individuals who have been FSAWP participants immediately prior to the implementation date of the proposed rule change.⁴²

In addition, the proposed rule change includes a re-eligibility provision that would allow individuals to regain eligibility to participate each time they reregister with a firm for a period of at least one year and subsequently terminate their registration, provided that they satisfy the other participation conditions and limitations.⁴³ Finally, FINRA

⁴² See proposed Supplementary Material .01 to Rule 1240. Such individuals would be required to elect whether to participate by the implementation date of the proposed rule change. If such individuals elect to participate, they would be required to complete their initial annual content by the end of the calendar year in which the proposed rule change is implemented. In addition, if such individuals elect to participate, their initial participation period would be adjusted based on the date that their registration was terminated. The current waiver program for FSAWP participants would not be available to new participants upon implementation of the proposed rule change. See proposed Rule 1210.09. However, individuals who are FSAWP participants immediately prior to the implementation date of the proposed rule change could elect to continue in that waiver program until the program has been retired. As noted above, FSAWP participants may participate for up to seven years in that waiver program, subject to specified conditions. See *supra* note 4. In Regulatory Notice 20-05, FINRA had proposed to eliminate the FSAWP given that the participation period of seven years for FSAWP participants would have been the same for participants in the proposed continuing education program. As discussed above, the proposed rule change provides a five-year participation period for participants in the proposed continuing education program. So as not to disadvantage FSAWP participants, FINRA has determined to preserve that waiver program for individuals who are participating in the FSAWP immediately prior to the implementation date of the proposed rule change. Because the proposed rule change transitions the Regulatory Element to an annual cycle, FSAWP participants who remain in that waiver program following the implementation of the proposed rule change would be subject to an annual Regulatory Element requirement. See proposed Rule 1240(a)(1). Finally, the proposed rule change preserves FINRA's ability to extend the time by which FSAWP participants must complete the Regulatory Element for good cause shown. See proposed Rule 1240(a)(2).

⁴³ See proposed Supplementary Material .02 to Rule 1240.

proposes making conforming amendments to Rule 1210, including adding references to proposed Rule 1240(c) under Rule 1210.08.

The proposed rule change will have several important benefits. It will provide individuals with flexibility to address life and career events and necessary absences from registered functions without having to requalify each time. It will also incentivize them to stay current on their respective securities industry knowledge following the termination of any of their registrations. The continuing education under the proposed option will be as rigorous as the continuing education of registered persons, which promotes investor protection. Further, the proposed rule change will enhance diversity and inclusion in the securities industry by attracting and retaining a broader and diverse group of professionals. Moreover, if the proposed rule change is implemented, FINRA will evaluate its efficacy following implementation to ensure that it is meeting its goals.

Significantly, the proposed rule change will be of particular value to women, who continue to be the primary caregivers for children and aging family members and, as a result, are likely to be absent from the industry for longer periods.⁴⁴ In addition, the proposed rule change will provide longer-term relief for women, individuals with low incomes and other populations, including older workers, who are at a higher risk of a job loss during certain economic downturns and who are likely to remain unemployed for longer periods.⁴⁵

⁴⁴ See The Female Face of Family Caregiving (November 2018), available at <https://www.nationalpartnership.org/our-work/resources/economic-justice/female-face-family-caregiving.pdf>.

⁴⁵ See The COVID-19 Recession is the Most Unequal in Modern U.S. History (September 30, 2020), available at <https://www.washingtonpost.com/graphics/2020/business/coronavirus-recession-equality/> and Unemployment's Toll on Older Workers Is Worst in Half a Century

d. Other Enhancements to CE Program

FINRA and the CE Council also plan to enhance the CE Program in other ways.⁴⁶ FINRA will work with the CE Council to incorporate a variety of instructional formats to present the Regulatory Element content. In addition, FINRA will work with the CE Council to publish in advance the Regulatory Element learning topics for the next year.⁴⁷ This will allow firms to review the Regulatory Element topics when developing their Firm Element training plan to avoid unnecessary duplication of topics. The proposed transition to an annual Regulatory Element requirement would increase the number of registered persons who would be required to complete the Regulatory Element on an annual basis. To assist compliance with this proposed change, FINRA would enhance its systems to provide firms and registered persons with additional notification, management and tracking functionality. In response to comments, FINRA would also make the Regulatory Element available via a mobile compatible format.⁴⁸

FINRA and the CE Council also will improve the guidance and resources available to firms to develop effective Firm Element training programs, such as updated guidance for developing and documenting training plans and specific principles. Further,

(October 21, 2020), available at <https://www.aarp.org/work/working-at-50-plus/info-2020/pandemic-unemployment-older-workers>.

⁴⁶ These additional enhancements do not require any changes to the FINRA rules. Most commenters supported these enhancements, while some commenters had concerns and questions. See infra Item II.C.(b)(iv).

⁴⁷ If there are any other critical rule changes or other regulatory developments that arise during a given year, FINRA and the CE Council will work to provide registered persons timely and sufficient training on such rule changes and developments.

⁴⁸ See infra Item II.C.(b)(i).

FINRA and the CE Council will develop a catalog of continuing education content that would serve as an optional resource for firms to select relevant Firm Element content and create learning plans for their registered persons. The catalog would include content developed by third-party training providers, FINRA and the other SROs participating in the CE Program. Firms would have the option of using the content in the catalog for purposes of their Firm Element training; they would not be obligated to select content from the catalog.

If the Commission approves the proposed rule change, FINRA will announce the implementation dates of the proposed rule change in a Regulatory Notice to be published no later than 90 days following Commission approval.

2. Statutory Basis

The proposed rule change is consistent with the provisions of Section 15A(b)(6) of the Act,⁴⁹ which requires, among other things, that FINRA rules must be designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, and, in general, to protect investors and the public interest, and Section 15A(g)(3) of the Act,⁵⁰ which authorizes FINRA to prescribe standards of training, experience and competence for persons associated with FINRA members.

FINRA believes that the proposed changes to the Regulatory Element and Firm Element will ensure that all registered persons receive timely and relevant training, which will, in turn, enhance compliance and investor protection. Further, FINRA believes that establishing a path for individuals to maintain their qualification following the

⁴⁹ 15 U.S.C. 78o-3(b)(6).

⁵⁰ 15 U.S.C. 78o-3(g)(3).

termination of a registration will reduce unnecessary impediments to requalification and promote greater diversity and inclusion in the securities industry without diminishing investor protection.

B. Self-Regulatory Organization's Statement on Burden on Competition

FINRA does not believe that the proposed rule change would result in any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. All members would be subject to the proposed rule change.

Economic Impact Assessment

FINRA has undertaken an economic impact assessment, as set forth below, to further analyze the regulatory need for the proposed rule change, its potential economic impacts, including anticipated costs, benefits, and distributional and competitive effects, relative to the current baseline, and the alternatives FINRA considered in assessing how best to meet its regulatory objective.

Regulatory Need

FINRA is proposing to make changes to the CE Program, including the related FINRA rules, as part of ongoing efforts to address and implement the CE Council's recommendations. As described above, the proposed rule change focuses on: (1) ensuring that all registered persons receive relevant and sufficient Regulatory Element and Firm Element training on an annual basis; (2) providing a path through continuing education for individuals to maintain their qualification following the termination of a

registration; and (3) providing firms with the guidance and resources necessary to design effective and efficient Firm Element training programs.

The proposed rule change is expected to result in a more efficient CE Program that addresses relevant regulatory requirements and provides individuals with improved tools and resources to understand and comply with such requirements, enhancing investor protection. Moreover, the proposed rule change would provide new channels for individuals to maintain their qualification status for a terminated registration category and, in so doing, could increase the likelihood that professionals who need to step away from the industry for a period could return, subject to satisfying all other requirements relating to the registration process.

Economic Baseline

The economic baseline for the proposed rule change is the existing CE Program. As described above, registered persons of broker-dealers are required to participate in continuing education consisting of a Regulatory Element and a Firm Element. The Regulatory Element is generally delivered every three years and focuses on regulatory requirements and industry standards, while the Firm Element is an annual requirement and focuses on securities products, services and strategies firms offer, firm policies and industry trends.

As stated above, under the current regime, individuals generally have a two-year window from the termination of their association with a member to reregister without requalifying by examination or obtaining a waiver. According to FINRA's analysis, the total number of registered persons, approximately 620,000, has shown a slow decrease over the past few years even as individual registered persons regularly change their status

by ending and renewing their association with a firm.⁵¹ Across this pool of registered persons, approximately 65% hold only one FINRA registration category (for example either a General Securities Representative (Series 7) registration or an Investment Company and Variable Contracts Products Representative (Series 6) registration), 25% hold two FINRA registrations (for example a General Securities Representative registration and an Investment Banking Representative registration), and the remainder hold three FINRA registrations or more. Moreover, across the pool of registered persons, in addition to the FINRA registration, approximately 90% hold at least one state registration, and 50% hold more than five state registrations. With respect to registration with a FINRA member, in recent years, out of the approximately 620,000 registered persons, approximately 90,000 end their registration with all firms with whom they are registered at some point during the year. Out of these, about half do not renew their registration and are considered to have left the securities industry.

Under the current baseline, registered persons who terminate a registration are given a two-year grace period in which they can reregister without being required to retake a qualification examination or obtain an examination waiver. Individuals who seek to reregister more than two years after terminating their association are required to requalify by passing an examination or obtaining an examination waiver. Requalification imposes costs in the form of time spent preparing for and taking the examinations, potential limitations to the activities permitted to be conducted until the requalification is

⁵¹ The number of registered persons has been decreasing at an annual rate of approximately 1% per year. See, e.g., 2020 FINRA Industry Snapshot, available at <https://www.finra.org/rules-guidance/guidance/reports-studies/2020-industry-snapshot>.

completed, opportunity costs for the individual and the potential employers in terms of lost business, and the direct registration costs. FINRA understands anecdotally that these costs currently deter some significant portion of the population that give up their registrations from reregistering.

Figure 1, as an example, presents a plot of the number of registered persons that reregister within a given number of years after having terminated their registrations for at least 60 days.⁵² The focus is on registered persons who terminated their registrations in either 2007, 2008 or 2009 and the period of time until they reregister with the same or a different firm.⁵³ Each bar in Figure 1 represents a 100-day period and, roughly speaking, three-and-a-half bars represent one year. As can be observed in Figure 1, for all three origination years, there is an increase in the number of previously registered persons who reregister towards the end of the second year from their date of termination. This is consistent with the incentive in the current rule permitting individuals to reregister without having to requalify by passing an examination or having to obtain an examination waiver (*i.e.*, the current two-year qualification period) and supports the

⁵² The minimum 60 days for employment gap follows the definition used in the 2020 FINRA Industry Snapshot, available at <https://www.finra.org/rules-guidance/guidance/reports-studies/2020-industry-snapshot>.

⁵³ The period of 2007–2009 covers the events before, during and after the 2008 financial crisis. These events had an effect on the number of individuals leaving the industry, which indeed rose during this period. However, the trends observed for these years do not appear to be extreme outliers and, moreover, potentially reflect changes in labor markets that the proposed rule change is targeting. Further, the three years selected for the analysis provide the means to study the trends of individuals returning to the industry for up to a period of 10 years of being away from it.

assumption that the requalification process imposes direct and indirect economic costs. After this point, there is a significant drop in the number of individuals who reregister.

Moreover, following the end of the second year after terminating their registrations, the number of individuals reregistering remains low and tapers off slowly. Finally, an analysis of the stage in the Regulatory Element cycle at which registered persons terminate their registrations, on average, across the time period of 2007–2016, suggests that registered persons who terminate their registrations tend to do so approximately 530 days before their next Regulatory Element would be due (*i.e.*, on average in the middle of a current three-year Regulatory Element cycle).

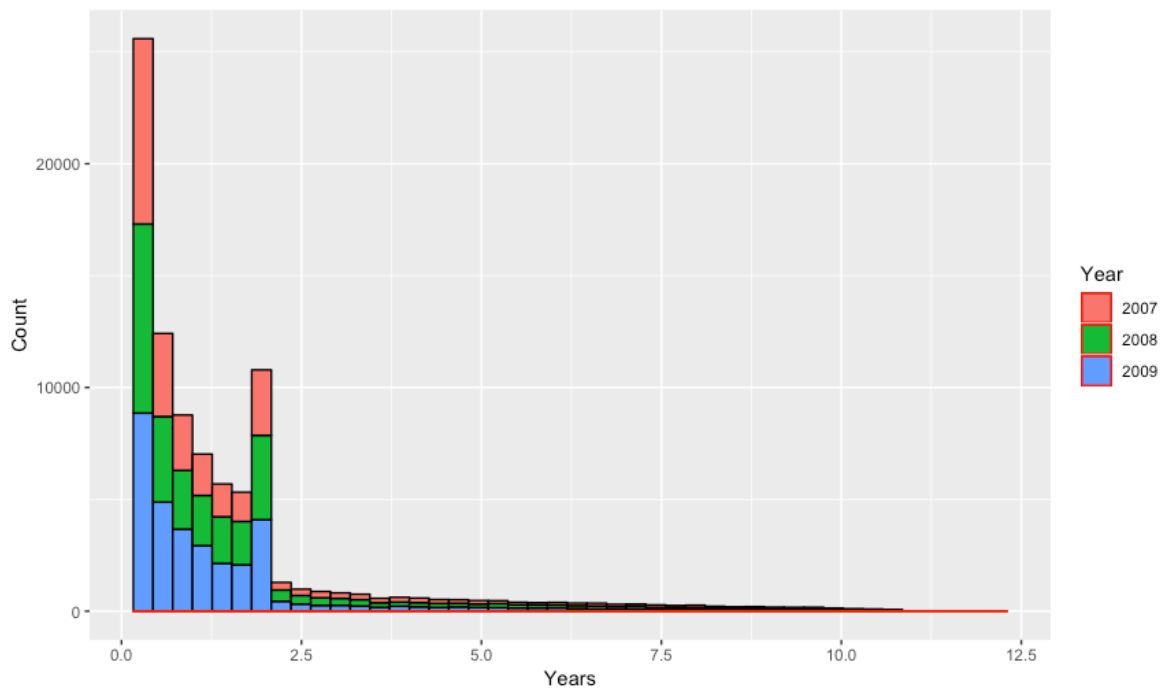


Figure 1: Plot of the number of previously registered persons that reregister within a given number of years after having terminated their registrations for at least 60 days in

either 2007, 2008 or 2009. Each bar represents 100 days, and every year is accordingly represented by approximately three-and-a-half bars.

With respect to firms, the economic baseline is derived from the current processes and procedures used to implement the existing CE Program. Firms are currently responsible for the appropriate monitoring of the compliance of their registered persons with the three-year Regulatory Element cycle and for administering the annual Firm Element. Further, firms may experience material negative impact where they are not able to retain qualified experienced persons because of professional and personal events that require such individuals to take an extended leave of absence from the industry.

Economic Impacts

FINRA believes that economic impacts of the proposed rule change would result in both benefits and costs to firms and registered persons and would potentially benefit the investor community. FINRA will undertake an evaluation of the efficacy of the program within a reasonable period following the implementation date. The aim of such an evaluation is to ensure that the program is meeting its goals and objectives, without resulting in unintended diminished investor protections, or unintended increase in regulatory burden on any relevant parties.

Anticipated Benefits

FINRA believes that the proposed rule change would result in two main benefits to registered persons.

First, as discussed above, the proposed rule change would transition the Regulatory Element from a three-year requirement to an annual requirement. Such an annual requirement is implemented for other professionals, such as Certified Public

Accountants (“CPAs”), Chartered Financial Analysts (“CFAs”) and lawyers.⁵⁴ The 2015 transition to CE Online resulted in a more efficient program and added a new dimension of flexibility to the CE Program in terms of the content, timing and availability of the program. This change would allow the Regulatory Element to focus on current issues and recent regulatory changes and enhance registered persons’ understanding of the changes through more frequent assessments. A transition to an annual cycle is expected to benefit registered persons by helping to ensure that they understand recent regulatory changes and are thus able to perform their work in a compliant and effective manner. Under the current program, a regulatory change could take place in the beginning of a three-year Regulatory Element cycle and thus result in some portion of the individuals in that cycle being assessed on their knowledge of the change at a significantly later date.

Second, FINRA believes that a significant benefit of the proposed rule change for registered persons would be the increased flexibility in terms of maintaining their qualification for a terminated registration category. As can be observed in Figure 1, there is an increase in the number of individuals who reregister towards the end of the two-year period, which is the current grace period for maintaining their qualification status.

⁵⁴ In general, the CFA requires 20 hours of continuing education on an annual basis. See CFA’s Continuing Education (CE) Program, available at <https://www.cfainstitute.org/en/membership/professional-development/pl>. The American Institute of CPAs (“AICPA”) requires 120 credit hours of continuing education over a three-year period, with the requirement of 40 credit hours per year. See AICPA’s Continuing Professional Education (CPE) Requirements for CPAs, available at <https://www.aicpa.org/cpe-learning/cperequirements.html>. The continuing education requirement for lawyers is different across states, but it generally ranges between 10-15 credit hours per year. See https://www.americanbar.org/content/dam/aba/directories/policy/aba_model_rule_comparison_by_state_meet_model_rule_noted.pdf. None of these three professions requires members to be active practitioners to maintain their credentials.

Extending this period to five years through the completion of continuing education would provide flexibility to individuals, as well as potentially result in increased retention of expertise in the industry.

With respect to increased flexibility, extending the current two-year period to five years would allow individuals to manage significant life events, including professional changes and development (such as pursuing educational goals, a career change to a role in the firm that is not part of the broker-dealer, working overseas for an extended period due to a career change or an attempt at a different career path) or personal life events (such as birth or adoption of a child, unexpected loss in the family or relocation due to family needs).⁵⁵ Through discussions with industry representatives, FINRA has learned that the proposed rule change could potentially lower the barrier to reentry to the industry. Some firms indicated that a significant benefit may arise in cases where an individual leaves the broker-dealer to gain experience in an affiliate of a parent company, for instance in an affiliated commercial bank, investment adviser or foreign affiliate.

⁵⁵ See, e.g., Christy Spivey, *Time Off at What Price? The Effects of Career Interruptions on Earnings*, 59(1) *Indus. & Lab. Rel. Rev.* 119-140 (2005); Jill K. Hayter, *Career Interrupted for What Reason? Job Interruptions and Their Wage Effects*, 30(4) *J. App. Bus. Res.* 1197-1210 (2014). Spivey (2005) uses the National Longitudinal Survey of Youth (“NLSY”) data, and finds that the total time spent out of the labor force for men was 2.9 years on average, with a standard deviation of 3.7. The paper finds that women spent on average 5.3 years out of the labor force, with a standard deviation of 5.1. Finally, the paper reports that the average number of interruptions was 2.53 for women and 0.93 for men. Hayter (2014) also studies the NLSY data. The paper reports the percentage of women and men in the sample who experienced various types of employment disruptions, and the average cumulative length of disruptions by type, conditional on having at least one interruption. Non-family disruptions are found to have similar impacts across genders. However, women are much more likely (15% versus 2%) to experience family-related disruptions and the total reported length out of the work force resulting from the disruption is three times longer for women versus men (150 weeks versus 53 weeks).

Other firms indicated that the proposed rule change could potentially be relevant for under-represented populations in the securities industry, such as, for example, female registrants.⁵⁶

With respect to firms, FINRA believes that the proposed rule change will result in three main benefits. First, FINRA believes that the transition to an annual Regulatory Element cycle will reduce firms' regulatory risk, as well as enhance compliance and reduce compliance-related costs. This benefit would potentially result from the enhanced timeliness and relevance afforded by the proposed annual cycle.

Second, the proposed rule change would further enhance and streamline the Firm Element requirement. These changes include an express recognition of existing firm training programs, such as the annual compliance meeting, toward satisfying a registered individual's Firm Element requirement, potentially saving firms compliance resources currently devoted to developing and implementing different training programs. In addition, in conjunction with the proposed rule change, FINRA and the CE Council would develop a content catalog, managed by FINRA, that would serve as an optional resource from which firms could select or supplement their Firm Element content.⁵⁷ Such a catalog could provide firms with a more cost-efficient resource for Firm Element

⁵⁶ FINRA has repeated the analysis presented in Figure 1, separating registered persons by gender. The analysis found that female registered persons are underrepresented, at an approximate ratio of one to four. With respect to the pattern of reregistering under the baseline that is presented in Figure 1, the analysis found that the pattern was similar for either male or female registered persons, when studied separately. However, this does not rule out that female registrants could especially benefit from the proposed rule change, for the reasons discussed above.

⁵⁷ See supra Item II.A.1.(ii)d.

content.

Third, with respect to the extended time period for maintaining a qualification status, FINRA believes that the proposed rule change could result in added flexibility for firms in terms of hiring qualified candidates. This could ultimately extend the potential pool of securities industry professionals and potentially benefit firms regardless of their size. Through discussions with industry representatives, FINRA has learned that this could permit firms to better retain skilled professionals, more easily provide individuals with professional development outside the broker-dealer, and facilitate the hiring process for experienced professionals who have required the career flexibility.

In addition, FINRA believes that the investor community will ultimately benefit from the proposed rule change. These benefits will stem from the potential increase in the knowledge and ongoing training of registered persons, as well as through the increased flexibility of retention of skill and experience in the industry.

Finally, FINRA notes that these benefits may be limited for individuals seeking to maintain FINRA and state registrations if there are significant differences between the relevant requirements across the various regulatory frameworks. For instance, currently, state regulators require an individual to retake examinations for terminated licenses after two years. Some individuals may be dissuaded from remaining in the industry where the state requirements are more binding than those proposed in this filing. Others may be dissuaded from taking advantage of the flexibility provided by the proposed rule change at the expense of other obligations. As discussed above, approximately 90% of registered individuals hold some combination of FINRA and state registrations. This may serve as an upper bound on an estimate of the proportion of the population that may be limited in

the full advantages of the proposed rule change, depending on the combinations of registrations held and individual state rules.⁵⁸

Anticipated Costs

FINRA believes that, alongside the anticipated benefits discussed above, the proposed rule change would also result in costs for both firms and registered persons.

With respect to registered persons, FINRA anticipates three main costs that may result from the proposed rule change. First, the move to an annual Regulatory Element cycle will increase the frequency of the required training and the associated impact of failing to complete the annual content.⁵⁹ Further, this anticipated increase in burdens is

⁵⁸ As of November 2020, out of the approximately 620,000 FINRA registered persons, approximately 84% held a Series 7 or a Series 6. This population is expected to potentially be impacted by regulatory differences (or an estimate of the percentage of the relevant population that may be constrained by differences between FINRA and state rules). Further, approximately 78% of the total registered persons population have at least one state license. Depending on roles and responsibilities of FINRA registered persons, there is not always a state licensure requirement (specifically, non-customer-facing roles). The anticipated benefits of the proposed rule change might be more fully achieved for these individuals. Finally, the impacts of the potential differences may be particularly pronounced in a few states that have more than 200,000 individuals licensed in them. For these states, approximately 90% of these individuals (on average across these states) hold a Series 7 or a Series 6.

⁵⁹ However, as discussed above, the amount of content that registered persons would be required to complete in a three-year, annual cycle for a particular registration category is expected to be comparable to what most registered persons are currently completing every three years. See supra Item II.A.1.(ii)a. Some commenters expressed concerns regarding the costs and burdens that the proposed annual requirement would impose on firms and registered persons. See infra Item II.C.(a) and (b)(i). FINRA recognizes that the transition to an annual Regulatory Element requirement may result in potential costs and burdens. However, FINRA believes that any such costs and burdens are appropriate and justified given the significant regulatory benefit of more tailored and timelier Regulatory Element. Further, FINRA believes that some of the potential costs and burdens would be mitigated by the proposed enhancements to the program.

expected to be smaller for individuals with a single registration category than for individuals with more than one registration category. Individuals with more than one registration category (approximately 35% of registered persons) may have more Regulatory Element content (including the associated time commitment) in a given year, in comparison to individuals with only a single registration category. Second, the introduction of Regulatory Element notifications directly to registered persons could shift some of the time management burden to them. Third, the eligibility requirements for maintaining a qualification status for a terminated registration category will require an individual to have been registered with FINRA in that registration category for at least one year, which could limit potential career changes that may occur within a shorter period.

With respect to firms, FINRA anticipates some costs that may result from the proposed rule change. The transition to an annual Regulatory Element requirement could ultimately increase the administrative and operational burden on firms due to changes to compliance systems. This is anticipated in terms of the resources required to implement and monitor compliance with the program on an annual basis. These resources would also need to be potentially further increased to address the proposed extension of the Firm Element requirement to all registered persons.⁶⁰

It is anticipated that costs stemming from the change to an annual Regulatory

⁶⁰ Some commenters noted that the extension of the Firm Element to all registered persons could result in unnecessary costs and burdens, and they also noted that this proposed change could have a disparate impact on firms with large home offices and firms with large numbers of registered support staff and others holding permissive registrations. See infra Item II.C.(b)(ii).

Element requirement will tend to increase with the number of representatives at a firm and thus be higher in aggregate at larger firms. However, economies of scale likely exist in the application of the proposed requirements. Thus, the average additional cost per representative at larger firms will likely be lower than that at smaller firms.⁶¹

Alternatives Considered

FINRA has considered a range of alternatives in developing the proposed rule change. These included alternative frequency of the Regulatory Element requirement (periodic versus annual), alternative time periods for becoming eligible to maintain a qualification status for a terminated registration category (one year versus more than one year) and alternative time periods for maintaining a qualification status (seven years versus 10 or five years).

The proposed rule change reflects a consideration of the various alternatives. Within each of these alternatives there is a trade-off between providing the flexibility to encourage more registered persons to remain in the industry when other, outside demands arise versus ensuring that those individuals are likely to be aware of current regulations and best practices. For example, with respect to maintaining qualifications, FINRA believes that a length of five years could achieve the main goals and anticipated benefits of the program. FINRA considered whether a seven-year period would better balance flexibility against investor protection risks. Such a seven-year period would also likely provide a reasonable upper limit on the length of the proposed requalification option, in so far as a longer period might erode the benefits of the proposed option. While the

⁶¹ One commenter suggested that the transition to an annual Regulatory Element could increase administrative workloads and costs on smaller firms and independent contractors. See infra Item II.C.(b)(i).

proposed participation period of five years may limit some individuals' ability to remain in the industry, it may better mitigate the impact of differences with state licensing requirements.⁶² Considering the discussion above regarding economic impacts, issues stemming from other regulatory frameworks, as well as the views expressed by commenters in response to Regulatory Notice 20-05, including NASAA's support for a participation period of five years, FINRA believes that a five-year period is more appropriate.⁶³

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received from Members, Participants, or Others

(a) Comments Relating to Regulatory Notice 18-26

In September 2018, the CE Council published an initial document outlining several potential enhancements to the CE Program under consideration by the CE Council. In support of the CE Council, FINRA published Regulatory Notice 18-26 (September 2018) ("Notice 18-26") requesting comment on the potential enhancements. In response to Notice 18-26, FINRA, on behalf of the CE Council, received 22 comment letters. A copy of Notice 18-26 is available on FINRA's website at <http://www.finra.org>. Copies of the comment letters received in response to Notice 18-26 are also available on FINRA's website.

Most commenters generally supported the potential enhancements outlined by the CE Council. The commenters expressed overwhelming interest in implementing a mechanism for allowing previously registered individuals to maintain their qualification

⁶² Some commenters expressed support for an indefinite participation period. See infra Item II.C.(b)(iii).

⁶³ See infra Item II.C.(b)(iii).

after the termination of their registrations for longer than the current two-year period. In addition, most commenters agreed that there is value in moving to an annual Regulatory Element requirement in order to provide registered persons with more timely and relevant education and training. However, many expressed concern that doing so could increase the administrative and operational burden on both firms and registered persons, particularly for firms with a narrowly focused business model (e.g., the sale of mutual funds and variable annuities). One commenter expressed concern that increasing the frequency of the Regulatory Element may exacerbate the existing burden on those without ready access to a high-speed internet connection, which is currently required for online access. Many commenters supported Regulatory Element content that is tailored and specific to each registration category rather than content that applies generally to all registered persons. Some of these commenters questioned whether there are sufficient regulatory developments occurring annually that would be relevant to individuals with limited registrations, such as registered persons engaged in the sale of mutual funds and variable annuities. Further, commenters widely supported the creation of a content catalog that firms could leverage for administering education and training for their Firm Element programs. Finally, several commenters requested more guidance on the Firm Element component, including express guidance that other training requirements may count toward satisfying the Firm Element requirement.

Following a review of the public comments and further discussions with industry and SRO participants, in September 2019, the CE Council published its recommendations

to enhance the CE Program.⁶⁴ As previously noted, the proposed rule change is based on the CE Council's recommendations.⁶⁵

(b) Comments Relating to Regulatory Notice 20-05

The proposed rule change was published for comment in Regulatory Notice 20-05 (February 2020) ("Notice 20-05"). FINRA received 26 comment letters in response to Notice 20-05. A copy of Notice 20-05 is available on FINRA's website at <http://www.finra.org>. Copies of the comment letters received in response to Notice 20-05 are also available on FINRA's website.⁶⁶

Below is a summary of the comments on Notice 20-05 and FINRA's responses.

(i) Transition to Annual Regulatory Element for Each Registration Category

Most of the commenters addressing the proposed annual Regulatory Element requirement supported the change. Some of these commenters qualified their support. ARM supported the proposed change if individuals with multiple registrations would not be subject to additional or duplicative requirements. SIFMA, Morgan Stanley, LPL and Fidelity suggested an annual "cap" on the number of modules that individuals must complete. Huntington was concerned about the potential increase in compliance and supervisory burdens and duplicative training. Monahan & Roth requested that the cost of the annual requirement be proportionately less. STANY requested that FINRA be mindful of the impact of costs and compliance efforts, especially for smaller firms.

⁶⁴ See supra note 15.

⁶⁵ See supra note 15.

⁶⁶ See SR-FINRA-2021-015 (Form 19b-4, Exhibit 2d) for a list of abbreviations assigned to commenters (available on FINRA's website at <http://www.finra.org>).

Further, Integrated Solutions suggested that registrations that have been held for longer periods be subject to less frequent Regulatory Element. CFA suggested that an individual's "primary" registration be subject to an annual requirement and that the individual's other registrations be subject to less frequent Regulatory Element. PFS requested that Investment Company and Variable Contracts Products Representatives be subject to less frequent Regulatory Element because there may not be enough material to develop annual content for such individuals. Morgan Stanley suggested that FINRA consider a phased approach followed by a cost-benefit analysis to further assess the impact of the transition. ARM and Foreside stated that the 15-day grace period for completing the Regulatory Element, which was originally proposed in Regulatory Notice 20-05, would increase administrative and operational burdens. Morgan Stanley requested that FINRA provide a 30-day grace period. Morgan Stanley and SIFMA also requested that FINRA provide hiring firms with information regarding an individual's Regulatory Element status at the prehire stage, subject to the individual's consent.

Several commenters did not support the proposed annual Regulatory Element requirement or raised other concerns with the proposed change. Executive Advisors, MML, Nationwide and Pacer did not support the proposed annual requirement. FSI stated that the proposed change would potentially increase administrative workloads and costs on smaller firms and independent contractors as well as duplicative training. FSI also requested clarification regarding the impact of a CE inactive status on an individual's state registrations, including advisory registrations, and adequate time for firms to implement the proposed rule change. PFS stated that the proposed change to an

annual requirement would disparately impact those without broadband internet, which is currently required to complete the Regulatory Element.

Registered persons would not be subject to duplicative regulatory content in any given year, regardless of how many registrations they hold. Further, FINRA does not believe that it is necessary to establish an annual “cap” on the amount of regulatory content as suggested by some commenters. Rather, with respect to individuals who hold a significant number of registrations, FINRA and the CE Council would review the amount of content that such individuals would be required to complete each year and, if necessary, the amount would be adjusted so that it is reasonable and balanced. FINRA will file a separate proposed rule change to establish the session fee for the proposed annual Regulatory Element; we generally expect that the fee for the annual Regulatory Element would be reduced and be the same for all registered persons, regardless of the amount of content that they would be required to complete (that is, an individual who holds multiple registrations would be subject to the same annual fee as an individual who holds a single registration).

FINRA believes that the implementation of less frequent Regulatory Element for certain registration categories or a phased implementation as suggested by some commenters would be overly complex and cause confusion. FINRA will work with the CE Council to ensure that there is sufficient and appropriate content for each registration category. With respect to the originally proposed 15-day grace period prior to being designated as CE inactive, FINRA has eliminated the grace period from the proposed rule change to avoid any unnecessary burdens on firms and registered persons, as was suggested by some commenters. However, the proposed rule change preserves the ability

of a firm to request an extension of time for an individual, if necessary. In addition, as is currently the case, an individual's CE inactive status would impact the individual's ability to function in a FINRA-registered capacity. As is the case today, any questions regarding the impact of a CE inactive status on state registrations should be directed to the appropriate state securities regulator.

Finally, in conjunction with the proposed rule change, FINRA would enhance its systems to reduce the overall burden on firms and registered persons. As part of these enhancements, FINRA would work with firms to determine what information would be helpful and appropriate prior to associating with or hiring individuals. FINRA would also provide firms with adequate time to implement the proposed rule change. Further, to mitigate any potential disparate impact on individuals who do not have ready access to a high-speed internet connection, FINRA would make the Regulatory Element available via a mobile compatible format.

(ii) Recognition of Other Training Requirements for Firm Element and Extension of Firm Element to All Registered Persons

Commenters overwhelmingly supported the express recognition of AML compliance program training and annual compliance meeting training toward satisfying the Firm Element. Some of these commenters requested additional flexibility and clarification regarding the Firm Element requirement.

Foreside requested that firms be provided with the flexibility to combine the requirements of the Regulatory Element, Firm Element and annual compliance meeting. Cambridge suggested that completion of additional modules of Regulatory Element be applied toward satisfying the Firm Element. Cambridge also recommended that ethics and professional responsibility training be included in the Regulatory Element rather than

the Firm Element. Monahan & Roth stated that the current Firm Element training criteria is overly prescriptive and that the requirement should be more flexible, allowing firms to train to the scope of their business and changing environment. NRS stated that other training should count toward satisfying Firm Element training if the other training is applicable to an individual's job function. STANY requested that industry conferences count toward satisfying the Firm Element. SIFMA requested that firms should continue to have the flexibility to determine if leveraging other training makes sense given their business model and the flexibility to cover the topics in the Regulatory Element in Firm Element training. SIFMA also requested that the Firm Element requirement recognize the unique needs of limited purpose broker-dealers and suggested that Firm Element training be designed to apply to other professional designations or training requirements. NASAA stated that satisfaction of AML compliance program training or annual compliance meeting training alone should not satisfy Firm Element training.

Not all commenters supported the extension of the Firm Element requirement to all registered persons. FSI and STANY recommended that it be optional for registered persons who are not currently covered under the rule. STANY stated that extending the requirement to individuals holding permissive registrations could create unnecessary burdens and discourage permissive registrations. LPL stated that the proposed change may result in unnecessary costs. MML stated that it would have a disparate impact on firms with large home offices. SIFMA stated that it would be overly burdensome, particularly for firms with large numbers of registered support staff and others holding permissive registrations who are not currently covered under the rule.

The Regulatory Element cannot be combined with other training requirements. Registered persons must complete prescribed regulatory content provided by FINRA to establish that they have an appropriate level of knowledge relating to regulatory requirements. However, the Firm Element and annual compliance meeting may be combined, provided that the criteria for each requirement is satisfied.

FINRA and the CE Council will consider the possibility of making additional Regulatory Element topics available to firms, which they could apply toward satisfying Firm Element training based on their needs analysis. FINRA and the CE Council will also consider whether ethics and professional responsibility training should be covered in the Regulatory Element.

In response to comments, FINRA has revised the proposed rule change to replace the current prescriptive Firm Element criteria with a requirement that the training cover topics related to the role, activities or responsibilities of the registered person and to professional responsibility. Nothing in the proposed rule change would preclude firms from covering the Regulatory Element topics in their Firm Element training, consistent with their needs analysis. Further, consistent with their needs analysis, firms would continue to have the flexibility to determine whether other training, including industry conferences, may be applied toward the Firm Element. In addition, the CE Council will consider issuing best practices and guidance to help firms evaluate other financial industry continuing education programs for purposes of satisfying the Firm Element.

The recognition of other training requirements toward satisfying the Firm Element would still require firms to conduct a needs analysis to determine the appropriateness of applying such other training toward the Firm Element. However, based on a needs

analysis, a firm may determine that such other training requirements fully satisfy the Firm Element requirement. FINRA is not considering developing Firm Element training specifically to satisfy other professional designations or training requirements, but some existing training is, and would continue to be, appropriate for both Firm Element and other professional requirements.

The extension of the Firm Element requirement to all registered persons would ensure that firms enhance the securities knowledge, skill and professionalism of all registered persons, which is consistent with the overall goal of the Firm Element. It would also ensure that registered persons are provided more specific learning materials relevant to their day-to-day activities, which will provide each registered person a more complete training cycle. As indicated by commenters, some firms already require that all their registered persons complete Firm Element training. In addition, while firms with a larger number of registered persons, including individuals who are permissively registered, may incur additional burdens in implementing the proposed rule change, some of that burden would be mitigated based on the express recognition of other training requirements toward satisfying the Firm Element requirement. In some cases, registered persons may not have to complete any additional training beyond what they are required to complete today. For example, with respect to permissively registered persons working in a clerical or administrative capacity for a firm, the firm may determine, based on a needs analysis, that such individuals have satisfied the annual Firm Element requirement by participating in the firm-wide annual compliance meeting.

(iii) Maintenance of Qualification After Termination of Registration

Commenters overwhelmingly supported the proposed change to provide individuals the option of maintaining their qualification following the termination of a registration by completing annual continuing education. Some commenters requested additional changes, which are discussed below.

NASAA supported the goals of the proposed rule change, but it had concerns regarding the seven-year participation period originally proposed in Regulatory Notice 20-05. NASAA has expressed support for a participation period of five years. CFA, Fidelity, Foreside, Integrated Solutions and STANY stated that there should not be any time limit on the participation period. FSI, Foreside, MML, SIFMA and STANY requested that the proposed rule change also extend to state licenses.

Cambridge suggested that the content, subject matter and volume of training be the same for both participants and registered persons. Cambridge also suggested that the learning topics for participants be available to firms so that they may elect to apply it to their registered persons. FSI recommended that individuals who elect to participate at a later date following their Form U5 submission should not be required to complete any content that is outdated. MML wanted to know what would happen if a participant misses an annual cycle. In addition, MML requested that individuals who became CE inactive within three years prior to the implementation date of the proposed rule change should be able to participate. SIFMA requested that hiring firms be provided with information regarding a participant's status. CFA recommended that the current two-year qualification period be eliminated.

The proposed time limit for participation is necessary to ensure that previously registered individuals maintain an appropriate level of securities experience throughout their professional careers. FINRA believes that a seven-year period better serves the diversity and inclusion goals of the proposed rule change. However, FINRA also recognizes the benefits to the industry of having further alignment between FINRA qualification requirements and state licensing requirements. Therefore, in the interest of consistency and promoting registration efficiency, the proposed rule change provides individuals a maximum of five years in which to reregister, which will still serve the diversity and inclusion goals. As noted above, following implementation of the proposed rule change, FINRA will review the efficacy of the program, which will include a review of the participation period. In addition, FINRA will work with NASAA and state regulators to provide for an appropriate process and system support to allow states to track and process registration requests for individuals operating under the two- or five-year examination provisions.

Participants, including registered persons who elect to participate for a terminated registration category, may be subject to more overall content compared to registered persons who are not participants because participants would be required to complete a minimum amount of non-regulatory content selected by FINRA and the CE Council. FINRA and the CE Council will consider publishing the learning topics for participants for those firms that may elect to apply it to their registered persons. FINRA and the CE Council will also work to ensure that eligible individuals who elect to participate are not subject to outdated content.

Participants who miss an annual cycle for a registration category would be provided with an opportunity to continue by completing any missed content, provided that the registration category has not been terminated for two or more years.⁶⁷

Individuals who have been CE inactive for two consecutive years prior to the implementation date of the proposed rule change would not be eligible to participate because of the long lapse in continuing education. FINRA would work with firms to determine what information regarding a participant's status would be helpful and appropriate. The current two-year qualification period would not be eliminated because participation is optional and eligible individuals may elect not to participate.⁶⁸

⁶⁷ Participants who fail to complete the required annual content for a registration category that has been terminated for two or more years would not be eligible to continue. For example, if the proposed rule change were implemented on January 1, 2022, a participant who completes the required annual content for the General Securities Representative category in 2022, 2023 and 2024 but fails to complete the 2025 annual content would not be eligible to continue beyond 2025. In the example above, if the individual reregisters with a firm as a General Securities Representative in 2025, the individual would be required to complete any annual Regulatory Element applicable to the General Securities Representative registration category by December 31, 2025. If the individual fails to complete such Regulatory Element by December 31, 2025, the individual would be designated as CE inactive in the CRD system beginning on January 1, 2026. Alternatively, if the individual decides to reregister with a firm as a General Securities Representative at any point beyond 2025, the individual would be required to requalify by examination, or obtain an examination waiver, in order to reregister.

⁶⁸ In this regard, it should be noted that if an individual who holds a single registration terminates that registration and elects not to participate, the registration would be subject to the two-year qualification period. Similarly, if an individual with multiple registration categories terminates only some of those registration categories (that is, files a partial termination) and elects not to participate, the terminated registration category or categories would also be subject to the two-year qualification period, unless the terminated category is a subset of a broader registration category for which they remain qualified.

(iv) Other Enhancements to CE Program

Most commenters supported the other enhancements to the CE Program. However, some commenters had concerns and questions. SIFMA requested that consideration be given to potential technical limitations and challenges of registrants when designing diverse instructional formats for the Regulatory Element. FSI, MML and SIFMA requested that the Regulatory Element learning topics for each upcoming year be published early.

SIFMA suggested that firms be allowed to set the timing and frequency of FINRA-generated notifications to registered persons, especially where the firm's Regulatory Element deadline is sooner than December 31. SIFMA also suggested that FINRA should consider providing firms with the means to "audit" notifications sent to registered persons regarding the Regulatory Element via the FINRA Financial Professional Gateway ("FinPro[®]") system and that continuing education completion information, including information relating to participants who elect the proposed option, should be displayed on BrokerCheck[®]. Morgan Stanley requested that FINRA provide firms with the option to communicate directly with registered persons so firms may set their own internal timelines to fulfill the annual Regulatory Element requirement. MML suggested that sending a notification to the personal email of a registered person via the FinPro system is inconsistent with general supervision and recordkeeping requirements relating to business-related electronic communications.

NRS supported the development of a centralized Firm Element content directory, which includes course title, description and length, intended audience, learning objectives and skill level, rather than the development of a content catalog. Among other reasons,

NRS stated that SROs should not create Firm Element content because it may have the unintended consequence of being considered regulatory guidance.

FINRA and the CE Council will work to create optimal instructional formats for the Regulatory Element, taking into consideration the user experience. Further, FINRA and the CE Council will consider the possibility of publishing the Regulatory Element learning topics for each upcoming year early to provide firms with sufficient time to design their training for the upcoming year. FINRA will work with firms to determine the necessary enhancements to the FinPro system to facilitate the proposed transition to an annual Regulatory Element requirement. The use of the FinPro system notification functionality would not be inconsistent with the requirements relating to electronic communications. Firms that elect to use the functionality would receive copies of the system-generated notifications, which they could review and retain.

With respect to the availability of continuing education information on BrokerCheck, an individual's CE inactive status is currently displayed on BrokerCheck and it will continue to be displayed under the proposed rule change. FINRA will also consider whether the continuing education status of participants who elect the proposed option should be displayed on BrokerCheck. Finally, with respect to the development of a Firm Element content catalog, which most commenters supported, SROs have historically created Firm Element content and have provided firms with the option of using such content. FINRA and the CE Council are considering creating a centralized location for such content and to partner with third-party training providers to include their content in the catalog. Based on the comments and industry feedback, a content catalog

would be a valuable resource and would facilitate compliance by all firms, regardless of firm type.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 45 days of the date of publication of this notice in the Federal Register or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

(A) by order approve or disapprove such proposed rule change, or

(B) institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments:

- Use the Commission's Internet comment form (<http://www.sec.gov/rules/sro.shtml>); or
- Send an e-mail to rule-comments@sec.gov. Please include File Number SR-FINRA-2021-015 on the subject line.

Paper Comments:

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street, NE, Washington, DC 20549-1090.

All submissions should refer to File Number SR-FINRA-2021-015. This file number should be included on the subject line if e-mail is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet website (<http://www.sec.gov/rules/sro.shtml>). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for website viewing and printing in the Commission's Public Reference Room, 100 F Street, NE, Washington, DC 20549, on official business days between the hours of 10 a.m. and 3 p.m. Copies of such filing also will be available for inspection and copying at the principal office of FINRA. All comments received will be posted without change. Persons submitting comments are cautioned that we do not redact or edit personal identifying information from comment submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR-FINRA-2021-015 and should be submitted on or before [insert date 21 days from publication in the Federal Register].

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.⁶⁹

Jill M. Peterson
Assistant Secretary

⁶⁹ 17 CFR 200.30-3(a)(12).

Regulatory Notice

18-26

Continuing Education Program

FINRA Requests Comment on Enhancements Under Consideration by the Securities Industry/Regulatory Council on Continuing Education

Comment Period Expires: November 5, 2018

Summary

FINRA requests comment from member firms and other interested parties on enhancements to the Securities Industry Continuing Education Program (CE Program) under consideration by the Securities Industry/Regulatory Council on Continuing Education (CE Council). These enhancements include the transition of the Regulatory Element program to a more focused and shorter learning requirement administered annually. The CE Council is also gathering feedback on the current Firm Element program and supporting resources as well as on the overlap of the Firm Element program with other firm training requirements. The overall goal of the program review is to reflect advances in technology and learning theory while continuing to ensure that registered persons receive timely education on the securities business and the regulatory requirements applicable to their respective functions. In addition, the CE Council is exploring program changes that would allow individuals to maintain their qualification status following the termination of their registrations by completing continuing education in an effort to address the challenges that industry professionals face when attempting to re-enter the industry after an absence.

The program enhancements that are under consideration are published on the [CE Council's website](#) and attached to this *Notice*. The document includes background information, a description of the enhancements under consideration and accompanying questions. FINRA encourages member firms and all other interested parties to comment on the program enhancements under consideration, including providing specific responses to the questions. These comments will inform the CE Council's ongoing work to enhance the CE Program. If the CE Council decides to recommend any program changes, FINRA along with other self-regulatory organizations will issue a *Regulatory Notice* with the specific program details and any related rule changes.

September 6, 2018

Notice Type

- ▶ Request for Comment

Suggested Routing

- ▶ Compliance
- ▶ Operations
- ▶ Registered Persons
- ▶ Registration
- ▶ Senior Management
- ▶ Training

Key Topics

- ▶ Annual Requirement
- ▶ Continuing Education
- ▶ Educational Credits
- ▶ Firm Element
- ▶ Qualification Status
- ▶ Regulatory Element

Questions regarding this *Notice* should be directed to:

- ▶ John Kalohn, Vice President, Registration and Disclosure, at (240) 386-5800; or
- ▶ David Scrams, Senior Director, Testing and Continuing Education Department, at (240) 386-5950.

Action Requested

Comments on this *Notice* and the attachment published by the CE Council must be received by November 5, 2018, and must be submitted through one of the following methods:

- ▶ Emailing comments to pubcom@finra.org; or
- ▶ Mailing comments in hard copy to:

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

Important Note: All comments received in response to this *Notice* and the attachment published by the CE Council will be made available to the public on the FINRA website. In general, FINRA will post comments as they are received.¹

Before becoming effective, any program changes that result in rule changes must be authorized for filing with the Securities and Exchange Commission (SEC), and then must be filed with the SEC pursuant to Section 19(b) of the Securities Exchange Act of 1934 (SEA).²

Endnotes

1. Persons submitting comments are cautioned that FINRA does not redact or edit personal identifying information, such as names or email addresses, from comment submissions. Persons should submit only information that they wish to make publicly available. *See Notice to Members 03-73* (November 2003) (Online Availability of Comments) for more information.
2. *See* SEA Section 19 and rules thereunder. After a proposed rule change is filed with the SEC, the proposed rule change generally is published for public comment in the *Federal Register*. Certain limited types of proposed rule changes take effect upon filing with the SEC. *See* SEA Section 19(b)(3) and SEA Rule 19b-4.



Enhancements Under Consideration for the Securities Industry Continuing Education Program

Securities Industry/Regulatory Council on Continuing Education

September 6, 2018

Background

Given the increasing complexity of products and services offered through the U.S. financial markets, providing timely, effective training to registered persons is of the utmost importance. Training is a critical factor in ensuring investor protection and preserving the integrity of the U.S. capital markets.

The Securities Industry/Regulatory Council on Continuing Education (CE Council) is composed of securities industry representatives and self-regulatory organizations (SROs). Formed in 1995 upon a recommendation from the Securities Industry Task Force on Continuing Education, the CE Council was tasked with facilitating the development of uniform continuing education (CE) requirements for registered persons of firms (CE program). The CE program consists of both a Regulatory Element and a Firm Element.

The CE Council focuses on maintaining and advancing the CE program to meet the needs of the industry in an efficient and cost effective manner. The CE Council also works to promote and provide educational opportunities that support investor protection and market integrity. Pursuing change, when necessary, is one element of how the CE Council strives to help financial professionals keep pace with educational requirements imposed on professionals in other industries. The CE Council seeks to advance important initiatives that enhance the ability of financial service professionals to remain current on regulatory initiatives and other topics that will allow them to service the investing public according to high standards in the industry.

The CE Council has introduced numerous changes over the past decade, most recently the transition of the Regulatory Element program from brick-and-mortar testing centers to online delivery. Moving the program online resulted in multiple benefits, including greater flexibility to participate at convenient times and locations (*i.e.*, starting and stopping throughout the open window is an option that did not previously exist). Individuals may now complete the Regulatory Element CE on tablets as well. With this transition, fees decreased from \$100 to \$55, reflecting the lower cost of taking the program outside of testing centers. This represents over \$20 million in savings to the industry since 2016. The CE Council is continuing its development of appropriate education for financial professionals while addressing operational and other industry concerns.

Since 1995, the CE program has consisted of two parts, a Regulatory Element and a Firm Element, facilitating a partnership between firms and regulators. The goal of the two-part CE program has been to provide targeted educational material that facilitates registered persons maintaining adequate knowledge and understanding of the rules and practices necessary to perform their registered activities. The original intent was for the Regulatory Element to focus on regulatory requirements and industry standards, while the Firm Element focused on securities products, services and strategies offered by firms, amongst other topics such as firm policies and industry trends. The CE program provides a baseline CE requirement; firms often provide additional training to registered persons beyond that classified as Firm Element training. Registered persons also obtain additional training on their own by attending conferences and other events.

Regulatory Element

The CE program requires each registered person to complete the Regulatory Element within prescribed intervals based on their registration anniversary date. An individual's registration anniversary date is generally the date they initially registered in the Central Registration Depository (CRD[®]) system. Registered persons who become subject to significant disciplinary action may be required to retake the Regulatory Element within 120 days of the effective date of the disciplinary action, if they remain registered.

FINRA administers the Regulatory Element through a Web-based delivery platform using a fixed content format. The Web-based delivery method provides participants with the flexibility to complete the Regulatory Element at a location of their choosing, including their private residence, at any time during their 120-day completion window. Additionally, participants do not need to complete the Regulatory Element in one sitting as previously required in testing centers.

The Regulatory Element currently includes the following four programs:

- S106 (for investment company and variable contracts representatives);
- S201 (for registered principals and supervisors);
- S901 (for operations professionals); and
- S101 (for all other registered persons).

Each of the programs includes four training modules (*e.g.*, Module A of the S101 program covers responsibilities to customers). Each module leads participants through a case that provides a story depicting situations encountered by registered persons in the course of their work. Each case also contains relevant educational content. Participants must review the story content of each case and respond to a series of related questions that assess participants' understanding of the materials presented. If a participant is unable to answer the questions in a particular case, they will have to retake that case until they can demonstrate proficiency with the subject matter.

Under the current fixed-content format, registered persons in the same registration category (*e.g.*, investment company and variable contracts representatives) who are subject to the Regulatory Element in a given year (*e.g.*, 2018) must complete the same content, with the exception of the self-selected module included in some programs.

Since its inception, FINRA has administered more than 4 million Regulatory Element sessions. Over 200,000 individuals complete the Regulatory Element annually.

Firm Element

The CE program also requires each firm to develop and administer an annual Firm Element training program for covered registered persons. In general, a covered registered person is any registered person who has direct contact with customers in the conduct of a member firm's securities sales, trading and investment banking activities and the immediate supervisor of any such person. The definition of "covered person" can differ between SROs. For example, the rules of the Cboe Options Exchange specify that a securities trader representative is a covered person.

The Firm Element must cover specified minimum standards (*e.g.*, suitability and sales practice considerations). Each firm must also consider its size, structure, scope of business, as well as regulatory

developments and the performance of covered registered persons in the Regulatory Element, in planning, developing and implementing its Firm Element program. Further, each firm must administer its respective program in accordance with an annual needs analysis and written training plan and must maintain records documenting the content and completion of the program. The CE Council publishes and regularly updates the *Firm Element Advisory (FEA)*, which identifies and recommends pertinent regulatory and sales practice issues for firms to consider including in their training plans.

Although the CE program has operated effectively for more than 20 years and evolved during that period, changes in technology and learning theory have created opportunities for further improvement. For example, technological constraints that existed at program inception resulted in the current timeframes and format for administering the Regulatory Element. These constraints no longer exist. The 2015 transition to Web-based delivery of the Regulatory Element allows for increased efficiency, such as administering regulatory content in a more timely fashion, granting flexibility to individuals with geographic constraints (*i.e.*, proximity to testing centers), and presenting material in an optimal learning format. Similarly, the Firm Element exists in a changing environment where education standards can be defined to ensure delivery of an adequate level of training to registered individuals at all firms; to give credit to forms of training not recognized in Firm Element programs today; and to potentially allow credentialing programs to play a role in firm training plans.

CE Program Enhancements Under Consideration

The CE Council is exploring a variety of options to enhance the CE program to better support the program's purpose and continue to meet the securities industry's needs. Throughout this exploration, the CE Council is focusing on the following goals:

1. communicating regulatory developments to the industry via the Regulatory Element in a timely fashion;
2. improving coordination between firm and regulatory training programs;
3. allowing for diverse instructional formats that facilitate the learning of a variety of content;
4. identifying and reducing redundancy among training requirements and programs;
5. ensuring all registered professionals in the industry receive adequate training;
6. enabling previously registered individuals to maintain their qualification status by satisfying CE requirements while out of the industry; and
7. considering more defined minimum standards of CE for the industry.

Based on the analysis completed so far, the CE Council has identified a number of possible program enhancements, as well as a few areas for which the CE Council is interested in gathering additional information on current firm practices and needs. The CE Council has received initial feedback from a series of focus groups composed of industry representatives. The goal of this document is to solicit broader feedback. For the more defined ideas, the CE Council hopes to gauge industry support and to identify challenges that the possible enhancements might create. Other ideas are in an earlier stage of development, and the goal for these is to gather initial feedback, identify important considerations and generate more defined ideas before articulating possible program changes.

The remainder of this document describes program changes under consideration and the topics for which the CE Council seeks additional information categorized into the general areas of Regulatory Element, Firm Element and Maintaining Qualifications.

Regulatory Element

The intended purpose of the Regulatory Element is to address regulatory requirements and industry standards. Based on this, the Regulatory Element should focus on ensuring that registered persons understand recently introduced rule changes and educating registered persons on significant regulatory issues facing the industry. With this in mind, analysis of the current program suggests that there may be opportunities for improvement in terms of relevance and timeliness of regulatory content, as well as synergy with the Firm Element. The CE Council is also interested in identifying opportunities to improve the CE delivery system functionality on which firms rely to ensure compliance with the Regulatory Element requirement.

Relevance

In the current Regulatory Element program, FINRA systems assign each registered person to one of four programs based on the individual's active registrations as described above. The majority of representative-level registrants complete the S101 program, and registered principals complete the S201 program. Although there is an opportunity for registered representatives to select from a set of job functions to personalize the content of one of the S101 modules, the remaining three modules are identical for all registered representatives. Similarly, all S201 participants within a given year complete the same material, regardless of their qualifying registrations. One consequence of this structure is that some individuals complete content that is not directly relevant to the registrations they hold or the job roles in which they work. This format is a legacy of technological constraints that no longer exist. The CE Council is exploring methods of restructuring the Regulatory Element program to increase the relevance of content most individuals receive.

The structure under consideration revolves around identification of significant rule changes and other regulatory issues facing the industry. FINRA, in consultation with and final approval from the CE Council, would analyze the scope of each rule change and regulatory issue to determine which topics to address within the Regulatory Element program, the amount of learning content necessary to address each topic, and the relevance to each registration category. FINRA would then work with the CE Content committee, composed of industry experts, to create targeted learning units. Individuals would only receive those portions of the Regulatory Element that are pertinent to the registrations that they hold. This modular approach to administration, combined with the narrower focus, should reduce the total amount of content individuals complete while making the content more relevant to their roles.

Timeliness

Under the current CE program, individuals complete Regulatory Element content on the second anniversary of their initial registration and every three years thereafter. The CE Council originally established this frequency to address the capacity challenges of the test center-based delivery model. The transition to online delivery in 2016 removes this constraint.

The current frequency is an obstacle to providing timely regulatory training on impactful rule changes and significant industry regulatory issues. The CE Council is considering moving to an annual Regulatory Element requirement to improve timeliness. Initial analysis of the change from narrowly focusing the Regulatory Element suggests that an annual program would consist of approximately one-third of the content of the current program. Administering the new program would not result in increased costs for firms or participants; the annual Regulatory Element for registered persons would have a fee of approximately one-third of the current \$55 fee.

The CE Council recognizes that transitioning to an annual Regulatory Element requirement may increase work related to monitoring and verifying participation at some firms. The CE Council has discussed possible enhancements to FINRA systems to help with these challenges.

Regulatory Element Systems

The CRD system is the primary industry system for managing Regulatory Element activities. The CE Council has discussed with FINRA the possibility of CRD system enhancements to improve functionality and address increased compliance work related to the possible transition of the Regulatory Element program to an annual requirement. FINRA is working on a general redesign effort of the CRD system and has already released a number of enhancements this year with additional features planned. Based on the work completed thus far, the CE Council believes that FINRA would be able to deliver enhancements to reporting and data access that could assist with the increased frequency of Regulatory Element participation.

FINRA has also released a system to improve access to data and delivery of services to registered representatives, although the system is not yet widely used. This system, the Financial Professional Gateway, consolidates a number of services already available to current and former registered representatives, such as retrieval of U5 forms and updates of addresses for individuals who have left the industry. The CE Council has discussed with FINRA the possibility of leveraging this system for delivery of the Regulatory Element. One of the core benefits would be the opportunity for firms to opt into system-generated email notifications. The system could send notifications directly to registered representatives at the start of their Regulatory Element window and periodically thereafter until they have met the requirement. The system would either notify or include firms in all such communications, depending upon the firm's preference. The CE Council believes that automated notifications to the registered representatives could substantially reduce the challenges faced by firm personnel responsible for monitoring Regulatory Element completion. The CE Council seeks feedback on the specific functionality that would most help firms manage an annual Regulatory Element requirement, including but not limited to reporting functionality and automated notifications.

Synergy with Firm Element

The current Regulatory Element and Firm Element programs operate largely independently from one another. This results in duplication between the two programs at some firms. The CE Council believes that firms could better leverage the Regulatory Element as part of their overall training programs if they had a clearer understanding of the specific Regulatory Element content covered each year. Given the narrower focus for the Regulatory Element, the CE Council believes that it may be possible to publish the learning topics for the coming year well in advance. The CE Council seeks input from firms about the value of such information and the timing necessary to support the development of firm training programs to meet the Firm Element requirements.

Firm Element

The purpose of the Firm Element program is to address products, services and strategies offered by the firm as well as firm policies and industry trends. In exploring the current Firm Element program, the CE Council seeks feedback on the value of guidance and resources provided by CE Council to help firms and the typical amounts and formats of Firm Element content at various firms. The CE Council is also interested in feedback on redundancy with other industry training requirements, opportunities for reciprocity with other securities or related credential programs, and the sources of Firm Element content used by most firms.

CE Council Guidance and Resources

The CE Council maintains a current *FEA* on the CE Council website (cecouncil.com). This document provides general guidance on conducting an annual needs analysis, access to reports summarizing a firm's performance on the Regulatory Element and a number of regulator-provided training resources. The bulk of the document is devoted to current topics that firms could consider when planning their Firm Element programs. Each topic usually has one or more regulator resources that provide timely information on the subject. The CE Council is interested in feedback on the value of this resource as well as other guidance or tools that the CE Council could provide to help firms meet their Firm Element obligations.

Typical Characteristics of Firm Element Programs

Many professions have structured CE programs to maintain professional credentials, including concepts like educational credits or assessment requirements. In contrast, the Firm Element requirement is relatively unstructured. Aside from some high-level content required by regulators, industry rules require firms to complete an annual needs analysis and develop a training program that is appropriate for their scope of business. The needs analysis remains an important component of a firm's program given that it allows firms to identify areas where training is needed or could be helpful while also accounting for the unique nature of the firm. Based on focus group discussions, firms seem to vary considerably in how they meet this requirement. For example, firms may train personnel on matters relating to suitability, confidentiality, anti-money laundering (AML), cybersecurity, products and services, and other topics to provide an effective education experience.

The CE Council is interested in understanding the typical amount of Firm Element content administered at firms as well as the various types of educational material and formats used. In particular, the CE Council is interested in understanding whether most firms rely solely on traditional and electronic courses or if seminars, conferences or other learning activities are also commonly used.

Further, the CE Council seeks feedback on providing guidance to firms on expectations for appropriate amounts of Firm Element content. Some firms provide very limited amounts of Firm Element, and the CE Council is concerned that registered representatives at those firms may not be receiving adequate training. The CE Council is interested in suggestions for creating minimum threshold requirement for Firm Element without introducing onerous requirements.

Other Training Requirements and Credentialing Programs

The CE Council is aware that there are a number of industry training requirements outside the Firm Element program including AML training and an annual compliance meeting required by some regulators. The CE Council seeks feedback on how most firms coordinate these various training requirements and identifying redundancy when it arises.

The CE Council also recognizes that registered persons may have additional CE requirements associated with other professional credentials. The CE Council is interested in understanding the most common credential programs within the industry and identifying potential opportunities for reciprocity among programs. Some of the courses that satisfy these other CE requirements may also be appropriate for Firm Element training. Reciprocity between programs is an important consideration for the CE Council given that the time dedicated to training could address multiple requirements.

Access to Firm Element Content

Firms have a variety of options for sourcing Firm Element content. Some firms develop materials internally. Others rely on third-party training providers. The CE Council is interested in feedback on challenges faced in developing or acquiring appropriate content to meet Firm Element requirements.

The CE Council is considering creating a centralized content catalog to serve as an additional source of Firm Element content. FINRA and the CE Council would work together with third-party training providers to offer a large catalog of readily available materials that are centrally located for convenience. Firms would have easy access to necessary courses and could select from multiple providers to satisfy a portion of or their entire Firm Element requirements. Firms may also choose to create and develop content in-house as desired. In addition, FINRA and other SROs have existing educational courses and could develop additional courses as needed. Courses offered by third-party vendors, FINRA and others would be included and available in the course catalog. The CE Council is interested in understanding whether a centralized source of content would be helpful and the value of providing such a resource to the industry.

Maintaining Qualification Status Post Termination

Currently, individuals whose registrations have been terminated for two or more years are required to requalify by examination, or obtain a waiver of the examination requirement, in order to re-register. Individuals whose registrations have been terminated cannot maintain their qualification status beyond the two-year period. The CE Council is considering a mechanism to support regulatory efforts to revise this current rule structure. With regard to the Securities Industry Essentials (SIE) Exam qualification (effective October 1, 2018), this qualification will continue to remain valid for four years but will not constitute registration on its own.

The central idea is to allow previously registered individuals to complete an annual Regulatory Element as well as additional content equivalent to Firm Element while out of the securities industry. If individuals do so, they would not have to requalify by examination or obtain a waiver of the examination requirement upon returning to the industry. These individuals would still be required to satisfy all other conditions of registration, including satisfying the eligibility requirements for association with a firm.

The CE Council is exploring the details of such a program, identifying necessary eligibility requirements for participation and considering the impact on the two-year termination rule.

Program Considerations

Individuals seeking to maintain their qualification status while no longer associated with a firm would need to complete the required annual Regulatory Element and additional assigned learning units (*i.e.*, Firm Element equivalent). Completion of the Regulatory Element is straightforward for these individuals — they would participate in the same way that registered individuals do and use the same systems to complete their CE program. The CE Council is considering how best to account for the additional content equivalent to Firm Element including the appropriate amount and variety of additional content. Without establishing an industry Firm Element baseline expectation, it is difficult to determine the appropriate expectation for individuals who are maintaining their qualification outside the industry. Although the CE Council could make a determination, any decision would likely serve as a benchmark for firm programs. The CE Council seeks feedback from firms on how to best approach this.

Delivery of the Firm Element content to individuals who are maintaining their qualification status is more straightforward. Such individuals would complete the assigned learning units on FINRA's platform using content from the proposed centralized content catalog. Given that these individuals would not be associated

with a firm, the FINRA CE delivery platform provides the most efficient and effective means of tracking their compliance with the proposed CE requirements.

Both the Regulatory Element and additional learning units assigned to these individuals would correlate to the individual's terminated registration(s) and require annual completion based on their established registration anniversary date.

The approach under consideration is similar to that taken by other professions, such as the legal profession, and is intended to address industry concerns regarding the challenges securities professionals experience when reentering the industry after an absence.

Eligibility Requirements and Program Duration

There would likely be some limits on eligibility to maintain qualification status. For instance, the Financial Services Affiliate Waiver Program (FSAWP) that goes into effect in October 2018 requires an individual to be registered as a representative for five years within the previous 10-year period, as well as to be registered for the entirety of the most recent year. If eligible, an individual can participate within the FSAWP program for up to seven years. Similar eligibility requirements and program length might be used for individuals maintaining their qualification status under the new program. The CE Council seeks feedback on potential eligibility requirements and program durations.

The CE Council is considering introducing this program to provide a mechanism for individuals to maintain qualification status after leaving the industry. The CE Council is unsure if this program should be available to individuals who remain associated with a firm after terminating their registrations. The expanded availability of permissive registrations for associated persons that will go into effect in October 2018 allows such individuals to maintain their registrations, albeit in a permissive capacity. The CE Council seeks feedback on the appropriateness and importance of allowing associated persons to maintain their qualification status via this program as an alternative to permissive registration.

The CE Council does not intend for this program to be available to individuals whose registrations have been revoked and who are required to requalify by examination in order to re-register.

Two-Year Termination Rule

Under the current registration rules, an individual who re-registers within two years of termination is not required to requalify by examination or obtain a waiver. Consistent with this provision, the CE Council is considering including a two-year "catch-up" opportunity as part of the potential program. Individuals within two years of their termination would have the opportunity to complete any lapsed annual CE requirement in conjunction with their re-registration. This step would be in lieu of completing the annual CE requirements at each registration anniversary.

Questions

The CE Council and the SROs have included questions in the section below to highlight the areas of greatest interest. In addition to any general feedback, the CE Council would appreciate consideration of these questions in all responses. In responding to the questions, please provide a discussion of the types (direct vs. indirect) and sources (*e.g.*, compliance, staffing or technology) of potential costs and benefits wherever appropriate. Please also provide empirical data or other factual support for your responses wherever possible and to the extent you feel it would be helpful to articulate your viewpoint.

Regulatory Element

1. In order to increase the timeliness of Regulatory Element content, the CE Council is considering recommending moving to an annual requirement. Although the transition would reduce the amount of content included in a session to approximately one-third of the current program, the increased frequency could result in increased effort required to monitor participation. What are the potential impacts of this transition to firms?
2. The CE Council has discussed with FINRA possible enhancements to the CRD system and the Financial Professional Gateway. Would enhanced reporting and automated notification functions help mitigate the additional efforts required to monitor participation of an annual Regulatory Element requirement? What other system enhancements would firms find helpful?
3. The CE Council is considering narrowing the focus of the Regulatory Element to rule changes and significant regulatory issues. Does this seem like an appropriate focus? Are there other topics that should be included within the Regulatory Element?
4. The CE Council is considering adoption of a modular structure in place of the current Regulatory programs. Does this seem like a good way to increase the relevance of the Regulatory Element content? Are there concerns with determining relevance of topics based on registrations held, keeping in mind this will have a de minimis effect on the time required to complete the annual course?
5. The CE Council is exploring the possibility of publishing the Regulatory Element topics for the coming year in advance of introducing such topics. If this information were available, would firms factor it into their Firm Element training plans? How much detail would be necessary for it to be useful? How early would the CE Council need to publish the information to allow for timely alignment with Firm Element planning activities?

Firm Element

6. Is the current Firm Element Advisory (FEA) useful? Do firms reference the FEA when planning their training programs? Which aspects of the FEA are most helpful? Are there other resources the CE Council should provide to help firms meet their Firm Element requirements?
7. How much Firm Element training does the typical covered person receive? Are electronic and in-person courses the standard format for delivering Firm Element training? Do most courses include an assessment component? What other learning activities do firms commonly use to meet Firm Element requirements?
8. Is Firm Element generally limited to covered persons? Do firms typically offer similar amounts of training to registered persons who are not covered persons? Do firms offer similar training opportunities to unregistered persons? Should the Firm Element requirement apply to all registered persons? What types of training do covered persons undertake that should be included as Firm Element training?
9. How could the CE Council communicate reasonable expectations for amounts of Firm Element without introducing an onerous process? Are there other ways to ensure firms provide adequate training to securities professionals?
10. Aside from Firm Element, what are the most significant regulatory training courses used by firms? Do firms include these other requirements as part of their Firm Element training programs?
11. Do most firms maintain training programs to ensure associated persons meet the requirements of non-regulatory credentialing programs? Which credentialing programs have the most significant

impact on firm training programs? Do firms include these training requirements within their Firm Element training plans? Are there credentialing programs with which the CE Council should consider establishing formal reciprocity agreements?

12. How often do firms use content from third-party training providers to meet their Firm Element requirements? Would a centralized content catalog with offerings from multiple providers be beneficial for the industry?

Maintaining Qualification Status Post Termination

13. Should the CE Council pursue a recommendation to allow previously registered individuals to maintain their qualification status while away from the industry? Does a CE program seem like an appropriate way to accomplish this?
14. If the CE Council recommended introducing a CE program that allowed individuals to maintain their qualification status while outside the industry, how much CE would be sufficient?
15. If the CE Council recommended introducing such a program, should it impose an experience requirement for individuals to be eligible? If the CE Council recommended establishing a minimum duration of prior registration, what would be a reasonable requirement?
16. Should there be a limit to how long a previously registered individual could maintain their qualification status via the CE program under consideration? If so, what duration is appropriate?
17. Should the program allow previously registered individuals to maintain their qualification status while associated with a firm but working in a capacity that does not require registration? How would this interact with the expanded opportunity for an associated person to hold a permissive registration?
18. How important is maintaining the two-year termination rule if individuals are able to maintain qualification status while away from the industry? Is the opportunity for individuals to complete lapsed CE when re-registering within two years of termination a sufficient replacement for the two-year termination rule?

General Questions

19. In developing a specific recommendation to change the industry CE requirements, what are the most important issues for the CE Council to consider?
20. Are there alternative approaches, other than the ideas discussed here, that the CE Council should consider? What are the relative benefits and costs of any alternative approach?



November 5, 2018

Submitted electronically

Jennifer Piorko Mitchell
Vice President and Deputy Corporate Secretary
Office of Corporate Secretary
FINRA
1735 K Street NW
Washington, DC 20006-1506

Re: Regulatory Notice 18-26 – Continuing Education Program

Dear Ms. Mitchell:

Fidelity Investments (“Fidelity”)¹ appreciates the opportunity to comment on the Financial Industry Regulatory Authority’s (“FINRA’s”) Regulatory Notice 18-26 (the “Notice”), which requests comment on proposed enhancements to FINRA’s Continuing Education Program (“CE”) under consideration by the Securities Industry/Regulatory Council on Continuing Education (“CE Council”).² Fidelity generally agrees with many of the views expressed by the Securities Industry and Financial Markets Association (“SIFMA”) in its comment letter on the Notice (“SIFMA Letter”). We submit this letter to supplement SIFMA’s comment letter with our own views on certain specific positions.

A. Executive Summary

We applaud FINRA and the CE Council for undertaking a review of CE including publishing the Notice soliciting comment on potential enhancements. Fidelity offers a unique perspective given our diverse business model and multiple member broker-dealers. Our comments include the following points:

- Fidelity supports having a shorter annual Regulatory Element CE requirement that is more timely, relevant and easier to deliver and track. We support moving to a shorter training session that is administered annually. We support having more relevant and targeted content given more frequent timing and new technology. We

¹Fidelity Investments is a leading provider of investment management, retirement planning, portfolio guidance, brokerage, benefits outsourcing, and many other financial products and services. Fidelity submits this letter on behalf of our broker-dealers and FINRA members Fidelity Brokerage Services LLC, Fidelity Distributors Corporation, Fidelity Investments Institutional Services Company, Inc., and National Financial Services LLC.

² See [Regulatory Notice 18-26](http://www.finra.org/sites/default/files/Regulatory-Notice-18-26.pdf), Continuing Education Program (September 6, 2018) available at <http://www.finra.org/sites/default/files/Regulatory-Notice-18-26.pdf>

support having improved delivery, tracking and reporting through technology enhancements to the Financial Professional Gateway.

- Fidelity supports proposed enhancements to Firm Element CE including eliminating redundancies and creating a centralized content catalog but we believe Firm Element CE should remain flexible and not overly prescriptive. We strongly support eliminating redundancy with other training required under securities regulations. In this regard, we also strongly support allowing “reciprocity” or credit for training required to maintain professional credentials in the securities industry. We also support developing a centralized Firm Element content catalog with optional, but not mandatory, use of the content but we do not support requirements for a minimum number of required hours of Firm Element training.
- Fidelity strongly supports allowing individuals to maintain their qualifications by completing CE after termination of their registrations. We believe that allowing individuals to maintain registration qualifications through completion of CE can promote career diversity and vitality. We also believe these enhancements should replace the Financial Services Affiliate Waiver Program (“FSA Waiver Program”). We do not support having an experience requirement or expiration of eligibility. We believe individuals associated with a firm but whose registrations have been terminated should be able to maintain qualifications through CE.

B. Fidelity supports a shorter annual Regulatory Element CE requirement that is more timely, relevant and easier to deliver and track

1. We support moving to a shorter training session that is administered annually

Fidelity supports the transition of the Regulatory Element CE program to a more focused and shorter learning requirement that is taken each year rather than two years after the registration anniversary and every three years thereafter. We appreciate that the current cycle is due in part to prior testing center capacity challenges but recognize that these are no longer present since transitioning to online delivery in 2016. We agree that a simplified annual cycle will afford more regularity, allowing for simplified individual and firm planning and tracking. We also believe that training sessions occurring on a more frequent cadence will contribute to improved relevance of the content for the program.

We believe that more frequent delivery of Regulatory Element training should result in more timely training on “hot topics” since new rules and regulatory focus areas can change significantly over the current three year cycle.

2. We support having more targeted content given new technology

We understand that legacy technology constraints may have limited the training module options available to select from based on job functions resulting in individuals in different roles

completing identical content, and/or individuals receiving some content that may not have been directly relevant to their role.

We support FINRA's proposal to create more targeted learning units based on significant rule changes or regulatory issues facing the industry and requiring individuals to complete only the portions of the Regulatory Element that are pertinent to the registrations they hold.

3. We support having improved delivery, tracking and reporting through technology enhancements to the Financial Professional Gateway

We support FINRA's development of technology that assists with more frequent and relevant training as well as improved access to data and reporting of Regulatory Element participation by both firms and individuals. Specifically, we support developing enhancements to the Financial Professional Gateway for direct delivery of CE as well as for improved administration such as having system generated emails delivered directly to individuals regarding CE windows, forthcoming deadlines and completion information.

C. Fidelity supports proposed enhancements to Firm Element CE including eliminating redundancies and creating a centralized content catalog but we believe Firm Element CE should remain flexible and not overly prescriptive

1. We strongly support eliminating redundancy with other training required under securities regulations

We appreciate that the CE Council is seeking feedback on Firm Element redundancy with other industry training including training required under FINRA's own rules such as the Annual Compliance Meeting (ACM)³ and Anti-Money Laundering (AML)⁴ training.

We agree that there currently may be redundancy and firms may already consider ACM training and AML training to be part of Firm Element CE. We understand that other firms administer these requirements separately but may adjust Firm Element content in view of other trainings, or may include duplicative topics across separate trainings. We request that FINRA remove any ambiguity on expectations and expressly allow firms to count required ACM and AML training towards satisfying Firm Element CE requirements.

2. We strongly support allowing "reciprocity" or credit for training required to maintain professional credentials in the securities industry

We appreciate that the CE Council is considering opportunities for "reciprocity" with other securities credential programs. We strongly support allowing firms the option of applying credit for training required under credential programs to Firm Element CE because in many cases

³ Annual Compliance Meeting training is required under FINRA [Rule 3110\(a\)\(7\)](#).

⁴ Anti-Money Laundering training is required under [FINRA Rule 3310\(e\)](#).

it is duplicative and of commensurate quality to Firm Element CE. We therefore believe training for professional credentials should be an optional component of Firm Element CE that firms may apply in their discretion depending on the credential, quality of training, firm business model and administration required to track training completion. We would also be in favor of the CE Council considering opportunities for automated integration of training completion records to a central FINRA system for major industry credential programs.

3. We support developing a centralized Firm Element content catalog with optional, but not mandatory, use of the content; we do not support having a minimum number of required hours of Firm Element training

We currently reference CE Council resources including Firm Element Advisory materials to inform our needs analysis and would generally support the proposal to develop a central Firm Element catalog that would include content created by FINRA or by third-party providers that would be approved by FINRA. This would provide a high level of confidence that the materials are compliant and a high level of convenience for access and delivery.

We believe a central catalog would be an appropriate option for learners who are not currently associated with a broker-dealer and for some firms that may not have staff dedicated to the development of internal training. However, since vendor-based training necessarily cannot be tailored to a particular business model we believe that firms should continue to have the option of developing training that is tailored to the needs of their associates and business model. While Fidelity may leverage a central content catalog as part of our training needs analysis, usage of the central catalog content for part or all of our Firm Element CE should not be made mandatory.

Moreover, the Firm Element CE requirement is relatively unstructured and this flexibility has allowed for customized, high-impact Firm Element training. We have been able to effectively vary content and the method of delivery for training based on the demographic profiles of our learner audiences within each of our broker-dealers. For example, we have made considerable effort to create high impact interactive scenario-based training for our associates that reflects actual experiences and multiple topics. We believe this type of training is effective in conveying the intended knowledge and is more consumable to the learner when compared to traditional academic-style reading and testing. This approach also weighs against a prescriptive requirement for a minimum number of required hours of training to satisfy Firm Element.

Consequently, while we support the proposed changes to Firm Element CE we believe existing flexibility should be preserved with respect to covered content, method of delivery and timing. We do not believe requirements should be so prescriptive that they would adversely impact the effectiveness of well-functioning programs like ours, or those employed by other firms.

D. Fidelity strongly supports allowing individuals to maintain their qualifications by completing CE after termination of their registrations

1. We believe that allowing individuals to maintain registration qualifications through completion of CE will promote career diversity and vitality and these enhancements should replace the FSA Waiver Program

Fidelity is highly committed to promoting career mobility and vitality in our workforce. We also are supportive of employees who may need to leave their jobs for extended periods for various life events including health issues, raising children, caring for parents or grandparents, or pursuing other life endeavors such as study or giving back to their communities.

FINRA's longstanding limitation of having a two year expiration of registration qualifications following termination has unnecessarily interfered with career mobility, work-life balance and better inclusion in the workplace. The FSA Waiver Program was a step in the right direction in allowing for reregistration after termination without retesting when working for a financial services affiliate. However, we believe that this relief is too narrow and has limited practical impact. Therefore, we greatly appreciate and strongly support FINRA's proposal to more broadly allow individuals to maintain their registration qualifications after termination by completing CE, rather than being subject to grace period expiration after two years.

Moreover, individuals who maintain securities registration qualifications through FINRA's CE and return to the securities industry will be well qualified to serve customers due to completion of ongoing training and will also become subject to a firm's system of supervision.

2. We do not support having an experience requirement or expiration of eligibility

The CE Council indicates there would likely be limits on eligibility to maintain registration qualifications through CE that are similar to those for the current FSA Waiver Program including the experience formula of having been registered for five of the previous ten years, including the entirety of the most recent one year prior to termination. The CE Council also suggests it would have a maximum program duration or eligibility expiration of seven years that is currently present under the FSA Waiver Program.

We previously indicated in comments to FINRA's Registration Rule Restructure proposal that certain eligibility requirements for the FSA Waiver Program were needlessly strict, complicated and arbitrary.⁵ The experience or "seasoning" requirement in particular would have an unintended negative impact on younger adults who enter the industry for a period and gain experience but who want to leave to start a family or study full-time. We therefore request that the CE Council not carry forward the FSA Waiver Program experience and duration period requirements to the CE program.

⁵ See page 4 of the [Fidelity Comment Letter](#) to SR-FINRA-2017-007, May 1, 2017.

3. We believe individuals associated with a firm but whose registrations have been terminated should be able to maintain qualifications through CE

The Notice indicates that the proposal to maintain registrations through completion of CE would apply to individuals “no longer associated with a firm” or “after leaving the industry.”⁶ The CE Council asks commenters whether the CE program should allow previously registered individuals to maintain their qualification status while associated with a firm but working in a capacity that does not require registration. The CE Council also asks how this would interact with the expanded opportunity for an associated person to hold a permissive registration.

We believe individuals associated with a firm but who are no longer registered should also be able to maintain their qualifications through completion of CE in addition to those who are outside of the industry and no longer associated with a firm. FINRA does not provide any reason for not permitting this. We note that a contrary result also would not allow meaningful interaction between this CE proposal and FINRA’s expanded availability of permissive registration under the Registration Rule Restructure that went into effect on October 1, 2018.

* * * *

Fidelity appreciates the opportunity to provide feedback to FINRA and the CE Council on the Regulatory Notice. We would be pleased to provide any further information and respond to any questions that you may have.

Sincerely,

A handwritten signature in blue ink, appearing to read "N. Ashkenas".

Norman L. Ashkenas
Chief Compliance Officer
Fidelity Brokerage Services LLC

A handwritten signature in blue ink, appearing to read "R. O'Brien".

Richard J. O'Brien
Chief Compliance Officer
National Financial Services LLC

A handwritten signature in blue ink, appearing to read "J. Linde".

Jason Linde
Chief Compliance Officer
Fidelity Distributors Corporation
Fidelity Investments Institutional Services Company, Inc.

⁶ See page 7 of the Notice under the Program Considerations section.

Jennifer Piorko Mitchell
Office of the Corporate Secretary
Financial Industry Regulatory Authority
1735 K Street, NW
Washington, DC 20006-1506

November 5, 2018

Re: FINRA request for comment on enhancements under consideration by the Securities Industry/Regulatory Council on Continuing Education.

Dear Ms. Piorko,

CFA Institute appreciates the opportunity to provide comments on Regulatory Notice 18-26 (“the Notice”) pertaining to proposed enhancements under consideration by the Securities Industry/Regulatory Council on Continuing Education (“CE”). CFA Institute represents the views of investment professionals before standard setters, regulatory authorities, and legislative bodies worldwide on issues that affect the practice of financial analysis and investment management, education and licensing requirements for investment professionals, and on issues that affect the integrity and accountability of global financial markets.

We believe this consultation is timely, relevant, and in the best interests of investors and other market participants.

CFA Institute’s position on CE Programs

CE programs perform a critical role in maintaining high proficiency standards. While investment professionals may be able to demonstrate proficiency at a point in time by passing a licensing exam, we believe it is necessary that these professionals be required to keep their knowledge current while they practice in the industry.

Hence, it is a vital that supervisory agencies promote robust CE programs that require completion of educational activities that can help achieve and maintain quality in professional services. The investment

management industry today is characterized by rapid changes, advancing technology and increasing complexity. Thus, investment professionals must be compelled to further their knowledge, skills, and abilities to ensure quality of services.

At CFA Institute, we believe that effective CE programs have the following characteristics:

- Require the completion of frequent CE (either each calendar year or in two-year cycles)
- Are flexible in nature, in terms of permitted activities, but also in terms of the content a registered representative may study.
- Require completing both an ethics/regulatory element and a knowledge of business/firm element.

CFA Institute's CE program

Our own continuing education program at CFA Institute requires our members to complete a minimum of 20 hours of continuing education activities, including a minimum of 2 hours in the content areas of Standards, Ethics, and Regulations (SER), each calendar year.

The CE program is quite flexible in terms of types of activities that qualify for CE. Our members can design their own CE program and search our library of CFA Institute resources which includes our designations, courses, webcasts, local events by our member societies, and content offered by third-party providers. Members can also earn credit for resources that are not included in our library, such as training offered by their employer or activities for other investment-related designations and regulatory bodies.

There are eligibility requirements that an activity must meet to qualify for CE: 1) learning activities should be educational in nature and geared towards increasing the knowledge, skills, and abilities of an investment professional; and (2) the educational content should relate to one or more of our lifelong learning topics derived from the Global Body of Investment Knowledge (GBIK).

Below we provide examples of approved continuing education activities:

- Self-study (i.e., reading, researching, webcasts, etc.)
- Employer-based (i.e., in-house training)
- Educational programs sponsored by CFA Institute, member societies, and third-party Approved Providers
- Educational activities offered by unaffiliated organizations/providers in any language/format
- Continuing education activities for other investment-related designations

Answers to Questions 1 through 5 on Regulatory Element

In here, we believe the proposal by the CE Council to move to an annual requirement for the Regulatory Element would seem appropriate as it would result in more frequent CE. Although there are implications, such as having to reduce content of sessions and needing to monitor increased participation, we believe the benefits to the industry will outweigh the initial costs as it would have a positive impact on the quality of professional services delivered.

As to the focus of the Regulatory Element, we would recommend this is driven by recent enforcement cases or identified areas of weakness as detected during the exams conducted by Supervisory Agencies.

As to other areas of focus, we would advise that the CE Council also considers permitting CFA Institute's Ethics courses to qualify for the Regulatory Element. At CFA Institute we believe we need to encourage ethics training in the industry. Ethical decision-making is an important skillset that all investment professionals must have. We have developed an [ethical decision framework](#) and a [course](#) to guide investment professionals to resolve ethical dilemmas in the best interests of their clients. We believe, that under the proposed modular structure, CFA Institute could offer its courses to complement the existing topics in the Regulatory Element. Permitting additional activities in this regard would recognize the educational interests of professionals.

Finally, we also counsel that registered representatives have access to the Regulatory Element of any registration category. This would mean that an individual could take courses in preparation for professional growth and development in future roles.

Answers to Questions 6 through 12 on Firm Element

With respect to questions 6 through 12, we would recommend the CE Council considers **accepting CFA Institute's continuing education program** for the purpose of meeting the Firm Element requirement. As stated earlier, we require our members complete a minimum of 20 hours of continuing education activities, including a minimum of 2 hours in the content areas of Standards, Ethics, and Regulations (SER), each calendar year.

Our CE program is flexible in terms of types of activities that qualify for CE. Our members can design their own CE program and search our library of CFA Institute resources which includes our own designations, courses on relevant topics for the industry today, webcasts, local events by our member societies, and content offered by third-party providers.

To meet the new Firm Element requirement, our members could use the following permitted activities, including:

- self-study (with an assessment),
- employee in-house training (with assessment)
- Educational programs, conferences, events (proof of participation will be required)
- Continuing education activities for other investment-related designations (proof of completion will be required).

In light of the above, we agree with the CE Council that there are opportunities for reciprocity, as the time a professional may need to dedicate to training to meet professional designation requirements should be able to address other existing regulatory requirements they have. As a result, we recommend the Council considers establishing formal reciprocity agreements.

To close, we would suggest that registered representatives have access to the Firm Element of any registration category. This would mean that an individual could take courses in preparation for professional growth and development in future roles. Finally, relating to the proposal of developing a catalogue with the courses, although it makes sense, we also understand that there may be costs and difficulties associated with keeping up to date.

Answers to Questions 13 through 18 on Qualification Status Post Termination

The proposal to allow previously registered individuals to maintain their qualification status while away from the industry is an interesting one. The CE program is definitely an appropriate way to accomplish this. We do believe that if an individual completes the Continuing Education program associated with holding his or her professional designation, while being away from the industry, it should be sufficient to retain their status. However, we have no specific guidance as to the experience requirement or appropriate duration that the proposed program should require.

Answers to Questions 19 through 20 on General Questions

In here as we stated earlier, we would reiterate our positioning as what an effective CE programs should look like:

- Require the completion of frequent CE (either each calendar year or in two-year cycles)
- Are flexible in nature, in terms of permitted activities, but also in terms of the content a registered representative may study.
- Require completing both an ethics/regulatory element and a knowledge of business element.

For additional reading we would recommend the council to take a look at IIROC's recently published [guidance on continuing education programs](#)¹. We would be pleased to discuss our comments in greater detail, or to provide any other assistance that would be helpful. If you have any questions, please do not hesitate to contact us.

Yours sincerely,

On behalf of CFA Institute:

A handwritten signature in blue ink, appearing to read 'Inigo Bengoechea', with a stylized flourish at the end.

Inigo Bengoechea, CFA
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Director, Global Head of Government and Regulator Relations
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¹http://www.iroc.ca/Documents/2018/9fe2a3a8-9360-4ffb-ac98-694e1d41ed51_en.pdf

Regulatory Element

1. In order to increase the timeliness of Regulatory Element content, the CE Council is considering recommending moving to an annual requirement. Although the transition would reduce the amount of content included in a session to approximately one-third of the current program, the increased frequency could result in increased effort required to monitor participation. What are the potential impacts of this transition to firms? **I think it is a great idea**

2. The CE Council has discussed with FINRA possible enhancements to the CRD system and the Financial Professional Gateway. Would enhanced reporting and automated notification functions help mitigate the additional efforts required to monitor participation of an annual Regulatory Element requirement? What other system enhancements would firms find helpful? **Good**

3. The CE Council is considering narrowing the focus of the Regulatory Element to rule changes and significant regulatory issues. Does this seem like an appropriate focus? **Yes** Are there other topics that should be included within the Regulatory Element? **No**

4. The CE Council is considering adoption of a modular structure in place of the current Regulatory programs. Does this seem like a good way to increase the relevance of the Regulatory Element content? Are there concerns with determining relevance of topics based on registrations held, keeping in mind this will have a de minimis effect on the time required to complete the annual course? **I like this**

5. The CE Council is exploring the possibility of publishing the Regulatory Element topics for the coming year in advance of introducing such topics. If this information were available, would firms factor it into their Firm Element training plans? **Yes** How much detail would be necessary for it to be useful? **Topic and relevant items** How early would the CE Council need to publish the information to allow for timely alignment with Firm Element planning activities? **One year preferably, however if something becomes an issue I would like FINRA to act on it ASAP**

Firm Element

6. Is the current Firm Element Advisory (FEA) useful? Do firms reference the FEA when planning their training programs? Which aspects of the FEA are most helpful? Are there other resources the CE Council should provide to help firms meet their Firm Element requirements? **We have quarterly compliance**

meeting and we have regular items that we review each quarter, then we have firm level issues that we review. It would be helpful if in January in conjunction with Regulatory CE we could get a list of relevant subjects that FINRA would like us to review with reps.

7. How much Firm Element training does the typical covered person receive? **About 30 minutes quarterly.** Are electronic and in-person courses the standard format for delivering Firm Element training? Do most courses include an assessment component? **We do live and video with a test for those that can't attend.** What other learning activities do firms commonly use to meet Firm Element requirements? **Must Read and respond emails for urgent items I also do videos that are sent to reps.**

8. Is Firm Element generally limited to covered persons? **All Firm personnel.** Do firms typically offer similar amounts of training to registered persons who are not covered persons? Do firms offer similar training opportunities to unregistered persons? Should the Firm Element requirement apply to all registered persons? What types of training do covered persons undertake that should be included as Firm Element training? **We train everyone the same.**

9. How could the CE Council communicate reasonable expectations for amounts of Firm Element without introducing an onerous process? **Understand that you have three different levels of firms (small, medium and large) remember that one size does not fit all.** Are there other ways to ensure firms provide adequate training to securities professionals? **A portal sounds good.**

10. Aside from Firm Element, what are the most significant regulatory training courses used by firms? Do firms include these other requirements as part of their Firm Element training programs? **We do a video quarterly with a live audience and include a mandatory test to prove they watched it. We only use FINRA Firm element CE when we feel it is appropriate for a rep.**

11. Do most firms maintain training programs to ensure associated persons meet the requirements of non-regulatory credentialing programs? Which credentialing programs have the most significant impact on firm training programs? Do firms include these training requirements within their Firm Element training plans? Are there credentialing programs with which the CE Council should consider establishing formal reciprocity agreements? **What do mean by credentialing sometimes it would be helpful if you used less jargon.**

12. How often do firms use content from third-party training providers to meet their Firm Element requirements? Would a centralized content catalog with offerings from multiple providers be beneficial for the industry? **Not for us, if we use it we use FINRA's**

Maintaining Qualification Status Post Termination

13. Should the CE Council pursue a recommendation to allow previously registered individuals to maintain their qualification status while away from the industry? Does a CE program seem like an appropriate way to accomplish this? **Yes definitely**

14. If the CE Council recommended introducing a CE program that allowed individuals to maintain their qualification status while outside the industry, how much CE would be sufficient? **Quarterly**

15. If the CE Council recommended introducing such a program, should it impose an experience requirement for individuals to be eligible? **Yes** If the CE Council recommended establishing a minimum duration of prior registration, what would be a reasonable requirement? **5 years**

16. Should there be a limit to how long a previously registered individual could maintain their qualification status via the CE program under consideration? **4 years is plenty.** If so, what duration is appropriate?

17. Should the program allow previously registered individuals to maintain their qualification status while associated with a firm but working in a capacity that does not require registration? **yes** How would this interact with the expanded opportunity for an associated person to hold a permissive registration? **Should'nt**

18. How important is maintaining the two-year termination rule if individuals are able to maintain qualification status while away from the industry? **I think if they are doing annual Regulatory CE and quarterly Firm Element then it should keep them qualified.** Is the opportunity for individuals to complete lapsed CE when re-registering within two years of termination a sufficient replacement for the two-year termination rule? **See above**

General Questions

19. In developing a specific recommendation to change the industry CE requirements, what are the most important issues for the CE Council to consider? **That individuals maintain an appropriate level of knowledge of industry rules.**

20. Are there alternative approaches, other than the ideas discussed here, that the CE Council should consider? What are the relative benefits and costs of any alternative approach? **Current levels of cost are adequate.**

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Please use to book an appointment www.calendly.com/rcarlesco

November 5, 2018

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

Dear Ms. Mitchell:

We are pleased to comment on the proposed enhancements to the Securities Industry/Regulatory Council on Continuing Education Program ("CE Program") under consideration by the Securities Industry/Regulatory Council on Continuing Education ("CE Council").

The Foreside family of companies ("Foreside" or the "Firm") includes affiliated limited purpose broker-dealers. As the principal underwriter of investment companies or as placement agent for alternative investments, the Firm primarily facilitates dealer agreements, reviews fund advertising, acts as a paying agent for 12b-1 and other fund-related payments and performs other similar back office functions. The Firm may also hold the securities licenses of certain employees of a sponsor/investment adviser or third-party marketer engaged in marketing registered or privately placed products. These Registered Representatives ("Representatives") may engage in the marketing of registered or privately placed products to financial intermediaries, investment advisers and accredited or qualified investors that are primarily institutions. The Firm may also hold certain securities licenses of personnel employed by the Firm's parent company.

Representatives do not open or maintain customer accounts, accept any customer funds for investment, or handle purchase, redemption or exchange requests. Representatives do not handle monies for investment, nor are accounts established at the Firm. Investment monies are either wired or mailed directly to the issuer, if applicable, the adviser, or to a third-party agent of the issuer.

Regulatory Element

We recognize the need for more frequent industry education by moving the Regulatory Element requirement to a cycle more frequent than every three years. However, we believe the firms will be overwhelmed administratively by overseeing notifications and follow-ups to ensure that their Representatives meet this annual regulatory requirement. This will place an unnecessary administrative burden on small (up to 150 Representatives), medium and large firms. We suggest that FINRA consider a Regulatory Element cycle of every two years.

In addition, firms are already asking Representatives to participate in annual compliance meetings and annual Firm Element training, as well as responding to

periodic Representative questionnaires. Requiring annual completion of Regulatory Element Modules could become more burdensome and lead to confusion with regard to Representative's completion of all of these responsibilities. We believe that enhanced reporting and automated notification functions through FINRA will not overcome these concerns.

We believe that narrowing the focus of the Regulatory Element to rule changes and significant regulatory issues seems like an appropriate focus. In addition, the relevance of topics should be more timely and based on registrations held.

Lastly, we would welcome the advanced publishing of Regulatory Element topics to ensure firms have adequate time to evaluate the Regulatory Firm Element focus and the potential impact on the Firm Element training.

Firm Element

Foreside utilizes a vendor to deploy three to four online modules for Representatives to satisfy the Firm Element requirement. Typically, completion of all assigned modules could take, on average, two hours. All Representatives are assigned these modules; non-registered associated persons are also assigned fewer modules that are of general industry significance. The electronic deployment through the vendor's platform provides enhanced controls to track completion and attendance.

As limited purpose broker-dealers, the Firm selects only those Firm Element modules that are relevant to our business model. Our vendor will also disseminate modules that we create that may be more tailored to our business model or which focus on a particular area of Firm concern. It would be beneficial to have access to a centralized content catalog with offerings from multiple providers. However, firms should continue to have the flexibility to select the courses that meet their needs and are tailored to their business.

Maintaining Qualification Status Post-Termination

We very much support an effort by the CE Council to allow previously registered individuals to maintain their qualification status while away from the industry through continuing Regulatory Element participation. This would be similar to continuing education requirements in other professions (e.g., attorney or accountant continuing legal education) and could be accomplished online through FINRA's Regulatory Element program. This would be a welcome enhancement for those who terminate their licenses but may re-enter the industry more than two years from their termination date. Such a continuing education process would eliminate the burden for individuals to re-test if they have participated in this CE program. We do not believe that imposing restrictions or time limits is necessary as long as a candidate has completed the required continuing education, and firms should have the ability to assess candidate qualifications beyond the CE requirements.

General Comment

We also believe that there are several overlapping compliance requirements present in the CE program and the annual compliance meeting and would request that FINRA take a holistic approach and consider consolidating these requirements. Given the numerous compliance obligations, at times it is difficult to develop unique training plans, and a holistic approach would

allow a firm to develop the appropriate training program based on their business model and permitted activities.

Thank you for your time and consideration.

Sincerely,

A handwritten signature in dark ink, appearing to read "N K Chern".

Nanette K. Chern
Chief Compliance Officer

A handwritten signature in dark ink, appearing to read "Susan K. Moscaritolo".

Susan K. Moscaritolo
Chief Compliance Officer



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

RE: FINRA Regulatory Notice 18-26 Continuing Education Program

Dear Ms. Mitchell:

Commonwealth Financial Network® (“Commonwealth”) welcomes and appreciates the opportunity to comment on enhancements to the Securities Industry/Regulatory Council on Continuing Education Program (CE Program) under consideration by the Securities Industry/Regulatory Council on Continuing Education (CE Council). Although Commonwealth fully supports a robust continuing education requirement for financial professionals, there are several concerns with the proposal that we would like to bring to the CE Council’s attention.

Commonwealth is an independent broker/dealer and an SEC-registered investment adviser with home office locations in Waltham, Massachusetts, and San Diego, California. Commonwealth has approximately 1,800 producing registered representatives who are independent contractors conducting business in all 50 states.

Regulatory Element

One of the enhancements under consideration is changing the current requirement for Associated Persons (“APs”) to complete the Regulatory Element from every three years following the second anniversary of their initial registration to annually. The release states that “*administering the new program would not result in increased costs for firms or participants.*” While Commonwealth applauds the CE Council for looking to make the cost of change neutral, there would, in fact, be significant increased costs to firms to administer, track, and otherwise oversee an annual requirement. For our firm, these would include the cost to upgrade systems, increased accounting costs to bill our independent financial advisors for their CE sessions, and increased cost for the salaries of the employees who track and follow up with APs. The latter would be the most significant, representing a two-fold increase to our current costs for this process.

Commonwealth further believes that any potential improvements to the CRD system and Financial Professional Gateway (FinPro) would have minimal impact on mitigating our increased expenses. Although our representatives would receive notification directly from FinPro, our firm would still need to dedicate resources to ensure that APs completed the Regulatory Element in a timely manner, to avoid becoming CE Inactive. As you are aware, when an AP goes CE Inactive, this not only affects his or her ability to generate revenue for the firm but also increases our expenses to ensure that registered activity does not occur during the inactive period. As such, firms such as Commonwealth must take a proactive approach toward ensuring that APs complete the requirement and cannot solely rely on the reminders from internal or FINRA systems.

We believe that the current cadence for Regulatory Element meets the needs of registered individuals and should remain unchanged. We believe that the costs to implement an annual Regulatory Element requirement would outweigh the benefits. We appreciate the need to provide registered individuals with timely information regarding new or updated regulations, but we believe that firms are in the best position to deliver that training either through Firm Element or other firm trainings. In addition to providing information about the regulation itself, firms also need to provide registered individuals with information surrounding their specific policies and procedures that will govern the APs' actions. A generic training has very limited applicability to most APs without that additional context.

Should the CE Council move forward with the recommendation to implement an annual Regulatory Element requirement, we believe it would be prudent for FINRA to eliminate the requirement for an annual compliance meeting (ACM), as outlined in FINRA Rule 3110(a)(7), of which the effectiveness and efficiency was raised in FINRA Regulatory Notice 18-14.

Commonwealth fully supports the idea of publishing the Regulatory Element topics in advance of introducing such topics. Currently, there is a lack of transparency whereby firms do not have much, if any, information regarding the topics that are covered in the Regulatory Element. If this information were available, Commonwealth would factor it into its annual Firm Element Needs Analysis.

Firm Element

Commonwealth supports the current Firm Element training requirement(s), as we believe it is imperative for firms to provide customized training to their APs regarding the specific policies, products, and services of the firm. Given the broad spectrum of firms and unique business models that exist in the financial services industry, we believe it would be a challenge for the CE Council to provide Firm Element standards and content that would apply to all firms. We believe that the current Needs Analysis is a reasonable approach, allowing firms to tailor their Firm Element program to their specific needs, based on firm size, organizational structure, and products/services offered.

Maintaining Qualification Status Post-Termination

Commonwealth supports the CE Council's efforts to pursue a recommendation to allow previously registered individuals to maintain their qualification status while away from the industry. We do not believe that eligibility for the program should mirror the same requirements as the Financial Services Affiliate Waiver Program (FSAWP). Requiring an individual to be registered as a representative for five years within the previous ten-year period would exclude many individuals from qualifying.

Given the desire to make the industry accessible to a diverse workforce, Commonwealth supports a plan whereby any previously registered AP can maintain his or her qualifications by completing the Regulatory Element in its current cycle and completing an annual training requirement to be determined by the CE Council that is specific to previously registered APs. Such training should include topics such as new or updated regulations, ethics, money laundering, diminished capacity, and general suitability. Provided the previously registered AP pays for and completes the annual

requirement and completes the Regulatory Element every three years, he or she should be able to reaffiliate with a member firm without retesting.

Upon reaffiliation, whether an individual has not been registered for the previous five, ten, or twenty years, it would be a firm's responsibility to provide the individual requisite training and ensure that he or she has the skills and knowledge to be successful as an AP through the Firm Element program or other training program(s). Firms should be allowed, however, to require that the AP retest, at their discretion. This model is similar to the training requirements for attorneys and accountants—two professions that share a similar client relationship model.

If you have any questions or would like to discuss this further, please do not hesitate to contact me.

Respectfully,
Commonwealth Financial Network

A handwritten signature in black ink, appearing to read 'John Hagberg', with a stylized flourish at the end.

John Hagberg
SVP, Compliance



July 11, 2019

1 Primerica Parkway
Duluth, Georgia 30099-0001

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

Re: FINRA Regulatory Notice 18-26 Continuing Education Program

Dear Ms. Mitchell:

PFS Investments, Inc. ("PFSI"), a registered broker-dealer and investment adviser, appreciates the opportunity to comment on the proposed enhancements to the CE Program under consideration by the CE Council.¹ Although PFSI fully supports a robust continuing education requirement for securities industry professionals, we are not in favor of the proposal to change the frequency of the Regulatory Element. For the reasons discussed below, we urge you to keep the current frequency of the Regulatory Element which has worked well since 1995.

PFSI is a wholly-owned subsidiary of Primerica, Inc. (NYSE: PRI) We serve the middle-income market by offering high quality mutual funds and variable annuities to our clients in all fifty states and Puerto Rico. We have over 18,700 independent contractor representatives with Series 6 and 63 FINRA registrations, and over 3,600 branch office supervisors who also hold the Series 26 principal's registration. Our representatives serve the communities where they live and work, and typically meet with clients in their homes, face-to-face "across the kitchen table." We educate our customers about the long-term benefits of dollar-cost averaging through systematic investing into a diversified investment portfolio. We know firsthand that individuals with access to a financial representative accumulate greater and more balanced assets than those without such assistance. This fact is well supported by numerous independent studies.²

¹ FINRA Notice 18-26; Continuing Education Program (Sept. 6, 2018); available at <https://www.finra.org/industry/notices/18-26>

² See, e.g., *The Role of Financial Advisors in the US Retirement Market*, at 17, OLIVER WYMAN (July 10, 2015), <http://fsroundtable.org/wp-content/uploads/2015/07/The-role-of-financial-advisors-in-the-US-retirement-market-Oliver-Wyman.pdf> (finding that, on average, individuals that use a financial representative have more assets than nonadvised individuals across all the age and income levels examined and that the differences are meaningful); Robert Litan and Hal Singer, *Good Intentions Gone Wrong: The Yet-To-Be Recognized Costs of the Department of Labor's Proposed Fiduciary Rule*, ECONOMISTS INC. (July 2015), <https://www.dol.gov/agencies/ebsa/laws-and-regulations/rules-and-regulations/public-comments/1210-AB32-2/00517.pdf>; Claude Montmarquette and Nathalie Viennot-Briot, *Econometric Models on the Value of Advice of a Financial Advisor*, CIRANO (July 2012), <http://www.cirano.qc.ca/pdf/publication/2012RP-17.pdf>.

The CE Council is appropriately focused on maintaining and advancing the CE Program, while promoting and providing educational opportunities that support investor protection and market integrity. Since it was instituted in 1995, the Regulatory Element has been required on the second anniversary of a registered person's initial registration date and every three years thereafter. The CE Council proposes to increase the frequency of the Regulatory Element to every year while reducing the content to about one-third of the content in the current program, and charging a fee of about one-third of the current fee. In addition, the CE Council intends to narrow the scope of the Regulatory Element to focus on "impactful rule changes and significant industry regulatory issues" while at the same time "increas[ing] the relevance of content most individuals receive."³

We applaud the CE Council's goal of increasing the relevance of the Regulatory Element's content. We trust you would agree that having representatives learn information that is not relevant to their current businesses does little to advance investor protection or market integrity. In fact, we submit that it may increase confusion and resentment toward the CE process, which is counterproductive.

We have over 3,600 branch office supervisors who maintain a Series 26 registration in order to supervise a mutual fund and variable contracts business. Our supervisors are required to take the S201, which is the Regulatory Element program for a general securities principal, because there is no program specifically geared towards a mutual fund and variable contracts principal. For this reason, when the S201 was a timed program, many of our supervisors struggled with completing it on time, as they were unfamiliar with much of the program content. Though the program is no longer "timed" our principals are still having to expend additional time during the session to understand the general securities material, in order to successfully complete the program. Of course, increasing the frequency of those programs only increases the burden for our supervisors to learn material that is far beyond the relevant scope of their businesses.

The summary information shown on the Continuing Education Regulatory Element Report (First Quarter 2019), available in FINRA's Report Center, illustrates this problem. In the first quarter of 2019, PFSI had 574 supervisors take the S201. On average, our supervisors spent 2 hours and 57 minutes to complete the session, compared to the industry average of 1 hour and 47 minutes. Despite spending an average of 1 hour and 10 minutes longer on the session, our supervisors achieved an average score of 77.4%, which was close to the industry average of 80.23%. We are proud of our supervisors for putting in the additional time and effort to complete the session, but we do not see the regulatory benefit to having them expend substantial time and energy on program materials that are not related to their businesses. We are concerned that increasing the frequency of the Regulatory Element will only worsen this situation, and make our principals wrestle with understanding general securities material not relevant to their business every year instead of every three. Before you consider increasing the frequency of the Regulatory Element, we urge the CE Council to develop a supervisory program that is geared toward principals of a mutual funds and variable contracts business, and relieve our supervisors from having to learn general securities material for the sole purpose of completing the Regulatory Element.

³ FINRA Notice 18-26; Enhancements Under Consideration for the Securities Industry Continuing Education Program; Securities Industry / Regulatory Council on Continuing Education (Sept. 6, 2018) at pg. 4.

Along those same lines, we think that simultaneously narrowing the focus of the Regulatory Element while increasing its frequency, is at cross-purposes with maintaining the relevancy of the content for Series 6 representatives. We are doubtful that there are enough “impactful rule changes and significant industry regulatory issues” that affect a mutual funds and variable contracts business to justify an annual Regulatory Element for Series 6 representatives. We note that the material covered on the Series 6 exam is just a fraction of the material that is covered on the Series 7 general securities exam. Based on the time allotted to take each exam (90 minutes compared to 225), and the number of questions on each (50 compared to 125), it would appear that the Series 6 exam covers only about 40% of the material covered on the Series 7. It follows then that a reasonable estimate of the number of “impactful rule changes and significant industry regulatory issues” that will affect a mutual fund and variable contracts business is also 40% or 4 out of every 10. If less than half of the “impactful rule changes and significant regulatory issues” will be relevant to a Series 6 business, then it seems incongruent to make a Series 6 representative take the Regulatory Element as often as a Series 7 representative. In order to not make Series 6 representatives study and learn irrelevant material, we submit that the Regulatory Element for Series 6 representatives should stay at its current frequency of every three years, or at a minimum, increase it to every other year. Making Series 6 representatives take the Regulatory Element every year seems almost a guarantee that they will be asked to learn material that is irrelevant to their actual businesses.

It would seem prudent to first narrow the focus of the Regulatory Element, and then evaluate the availability of appropriate content for several years, before deciding to change the frequency of the current program. As an alternative to increasing the frequency of the Regulatory Element, we believe a more effective approach would be that as “impactful rule changes and significant industry regulatory issues” arise, FINRA could mandate that these issues be discussed by firms in their annual Firm Element training. FINRA could also provide issue briefs explaining the content to be covered, or even short videos of FINRA personnel covering specific topics. This way, firms would be able to augment the presentation with a discussion of how each issue affects their particular firm, and highlight the specific policies and procedures put in place to address an issue, bringing much needed context and relevancy to an issue to foster a representative’s understanding. This seems to be a more efficient and effective way to address your concerns about providing timely regulatory training without having to put the industry through the administrative problems of increasing the frequency of the Regulatory Element.

We believe that for our firm and our representatives the costs of increasing the frequency of the Regulatory Element, and the risks associated with making the change, outweigh any potential benefit. Without question, changing the Regulatory Element to an annual requirement will increase our costs to monitor our representatives’ completion of the program. Due to the administrative burden and associated risks of having a representative go CE Inactive, we take a proactive approach to alerting our independent representatives of the need to complete the training. Even after we initially notify a representative that her window is open, we send repeated letters and emails at regular intervals reminding her to complete the training before the deadline. In spite of these efforts, we have a number of representatives that go CE Inactive every year, before they finally complete the program. We are concerned that increasing the frequency of the Regulatory Element from every three years to every year, while at the same time reducing the material covered

to one-third of the current content, on balance will not have accomplished any more training, but merely will have made Series 6 representatives sit for the Regulatory Element three times more often. Of course, this will also increase the opportunities for a representative to miss a deadline and go CE Inactive. Due to nothing more than the hurried pace of modern life, we would expect the number of our representatives currently missing the deadline to complete the Regulatory Element to increase. Every time a representative goes CE Inactive it places additional burdens on the firm to monitor the representative's activity to make sure she doesn't violate the suspension, and to make sure that her clients are appropriately serviced in her absence. Again, we do not think the hypothetical benefit expected to result from increasing the frequency of the Regulatory Element will outweigh the definite and inevitable increase of these costs and obligations.

Lastly, we are concerned that increasing the frequency of the Regulatory Element will have a detrimental effect on the growing number of minorities in our representative population. As of July 1, 2016, the Regulatory Element was no longer available through testing centers, but was accessible only via the internet.⁴ This made the Regulatory Element much easier to access for anybody with the right technology; unfortunately not everybody has the right technology. The on-line Regulatory Element requires a "high-speed internet connection" and is not available to smartphones.⁵ Based on a recent study by the Pew Research Center, as of February 2019 fully 27% of U.S. adults did not have a broadband connection at home, and presumably would not be able to access the Regulatory Element.⁶ The study indicates that home broadband connections are much more common among Whites than minorities. While 79% of Whites have a broadband connection at home, only 66% of African-Americans and 61% of Hispanics do. The findings of the Pew study suggest that if the frequency of the Regulatory Element is changed from every three years to annually, this change will have a disparate impact on the minority members of our representative population due to their reduced access to broadband connections at home.

Also, the Pew study confirmed the growing influence of smartphones in America and found that minorities have higher incidences of smartphone ownership than broadband connections at home. According to Pew, 81% of U.S. adults have a smartphone, which includes 82% of Whites, 80% of African-Americans and 79% of Hispanics.⁷ Moreover, 37% of Americans now go online mostly using a smartphone, which number was only 19% in 2013.⁸ Finally, smartphone ownership is more prevalent than broadband at home in every economic class. For example, in households earning \$75,000 or more per year, 95% of adults have a smartphone, while only 92% of adults say they have broadband at home. For households earning \$30,000 to \$74,999, 83% of adults have a smartphone, while only 79% have broadband at home, and for households earning less than \$30,000, 71% of adults have a smartphone, but only 56% have broadband at home.⁹ The Pew research indicates that to lessen the disparate impact on minorities of making the Regulatory

⁴ See www.finra.org/industry/ce-online.

⁵ See www.finra.org/industry/ce-online-technical-support.

⁶ Pew Research Center, June 2019, "Mobile Technology and Home Broadband 2019" at pg. 3, online at www.pewinternet.org/2019/06/13/mobile-technology-and-home-broadband-2019/

⁷ Id. at 4.

⁸ Id. at 2.

⁹ Id. at 4.

Element annual, the CE Council should make sure the Regulatory Element is accessible by smartphones before it considers increasing its frequency.

Conclusion

We believe that the Regulatory Element serves an important role in the continuing education of our registered representatives, and that the current frequency of the program has served the firm and our representatives well. However, we are not in favor of increasing the frequency of the Regulatory Element at this time. Rather, we would recommend that the important issues outlined above be considered, before a decision is made to increase the frequency of the program for representatives that conduct a mutual funds and variable contracts business.

- First, we request that the CE Council initially narrow the focus of the Regulatory Element as outlined in its proposal, and then take some time to monitor how frequently “impactful rule changes and significant industry regulatory issues” occur that affect a mutual funds and variable contracts business. At the same time, we urge the CE Council to consider that having FINRA require that these important regulatory issues be covered in a firm’s annual Firm Element training, when necessary, would solve the CE Council’s concerns about the timeliness of training. In addition, it would likely result in more effective training on these important issues, without putting the industry through the administrative problems of increasing the frequency of the Regulatory Element. Again, we believe the current frequency of the Regulatory Element works well and is serving its intended purpose.
- Second, we are requesting that the CE Council develop a supervisory program for principals of a mutual funds and variable contracts business, to relieve our supervisors from having to address general securities material every three years for the sole purpose of completing the Regulatory Element.
- Finally, after taking the above steps, if you then decide it is necessary to increase the frequency of the Regulatory Element, we recommend that it be made accessible by smartphones first. This will lessen the disparate impact increasing the frequency will have on minorities who have lower access to broadband services at home.

We hope that you find our thoughts and comments helpful, and we welcome any follow-up questions you may have.



William A. Kelly
Chief Executive Officer
PFS Investments Inc.



MML Investors Services, LLC
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Toll Free (800) 542-6767
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November 5, 2018

Via ELECTRONIC Mail (pubcom@finra.org)

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

Re: Regulatory Notice 18-26: Continuing Education Program

Dear Ms. Mitchell:

Please accept this submission as MML Investors Services, LLC's ("MMLIS") comments in response to FINRA's Regulatory Notice 18-26: FINRA Requests Comment on Enhancements Under Consideration by the Securities Industry/Regulatory Council on Continuing Education ("RN 18-26" or the "Notice.")

MMLIS is MassMutual's retail broker-dealer and is headquartered in Springfield, Massachusetts. The firm's 8,500 registered representatives offer a variety of investment products and services to retail clients, including mutual funds and variable products.

Comment from the Firm

In RN 18-26 FINRA requests comment on enhancements to the Securities Industry Continuing Education Program ("CE Program") under consideration by the Securities Industry/Regulatory Council on Continuing Education ("CE Council").

MMLIS supports the CE Council in its efforts to enhance the CE Program. MMLIS believes the enhancements under consideration are responsive to the needs of member firms. Please see MMLIS' responses to the twenty (20) specific questions that were included at the end of the Notice.

Regulatory Element

Question 1: In order to increase the timeliness of Regulatory Element content, the CE Council is considering recommending moving to an annual requirement. Although the transition would reduce the amount of content included in a session to approximately one-third of the current program, the increased frequency could result in increased effort required to monitor participation. What are the potential impacts of this transition to firms?

Response to Question 1: MMLIS believes an annual requirement would increase the effectiveness and relevancy of the Regulatory Element. The subject matter of the Regulatory Element could better reflect the current important issues for the industry. However, the increased effort required to monitor participation would place a significant burden on large firms. To simplify the administrative process, FINRA should consider applying a consistent annual deadline rather than a deadline that is based off of the date of an associate's qualifying exam.

Question 2: The CE Council has discussed with FINRA possible enhancements to the CRD system and the Financial Professional Gateway. Would enhanced reporting and automated notification functions help mitigate the additional efforts required to monitor participation of an annual Regulatory Element requirement? What other system enhancements would firms find helpful?

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Response to Question 2: Enhanced reporting and automated notification functions would help mitigate the additional efforts required to monitor participation of an annual Regulatory Element. It would be helpful for firms to be able to view the Regulatory Element status of its covered persons on an individual and office level.

Question 3: The CE Council is considering narrowing the focus of the Regulatory Element to rule changes and significant regulatory issues. Does this seem like an appropriate focus? Are there other topics that should be included within the Regulatory Element?

Response to Question 3: MMLIS believes the main focus of the Regulatory Element should be rule changes and significant regulatory issues. However, a portion of the Regulatory Element should address (i) basic core industry knowledge, and (ii) ethics and professional responsibility. Perhaps there could be different modules addressing these topics that are required on a rotating basis.

Question 4: The CE Council is considering adoption of a modular structure in place of the current Regulatory programs. Does this seem like a good way to increase the relevance of the Regulatory Element content? Are there concerns with determining relevance of topics based on registrations held, keeping in mind this will have a de minimis effect on the time required to complete the annual course?

Response to Question 4: MMLIS believes that a modular structure would increase the relevance of the Regulatory Element content. There should be a menu of options for associates to select from, with a description of whom each module might be appropriate for based on experience and job responsibilities. FINRA should consider providing Firms with the opportunity to select which modules are appropriate for its individual associates.

Question 5: The CE Council is exploring the possibility of publishing the Regulatory Element topics for the coming year in advance of introducing such topics. If this information were available, would firms factor it into their Firm Element training plans? How much detail would be necessary for it to be useful? How early would the CE Council need to publish the information to allow for timely alignment with Firm Element planning activities?

Response to Question 5: If the CE Council published the Regulatory Element topics for the coming year in advance of introducing such topics, MMLIS would factor it into its Firm Element Training plans. MMLIS believes this would be a useful enhancement. Having this information earlier would help MMLIS to avoid redundancy in its CE offerings and would assist MMLIS in developing a Firm Element program specific to MMLIS' business model. A high level bulleted outline would provide enough information to be useful. The CE Council would need to publish the information in September/October to allow for timely alignment with MMLIS' Firm Element Planning activities.

Firm Element

Question 6: Is the current Firm Element Advisory (FEA) useful? Do firms reference the FEA when planning their training programs? Which aspects of the FEA are most helpful? Are there other resources the CE Council should provide to help firms meet their Firm Element requirements?

Response to Question 6: MMLIS utilizes the FEA when planning its training program. MMLIS would find the FEA more useful if it included a prioritization of topics.

Question 7: How much Firm Element training does the typical covered person receive? Are electronic and in-person courses the standard format for delivering Firm Element training? Do most courses include an assessment component? What other learning activities do firms commonly use to meet Firm Element requirements?

Response to Question 7: At MMLIS the conventional covered person receives between 3-4 hours of Firm Element training. This typically includes the annual compliance meeting, annual attestation, and an additional 4-6 courses that are between 20-

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30 minutes each. At MMLIS, electronic courses are the standard. MMLIS has found that electronic courses are more likely to provide covered persons with a consistent experience and message. They are also easier to track and require fewer administrative resources. Most courses do not include an assessment component.

Question 8: Is Firm Element generally limited to covered persons? Do firms typically offer similar amounts of training to registered persons who are not covered persons? Do firms offer similar training opportunities to unregistered persons? Should the Firm Element requirement apply to all registered persons? What types of training do covered persons undertake that should be included as Firm Element training?

Response to Question 8: At MMLIS, only covered persons are required to complete the Firm Element. The Firm Element is available to other registered persons, but it is not required. There is required training for other registered persons covering topics such as AML and privacy. MMLIS believes that the Firm Element should remain appropriately focused on persons interacting with the public.

Question 9: How could the CE Council communicate reasonable expectations for amounts of Firm Element without introducing an onerous process? Are there other ways to ensure firms provide adequate training to securities professionals?

Response to Question 9: MMLIS believes the current process is working and no change is necessary.

Question 10: Aside from Firm Element, what are the most significant regulatory training courses used by firms? Do firms include these other requirements as part of their Firm Element training programs?

Response to Question 10: Aside from Firm Element, some of the most significant regulatory training courses used by MMLIS are AML, Know Your Customer, DOL, elder abuse and NAIC. All of these training topics, other than NAIC, have been part of the larger Firm Element plan, which includes broader topics such as cybersecurity, suitability, product training, etc.

Question 11: Do most firms maintain training programs to ensure associated persons meet the requirements of non-regulatory credentialing programs? Which credentialing programs have the most significant impact on firm training programs? Do firms include these training requirements within their Firm Element training plans? Are there credentialing programs with which the CE Council should consider establishing formal reciprocity agreements?

Response to Question 11: MMLIS does not maintain training programs to ensure associated persons meet the requirements of non-regulatory credentialing programs and they do not have an impact on MMLIS' firm training program.

Question 12: How often do firms use content from third-party training providers to meet their Firm Element requirements? Would a centralized content catalog with offerings from multiple providers be beneficial for the industry?

Response to Question 12: Periodically, MMLIS has used content from third-party training providers to meet Firm Element requirements. A centralized content catalog with offerings from multiple providers could be beneficial for the industry, depending on the details. Before a centralized catalog is made available, the following questions (among others) would need to be addressed: (i) Would the training be administered by the third-parties? (ii) How would pricing and access work? (iii) Would tracking completion work any differently? (iv) Would the trainings be off-the-shelf or could firms modify them with firm specific content?

Maintaining Qualification Status Post Termination

Question 13: Should the CE Council pursue a recommendation to allow previously registered individuals to maintain their qualification status while away from the industry? Does a CE program seem like an appropriate way to accomplish this?

Response to Question 13: MMLIS strongly supports the CE Council pursuing a recommendation to allow previously registered individuals to maintain their qualification status while away from the industry, and to accomplish this through a CE program.

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Question 14: If the CE Council recommended introducing a CE program that allowed individuals to maintain their qualification status while outside the industry, how much CE would be sufficient?

Response to Question 14: If the CE Council recommended introducing a CE program that allowed individuals to maintain their qualification status while outside the industry, MMLIS believes that the same CE requirement that applies to an active registered person would be sufficient.

Question 15: If the CE Council recommended introducing such a program, should it impose an experience requirement for individuals to be eligible? If the CE Council recommended establishing a minimum duration of prior registration, what would be a reasonable requirement?

Response to Question 15: If the CE Council recommended introducing a CE program that allowed individuals to maintain their qualification status while outside the industry, MMLIS does not believe it should impose an experience requirement for individuals to be eligible. If the CE Council decides to impose an experience requirement, MMLIS would appreciate the opportunity to provide input on what a reasonable requirement would be.

Question 16: Should there be a limit to how long a previously registered individual could maintain their qualification status via the CE program under consideration? If so, what duration is appropriate?

Response to Question 16: MMLIS does not believe there should be a limit to how long a previously registered individual could maintain their qualification status via the CE program under consideration. If the CE Council decides to impose a limit, MMLIS would appreciate the opportunity to provide input on what duration would be appropriate.

Question 17: Should the program allow previously registered individuals to maintain their qualification status while associated with a firm but working in a capacity that does not require registration? How would this interact with the expanded opportunity for an associated person to hold a permissive registration?

Response to Question 17: MMLIS believes that the program should allow previously registered individuals to maintain their qualification status while associated with a firm but working in a capacity that does not require registration. This should replace permissive registration.

Question 18: How important is maintaining the two-year termination rule if individuals are able to maintain qualification status while away from the industry? Is the opportunity for individuals to complete lapsed CE when re-registering within two years of termination a sufficient replacement for the two-year termination rule?

Response to Question 18: If individuals are able to maintain qualification status while away from the industry, MMLIS does not believe it is important to maintain the two-year termination rule. However, individuals should be required to remain current with CE, but be permitted to miss one CE cycle which must be satisfied upon reinstatement. FINRA should also consider requiring such individuals to keep their Form U4s up to date and accurate.

Question 19: In developing a specific recommendation to change the industry CE requirements, what are the most important issues for the CE Council to consider?

Response to Question 19: MMLIS believes the following are the most important issues for the CE Council to consider in developing a specific recommendation to change the industry CE requirements:

1. FINRA should consider applying a consistent annual deadline for CE requirements rather than a deadline that is based off of the date of an associate's qualifying exam.
2. CE should be relevant for a person's job responsibilities.
3. CE should address the current issues facing the industry.
4. Any proposal should allow for easy streamlined administration by Firms.

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5. As decisions are made about the implementation of any enhancements, the CE Council should be mindful that firms should be provided with as much lead time as possible regarding any changes.
6. Careful thought should be given to the ongoing communication plan, including how to reach individuals who are not associated with a firm.

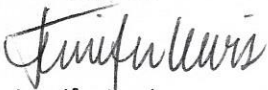
Question 20: Are there alternative approaches, other than the ideas discussed here, that the CE Council should consider? What are the relative benefits and costs of any alternative approach?

Response to Question 20: MMLIS does not have feedback on alternative approaches at this time.

Conclusion

MMLIS appreciates the opportunity to comment on the enhancements under consideration. As discussed above, MMLIS is supportive of many of the enhancements under consideration. If you should have any questions regarding these comments, please do not hesitate to contact me.

Best regards,



Jennifer Lewis

Assistant Vice President & Counsel

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Wells Fargo Advisors

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Member FINRA/SIPC

November 5, 2018

Via e-mail: pubcom@finra.org

Via Online Submission at: <http://www.msrb.org/CommentForm.aspx>

Ms. Marcia E. Asquith
Office of the Corporate Secretary
FINRA
1735 K Street, NW
Washington, DC 20006-1506

Mr. Ronald W. Smith
Corporate Secretary
Municipal Securities Rulemaking Board
1300 Street, NW, Suite 1000
Washington, DC 20005

Re: MSRB Notice 2018-21: CE Council Requests Comment on Continuing Education Program Considerations; FINRA Notice 18-26: Continuing Education Program

Dear Ms. Asquith & Mr. Smith:

Wells Fargo Advisors (“WFA”) appreciates the opportunity to comment on the above-referenced notices from the Municipal Securities Rulemaking Board (“MSRB” or the “Board”) and the Financial Industry Regulatory Authority (“FINRA”) (together, the “Proposal”)¹ requesting feedback on the Securities Industry/Regulatory Council on Continuing Education (“Council”) proposed enhancements to the Continuing Education Program (“Program”). We are

¹ FINRA Notice 18-26: Continuing Education Program (September 6, 2018); available at: <https://www.finra.org/sites/default/files/Regulatory-Notice-18-26.pdf>. MSRB Regulatory Notice 2018-21: CE Council Requests Comment on Continuing Education Program Considerations (September 6, 2018); available at: <http://www.msrb.org/~media/Files/Regulatory-Notices/RFCs/2018-21.ashx??n=1>.

supportive of efforts to enhance the Program and hope our comments will assist the Council in further developing the Program.

WFA's position as one of this nation's largest brokerage firms with over 28,000 registered persons places us in a unique position to provide insight into how modernization of the Program affects the registered population in furtherance of the Council's goals. WFA is a dually registered broker-dealer and investment adviser that administers approximately \$1.6 trillion in client assets. As such, we work closely with individuals and families of varying means – from those just beginning their investing journey to those living in retirement – to understand their financial needs and help them develop plans to realize their financial goals.² We believe many of the Program enhancements under consideration will lead to more informed and educated securities professionals, which is the foundation to better advising the investing public.

I. WFA SUPPORTS THE COUNCIL'S GOALS

WFA applauds the Council for exploring options to enhance the Program and supports the goal of utilizing advances in technology and learning theory to ensure registered persons receive timely and relevant education regarding the securities business. We believe those advances provide the Council an opportunity to update the Program in a manner that would result in a better learning experience for registered persons. Moreover, the Council can materially improve the Program by focusing enhancement planning on the following principles:

- Holistic view of continuing education that incorporates the various training and credentialing programs available to registered persons into the Program; and
- Expansion of the pool of educated securities professionals.

The seven enhancement goals³ and many of the recommended Program enhancements detailed in the Proposal are consistent with the above principles. We set forth below our specific comments and recommendations concerning the Program.

II. DISCUSSION AND RECOMMENDATIONS

A. Background

Among the Council's stated goals in issuing the Proposal is to gather information on current training requirements imposed on registered persons, the overlap of such training requirements and understanding whether opportunities exist for reciprocity with other securities or related educational programs.

² Wells Fargo Advisors" is the trade name for Wells Fargo Clearing Services, LLC ("WFCS"), a dually-registered broker-dealer and investment adviser, member FINRA/SIPC, and a separate non-bank affiliate of Wells Fargo & Co. "First Clearing" is the trade name for WFCS's clearing business, providing services to unaffiliated introducing broker-dealers. WFCS is affiliated with Wells Fargo Advisor Financial Network ("FiNet"), a broker-dealer also providing advisory and brokerage services. For the ease of this discussion, this letter will use WFA to refer to all of these brokerage operations.

³ CE Council Enhancement Goals; available at: <http://cecouncil.com/media/266531/ce-program-enhancements-final-pdf>.

It is our view that registered persons at many firms face a host of mandated training requirements that when viewed individually serve an important educational purpose, yet when viewed collectively, include overlapping and duplicative topical information. Therefore, we believe there is significant opportunity for the Council to adopt a more holistic view of training and education for securities professionals. In support of this view, we have set forth below an overview of the current training requirements at WFA followed by our recommendations to enhance the Firm and Regulatory Elements of the Program.

B. The Training and Educational Requirements at WFA

The annual Firm Element program at WFA consists of at least two, 45-minute training courses. One course typically focuses on sales practices topics while the other focuses on securities products and services offered by the firm. We design different versions of these training modules for supervisory and non-supervisory registered persons. In certain years, additional priorities and firm needs will lead WFA to require registered persons to complete a third course typically targeted to a particular topic. Furthermore, we supplement this training with targeted modules for specialty positions such as research analysts, operational professionals and those registered with the National Futures Association.

The training at WFA is web-based and contains interactive features and knowledge checks to reinforce the educational material. A participant cannot complete a course without demonstrating their knowledge of all topics. We also typically seek Certified Financial Planning Board credit for all training developed and offered to our registered advisor population. On occasion, the training also qualifies for Investment Management Consultants Association credit.

We not only require all registered persons to complete required training but also require non-registered persons to take an Annual Compliance Meeting (“ACM”) training that covers key topics from our Firm Element courses. WFA takes this approach to ensure that all associated persons maintain a requisite level of skill and knowledge. We view it to be critical that all parties involved have a solid level of securities industry knowledge.

WFA’s approach to delivery of the ACM is similar to the delivery of the Firm Element described above. The ACM is delivered in a module format, assigned to the same audience, and tracked in the same manner as the WFA Firm Element modules. A number of other training requirements also apply to WFA’s registered population to satisfy a myriad of federal and state regulations and laws. In a typical year, a registered person at WFA will have at least 15 training modules to complete in addition to the Firm Element and the ACM. For example, the AML training required by FINRA Rule 3310(e) may apply to other areas of a registered team member’s work. Additional examples include training required by other financial regulators, such as state mandated insurance training to offer insurance products, or ethics training required for licensed attorneys. Because many of the same regulatory concerns (*e.g.*, sales practices, confidentiality, financial products, and cybersecurity) exist across the financial services industry, this training can be duplicative of the current Firm Element training. Finally, many of our

registered persons also earn and maintain professional designations that requires regular continuing education that may overlap with Firm Element training.

C. Our Recommended Changes to Firm Element Requirements

We recommend the Council allow training for other programs – such as the ACM, AML training, and other credentialing programs – to count toward satisfying the Firm Element requirement. By granting formal reciprocity for credentialing program-training requirements, where appropriate, the Council would allow registered persons to avoid potentially unnecessary and duplicative requirements that result in registered persons receiving training multiple times on the same topic.⁴ This course of action would have the added benefit of permitting each registered person to tailor his or her training path for professional development purposes.

We believe a logical extension of the more integrated approach set forth above is for the Council to consider combining Firm Element and Regulatory Element training and only have one annual learning requirement. A single annual learning requirement would further enhance the overall learning experience while reducing inefficiencies, lessen duplication, and enable firms and registered persons to design holistic educational plans without compromising training requirements.

We also recommend the Council publish Regulatory Element topics and learning objectives for the upcoming plan year at the beginning of the 4th quarter of the current plan year. Currently, many firms begin planning and development of Firm Element and ACM training prior to publication of the Regulatory Element topics from FINRA. Utilizing this proposed timeframe would allow firms more time to effectively plan and manage learning and development strategies and reduce duplicative training between the current Regulatory Element, Firm Element and ACM requirements.

Finally, WFA is also supportive of the Council's ideas to create a centralized content catalog that would serve as a helpful and valuable resource to the industry. While, as noted above, WFA primarily develops its own content internally, such a resource could serve as an important supplement for the securities industry. WFA would further recommend the Council form working groups that could share ideas and industry best practices. Furthermore, we also support increased transparency around who serves on the Council and how members are selected.

⁴ WFA recommends that FINRA consider the continuing education undergone by registered persons to maintain the following designations for formal reciprocity with the Firm Element: Accredited Asset Management Specialist (AAMS), Certified Financial Planner (CFP), Chartered Financial Consultant (CHFC), Chartered Financial Analyst (CFA), Chartered Life Underwriter (CLU), Chartered Retirement Planning Counselor (CRPC), Chartered Retirement Planning Specialist (CRPS), Accredited Domestic Partnership Advisor (ADPA), and Certified Investment Management Analyst (CIMA).

D. Our Recommended Changes to Regulatory Element Requirements

Currently, Regulatory Element training is required on the second anniversary of a registered person's initial registration date and every three years thereafter. The Council seeks feedback regarding potentially transitioning the Regulatory Element to an annual requirement consisting of approximately one-third of the amount of content contained in the current program (and refocusing the content on rule changes) and charging a fee of approximately one-third of the current fee.

We believe the Regulatory Element's current, scenario-based format and content provides a high quality learning experience. We are concerned that focusing the Regulatory Element on rule changes will degrade the learning experience. We believe the registered person may feel the content is less connected to their day-to-day activities than the current program and may view an annual Regulatory Element requirement as merely adding training, even though the actual amount overall will not increase. In addition, for firms, especially for large firms like WFA that manage training needs for thousands of registered persons, the work and expense involved in moving the Regulatory Element to an annual training requirement would significantly increase. Consequently, we recommend maintaining the current timing and format of the Regulatory Element for persons currently registered in the securities industry.

We do, however, believe that moving to an annual requirement for the Regulatory Element would be appropriate and beneficial for those registered persons who are currently outside of the securities industry. Allowing individuals to maintain their registrations through participation in an annual program while outside the securities industry would be an effective approach to keep individuals informed and trained on important industry developments. Furthermore, it would be consistent with the approach taken by individuals providing professional services in other industries, such as the legal profession, where individuals are permitted to maintain their professional licenses by participating in continuing education programs during periods of time when they are not acting in a professional capacity.⁵

We believe that implementing a continuing education program for such individuals, subject to minimum eligibility requirements and readily available programs designed to keep individuals informed on current compliance, regulatory, and sales practice standards, would render the two-year (2) termination rule unnecessary for individuals satisfying the program's eligibility requirements.

For registered persons that are not currently working in the industry and thus not continually encountering regulatory situations or managing client or regulator interactions, the relevance and depth of content becomes an essential component of the training. Therefore, we recommend having a robust training platform for that segment of registered persons, designed to

⁵ Professional licensing requirements are regulated at the state level. The requirements, including continuing education, for maintaining a professional license, such as for CPAs, real estate agents, professional engineers and land surveyors, licensed marriage and family therapists, licensed mental health counselors, licensed social workers, vary by state.

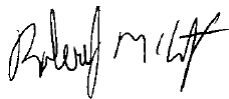
be comparable to Firm Element training required for registered persons associated with a firm. Such a program could be managed by utilizing FinPro. In the future, FinPro accounts could be initially set up using the Form U-4 and the required training to maintain qualification status post termination could be subsequently managed through their Form U-5 filing.

Lastly, the current structure of the Regulatory Element Program assigns each registered person to one of four programs based on the individual's active registrations. Such a structure provides little flexibility for a registered person to customize the program per their specific job function, which essentially limits the ability to select training based on the specific registrations they hold or the roles they have within an organization. We believe technological advances in FINRA's systems offers the Council the opportunity to provide additional flexibility for firms to customize the Regulatory Element training to better align with the various roles and responsibilities of their registered persons.

III. CONCLUSION

WFA appreciates the opportunity to provide feedback to FINRA and the MSRB in regards to the Proposal. If you would like to discuss this matter further, please feel free to contact me directly at (314) 242-3193 or robert.j.mccarthy@wellsfargoadvisors.com.

Sincerely,

A handwritten signature in black ink, appearing to read "Robert J. McCarthy". The signature is stylized with a large, looped "R" and a cursive "McCarthy".

Robert J. McCarthy
Director of Regulatory Policy

November 5, 2018

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

Re: Response to Regulatory Notice 18-26 – Continuing Education Program

Dear Ms. Mitchell:

WebCE is an education services provider specializing in the financial services industry. We have spent a significant amount of time discussing Regulatory Notice 18-26 internally and with our securities continuing education clients; the results of those conversations are outlined in this response to FINRA's and the CE Council's Request for Comment.

Regulatory Element

1. In order to increase the timeliness of Regulatory Element content, the CE council is considering recommending moving to an annual requirement. Although the transition would reduce the amount of content included in a session to approximately one-third of the current program, the increased frequency could result in increased effort required to monitor participation. What are the potential impacts of this transition to firms?

RESPONSE: We believe an annual requirement is burdensome to the registered representatives and would recommend that the Council consider a biannual requirement. We do not believe that decreasing the amount of content by one-third improves the program. Based on client input and published disciplinary actions, the amount of content should support the required training and the focus of regulatory element should remain on rules and regulations.

2. The CE Council has discussed with FINRA possible enhancements to the CRD system and the Financial Professional Gateway. Would enhanced reporting and automated notification functions help mitigate the additional efforts required to monitor participation of an annual Regulatory Element requirement? What other system enhancements would firms find helpful.

RESPONSE: Any assistance in easing the monitoring of the Regulatory Element program would be beneficial. We recommend that the individual Registered Representatives receive the *daily* CRD reminders for their Regulatory Element CE window periods and that supervisory individuals receive only weekly or monthly CRD (Reg CE Window) reminders.

3. The CE Council is considering narrowing the focus of the Regulatory Element to rule changes and significant regulatory issues. Does this seem like an appropriate focus? Are there other topics that should be included within the Regulatory Element?

RESPONSE: We would *not* recommend narrowing the focus from the current standards. Duplication and redundancies within Firm Element should not be seen as a concern as recurring information reinforces important training.

4. The CE Council is considering adoption of a modular structure in place of the current Regulatory programs. Does this seem like a good way to increase the relevance of the Regulatory Element content? Are there concerns with determining relevance of topics based on registrations held, keeping in mind this will have a de minimis effect on the time required to complete the annual course?

RESPONSE: This is logical if there are *required* modules that cover relevant rules and regulations and *elective* modules the registered representative can select to address their specific business and registration needs.

5. The CE Council is exploring the possibility of publishing the Regulatory Element topics for the coming year in advance of introducing such topics. If this information were available, would firms factor it into their Firm Element training plans? How much detail would be necessary for it to be useful? How early would the CE Council need to publish the information to allow for timely alignment with Firm Element planning activities?

RESPONSE: Yes, if firms are aware of certain topics that will be presented through the Regulatory Element program, that information will likely be factored into their annual training plans. The amount of detail provided should be similar to the information provided in the annual Exam Priorities Letter published by FINRA in January of each calendar year. The information would need to be provided annually, either at the end of the current calendar year or early (before January 15) in the current training year. This would allow firms that launch their continuing education programs early in the year time to adequately prepare their training plan.

Firm Element

6. Is the current Firm Element Advisory (FEA) useful? Do firms reference the FEA when planning their training programs? Which aspects of the FEA are most helpful? Are there other resources the CE Council should provide to help firms meet their Firm Element requirements?

RESPONSE: As an education vendor we find the FEA very useful and we recommend its use through our client communications such as monthly email updates and newsletters. The general format of the FEA is very helpful in that it provides supporting resources and an indication of whether the information is new, existing, or has been updated.

7. How much Firm Element training does the typical covered person receive? Are electronic and in person courses the standard format for delivering Firm Element training? Do most courses include an assessment component? What other learning activities do firms commonly use to meet Firm Element requirements?

RESPONSE: It is our experience as an education vendor that small to medium size firms complete three to five 30-minute courses, an annual compliance meeting, an annual compliance questionnaire and completes their Regulatory Element as required. Electronic/online course delivery is the preferred format as it provides convenience to the covered persons to complete their continuing education training and ease of tracking and reporting for supervisory and compliance personnel. WebCE Courses, as well as FINRA courses, include a short assessment at the end of each course; however, there are firms that prefer an attestation of completion to an assessment and we can easily accommodate that request.

8. Is Firm Element generally limited to covered persons? Do firms typically offer similar amounts of training to registered persons who are not covered persons? Do firms offer similar training opportunities to unregistered persons? Should the Firm Element requirement apply to all registered persons? What types of training do covered persons undertake that should be included as Firm Element training?

RESPONSE: In our experience as an education vendor we have learned that many firms require training for all of their employees, the training; however, varies depending on the role within the firm. It is common for non-registered employees to have fewer training requirements than registered employees. We believe that all broker-dealer employees should be required to complete annual training to ensure they understand the rules and regulations that govern their role within the firm.

9. How could the CE Council communicate reasonable expectations for amounts of Firm Element without introducing an onerous process? Are there other ways to ensure firms provide adequate training to securities professionals?

RESPONSE: Firms currently have access to the firm element advisory (FEA), the annual exam priorities letter, and most recently the annual report on exam findings (authored by FINRA). It would be helpful if there were more communication surrounding the availability of these resources.

It may streamline broker-dealer compliance with continuing education training if there were specific requirements such as annual AML training, ethics, supervision (where appropriate) and other training relevant to the individual's role within the firm. However, it is important to maintain a balance across firm size, structure, and business model and there may not be a "one size fits all" solution.

10. Aside from Firm Element, what are the most significant regulatory training courses used by firms? Do firms include these other requirements as part of their Firm Element training programs?

RESPONSE: As an education vendor, we find our clients rely on the requirements of FINRA including the regulatory element and firm element continuing education requirements. Many firms balance their training requirements between items covered in their firm element program and their annual compliance meeting. It is common for small to medium size firms to host in-person annual compliance meetings rather than an online version while the opposite is true for larger broker-dealer firms. It is our experience that broker-dealers include specific topics annually such as AML, ethics, communication, and supervision. Additionally, we have noticed in the past several years that hot topics within the industry are commonly included in firm element training programs. Examples of current hot topics include cryptocurrency/digital asset activity and working with vulnerable adults.

11. Do most firms maintain training programs to ensure associated persons meet the requirements of non-regulatory credentialing programs? Which credentialing programs have the most significant impact on firm training programs? Do firms include these training requirements within their Firm Element training plans? Are there credentialing programs with which the CE Council should consider establishing formal reciprocity agreements?

RESPONSE: As a provider of continuing education to multiple financial services professionals (insurance, tax and accounting, financial planner, and securities to name a few) we find that small to medium size broker-dealer firms appreciate the availability of continuing education for other professional licenses; however, it is considered a nice to have feature and not a requirement. The firms, as a general rule, do not track the credentialing programs on behalf of their registered representatives unless those individuals are advertising or otherwise holding themselves out to hold specific licenses and designation certifications.

12. How often do firms use content from third-party training providers to meet their Firm Element requirements? Would a centralized content catalog with offerings from multiple providers be beneficial for the industry?

RESPONSE: As a continuing education provider, we find the use of third-party vendors to be most common; although we are aware of firms that complete their training in-house.

The idea of a centralized catalog may sound appealing on its surface; however, this type of offering puts many providers, particularly those who are not approved as FINRA resellers, those who operate at a regional level, and those who offer classroom training, at a competitive disadvantage.

This type of offering reduces the opportunity for vendors to provide information regarding the accuracy of their content (including frequency of the content updates, delivery platforms, reporting functionality, and other services (such as continuing education to support affiliated licenses like insurance, CPA, and other designations) available to assist the broker-dealer with their annual continuing education programs.

As a provider of continuing education services to the financial services industry as a whole, and not specific to securities, we would *not* be in favor of a centralized catalog.

A centralized catalog experience may also create tracking and reporting concerns for broker-dealer firms.

Maintaining Qualification Status Post Termination

13. Should the CE Council pursue a recommendation to allow previously registered individuals to maintain their qualification status while away from the industry? Does a CE program seem like an appropriate way to accomplish this?

RESPONSE: We believe, similar to other financial services professions, that an individual should be able to maintain their qualification status while away from the industry. A continuing education program that incorporates the regulatory element (either as it is currently scheduled or as proposed within Regulatory Notice 18-26) and firm element training, provided there are standards adopted regarding a minimum amount of training and required topics.

14. If the CE Council recommended introducing a CE program that allowed individuals to maintain their qualification status while outside the industry, how much CE would be sufficient?

RESPONSE: We believe that introducing a CE program to maintain a qualification while outside the industry must incorporate the requirements of permissive registration, regulatory element, and a CE program sufficient to cover rules, regulations, and key topics in the industry. While this may involve more CE than a standard regulatory element/firm element combination, while away from the industry the individual would not likely be completing things like questionnaires, annual

compliance meetings, industry conferences, webinars and other educational offerings that may be required by a broker-dealer firm outside of firm element training.

15. If the CE Council recommended introducing such a program, should it impose an experience requirement for individuals to be eligible? If the CE Council recommended establishing a minimum duration of prior registration, what would be a reasonable requirement?

RESPONSE: We believe that imposing an experience requirement complicates things. If the individual is motivated enough to keep their registration active, it should be allowed. Requirements to keep the registration active could follow the lead of other financial industry licensing entities where a continuing education (CE) program with minimum requirements plus an elective element allowing individuals to select information best suited to their registration and business model would be appropriate.

16. Should there be a limit to how long a previously registered individual could maintain their qualification status via the CE program under consideration? If so, what duration is appropriate?

RESPONSE: If you were to impose a limit to how long an individual can maintain a qualification if they are not working in the industry or in a role within the industry that does not require a registration, we would recommend a five year maximum. It would be a challenge for any individual to remain current on rules, regulations, and other changes within the industry through a continuing education component for a period of time longer than five years.

17. Should the program allow previously registered individuals to maintain their qualification status while associated with a firm but working in a capacity that does not require registration? How would this interact with the expanded opportunity for an associated person to hold a permissive registration?

RESPONSE: We believe that an individual should be allowed to maintain their qualification status under the same requirements outlined in our previous responses.

18. How important is maintaining the two-year termination rule if individuals are able to maintain qualification status while away from the industry? Is the opportunity for individuals to complete lapsed CE when re-registering within two years of termination a sufficient replacement for the two-year termination rule?

RESPONSE: If a continuing education requirement is put in place that incorporates the regulatory element and continuing education components, the two-year termination rule would no longer be necessary and should be retired or revised.

General Questions

19. In developing a specific recommendation to change the industry CE requirements, what are the most important issues for the CE Council to consider?

RESPONSE: The combination of recommended changes needs to be reviewed as a whole to ensure that a new requirement is not contradictory to existing requirements and to ensure that the new rules compliment other programs such as the SIE. As always, it is in the best interest of the investors and the general public that registered representatives are held to a standard that includes maintaining an appropriate level of knowledge of industry rules and regulations.

20. Are there alternative approaches, other than the ideas discussed here, that the CE Council should consider? What are the relative benefits and costs of any alternative approach?

RESPONSE: CE Council and FINRA should consider reciprocity with other financial license maintenance and continuing education programs where appropriate. This will assist the registered representatives in selecting training courses that are appropriate to multiple licenses and assist in keeping the cost of continuing education programs reasonable.

Respectfully Submitted,

Julie S. Mendel
Sr. Product Manager – Firm Element Services
972.616.1103
Julie.Mendel@WebCE.com



Via E-Mail to pubcom@finra.org

November 5, 2018
Jennifer Piorko Mitchell
Office of the Corporate Secretary
FINRA
1735 K Street, NW
Washington, DC 20006-1506

RE: Regulatory Notice 18-26 - Continuing Education Program
FINRA Requests Comment on Enhancements Under Consideration by the Securities
Industry/Regulatory Council on Continuing Education

Dear Ms. Mitchell:

Securities America, Inc. (SAI)¹ appreciates the opportunity to comment on Regulatory Notice 18-26 - Continuing Education Program and the Enhancements Under Consideration for the Securities Industry Continuing Education Program (the Proposal). The Proposal would enhance the Securities Industry Continuing Education Program (CE Program) and is under consideration by the Securities Industry/Regulatory Council on Continuing Education (CE Council). These enhancements would include the transition of the Regulatory Element program to a more focused and shorter learning requirement administered annually. SAI respectfully submits the following comments and recommendations for your consideration.

Relevance of Regulatory Element Content

As the CE Council describes in the Proposal, some registered persons complete Regulatory Element content that is not directly relevant to the registrations they hold or the job roles in which they work. SAI agrees with the CE Council that it should improve its processes to determine which topics to address within the Regulatory Element program, the amount of learning content necessary to address each topic and the relevance to each registration category with the goal of creating targeted learning units or modules. SAI also agrees that individuals should only receive those portions of the Regulatory Element that are pertinent to the registrations they hold. This would help to maximize efficiency and improve registered persons' training experiences as well as focus their attention on those topics that would benefit them most.

Frequency of Regulatory Element Content

SAI currently monitors Regulatory Element requirements for SAI's registered persons and notifies registered persons concerning their Regulatory Element window and deadlines. SAI currently

¹ SAI, together with Securities America Advisors, Inc. and Arbor Point Advisors, LLC, is one of the nation's largest independent advisory and brokerage firms, with more than 2,500 independent representatives and \$86 billion in client assets as of December 31, 2017.

dedicates over 400 hours per year to sending Regulatory Element notifications to registered persons whose window opens with follow-ups and notifications. The Proposal's increase of Regulatory Element frequency to annually will likely increase SAI's workload as the firm would be monitoring and notifying all registered persons each year.

SAI supports the CE Council's recommendation to leverage the FINRA Financial Professional Gateway (FinPro) as a means for delivering the Regulatory Element and sending automated email reminders to registered persons at the onset of the training period and leading up to the deadline. Implementing such a system would relieve SAI of efforts to manually notify registered persons. SAI would likely continue to monitor and contact registered persons who have not satisfied their Regulatory Element. Directing registered persons to FinPro would also provide registered persons awareness and insight into their current Form U-4, as well as access to their Form U-5s from previous firms, if applicable. With anticipated CRD and FinPro enhancements and features expected, it will be important to promote FinPro use for individuals currently or previously registered as a resource to help answer their questions and it may alleviate general inquiries normally directed to the B-D or FINRA.

Additional enhancements to the frequency of the Regulatory Element could include adjusting the annual completion window. For example, if the annual completion window were extended from 120-days to a 300-day completion window, Regulatory Element could begin on February 1 each year and require completion by December 1. Adopting this calendar-based annual completion model would allow for a thirty-day window for individuals delinquent on the Regulatory Element training to complete the ongoing training requirement before becoming inactive at year-end.

Synergy with Firm Element

SAI believes the Regulatory Element and Firm Element should continue to operate largely independent from one another. Even with the narrower focus of the Regulatory Element, the content has historically been more general to cover all types of broker-dealers and more focused on what a registered person needs to know to maintain their registrations. SAI's Firm Element training is designed to provide education on the specific business model of the firm and how current regulatory trends and hot topics may impact the firm, its registered persons and clients. SAI considers the annual FINRA Examination Priorities Letter when determining Firm Element content, along with the firm's most recent regulatory examination findings and the firm's internal branch examination findings.

If the Regulatory Element content were timelier and more closely aligned with industry hot topics, including examination priorities, a great synergy could exist between Regulatory Element and Firm Element CE requirements.

Firm Element

SAI's Firm Element training program includes four or more modules covering a variety of topics. SAI offers both in-person and electronic delivery for its Firm Element training. Firm Element training delivered electronically includes an assessment component. SAI's Firm Element training is based on a firm-specific needs assessment. Conferences or seminars not affiliated with SAI typically would not address the content provided in SAI's Firm Element training.

For the current year, SAI's Firm Element training is required to be completed by affiliated registered persons, and some of the training modules are required to be completed by non-registered persons. SAI generally uses the same Firm Element training for all registered persons, irrespective of whether they are a covered registered person.

SAI believes the CE Council should refrain from communicating any expectations on how much Firm Element training a firm should provide. In doing so, the CE Council's recommendation could become a de facto requirement that examiners could enforce on member firms. Member firms have differing business models and correspondingly have differing needs as to the appropriate amount of Firm Element training.

In addition to Firm Element training, SAI provides training in Anti-Money Laundering (AML) and the Annual Compliance Meeting (ACM). There is significant coordination between these training requirements. Generally speaking AML training is a part of the Firm Element content. SAI also ensures there are not redundant topics between Firm Element training and the ACM.

Other Training Requirements and Credentialing Programs

SAI does not currently engage in any efforts to ensure associated persons meet the requirements of non-regulatory credentialing programs. SAI does not consider the training completed for such programs in the firms' regulatory training. However, SAI is interested in learning more about how the CE Council could engage in a reciprocity agreement between these programs. For example, would the member firm be responsible for evaluating each course for acceptability, or would the CE Council undertake this as part of its reciprocity agreement? How would the CE Council be able to evaluate the adequacy of the credentialing programs training as a replacement of a member firm's Firm Element training without the knowledge of the specific training modules of each firm? While it may benefit a member firm and its associated persons, what extra manual processing would this create for a member firm? How does the member firm obtain information on the completion of any course? How would a member firm capture and track the completion of each course? Irrespective of the answers to these questions, it is our opinion that any use of reciprocity by a member firm should be voluntary on the part of that firm.

SAI frequently utilizes training from third party vendors. SAI agrees with the CE Council's recommendation of creating a centralized catalog of available content from multiple providers and believes this would be a benefit to the industry.

Maintaining Qualification Status Post Termination

SAI agrees with the CE Council's consideration of allowing registered persons to maintain their FINRA qualification status post termination. SAI believes the securities industry probably does itself a disservice by terminating a person's registration status after two years of disassociation from a member firm. This is contrary to the practices of other industries having similar continuing education requirements. The termination procedures also negatively impact the industry by denying the ability to rehire qualified previously registered persons simply due to a seemingly arbitrary two-year period.

SAI agrees with the CE Council that such persons would still need to satisfy all other conditions of registration. However, SAI disagrees with the suggestion of including an experience requirement for maintaining registration, especially as there is no such requirement for initial registration.

With regards to the need of establishing a baseline amount of Firm Element equivalent training, SAI believes that such a baseline can and should only apply to those registered persons not associated with a member firm. As noted above, applying the same standard to all member firms may be ineffective, as each firm is unique in its business model and would therefore have a different amount of Firm Element training it would deem appropriate for its personnel.

SAI agrees with the CE Council that Firm Element equivalent training should be completed via the FINRA platform using the new centralized catalog.

SAI believes that with the above program in place, and with adequate training being completed each year, a registered person should be allowed to retain their qualification status indefinitely, provided they continue to meet all conditions for registration. This would be in line with other professions and provide the securities industry a larger pool of qualified persons to fill needed positions at member firms.

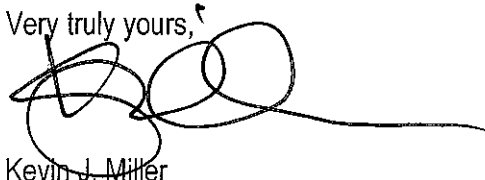
With regards to associated persons who terminate their registrations while still employed by a member firm, SAI agrees that such persons should be allowed to maintain their qualification status provided they meet all requirements. SAI does not believe their continued employment by a member firm should disqualify them. However, as the CE Council notes, with the implementation of permissive registration, the rate of such scenarios would be infrequent.

SAI agrees with the CE Council's recommendation of implementing a two year catch-up opportunity as part of the Proposal.

In developing specific recommendations to change the industry's CE requirements, SAI believes the ability for registered persons to maintain their qualification status when meeting all conditions is the most important. As stated above, the securities industry stands to benefit greatly from the ability to rehire qualified persons to fill needed positions. This can reduce the training time and associated costs and improve members firms' abilities to quickly bring newly hired registered persons on line as fully productive associates.

SAI thanks FINRA for this opportunity to comment on the CE Council's proposals to enhance the securities industry's Continuing Education Program. If you have any questions or would like to further discuss these issues, please contact the undersigned.

Very truly yours,

A handwritten signature in black ink, appearing to read 'Kevin J. Miller', with a long horizontal line extending to the right.

Kevin J. Miller

Executive Vice President, General Counsel & Chief Compliance Officer

VIA ELECTRONIC MAIL: pubcom@finra.org

November 5, 2018

Ms. Jennifer Piorko Mitchell
Office of the Corporate Secretary
The Financial Industry Regulatory Authority, Inc.
1735 K Street, NW
Washington, DC 20006-1506

Re: Regulatory Notice 18-26: Request for Comment on Enhancements Under Consideration by the Securities Industry/Regulatory Council on Continuing Education

Dear Ms. Mitchell,

Please accept this letter by Cambridge Investment Research, Inc. (“Cambridge”) in response to the proposals contained in Regulatory Notice 18-26 noted above.

Cambridge understands FINRA is exploring potential changes to the Regulatory Element program and welcomes the opportunity to provide its view on these prospective enhancements. Cambridge supports FINRA’s goal to deliver relevant content to registered persons in a timely fashion and by means reflective of advances in technology and learning theory. However, Cambridge hopes FINRA will bear in mind the cumulative weight continuing education requirements already place on registered persons when considering these proposed changes.

Cambridge recognizes the beneficial effect of FINRA continuing education, and that completion of the Regulatory Element requirement annually would ensure registered persons are informed in a timely manner of regulatory changes, industry updates, and those issues FINRA considers important to the industry. The increased frequency could reduce knowledge gaps among registered persons, increase awareness of new products and the risks attendant to such, and would increase uniformity of training among registered persons. While these considerations are all beneficial, Cambridge believes that simply increasing the frequency of the Regulatory Element requirement could result in a more onerous burden on registered persons than FINRA anticipates.

Cambridge, like many other member firms, expends a great deal of time and resources in an effort to ensure its registered persons comply with all FINRA required continuing education elements. In our experience, we have found that registered persons can become confused and

frustrated with the volume and number of compliance requirements necessary to maintain their various licenses and certifications. As a result, Cambridge dedicates staff to assist registered persons directly to ensure timely and satisfactory completion of all these requirements. Considering the number of requirements already in place, and the additional time necessary to fulfill another annual compliance requirement as suggested by this proposal, the prospective increase in the frequency of Regulatory Element training would not necessarily result in a better training, but rather could engender more frustration among registered persons with the process of meeting compliance requirements.

Cambridge respectfully submits there may be a more efficient and less burdensome approach to accomplish FINRA goals. At present, FINRA requires Regulatory Element and Firm Element training under Rule 1240, and an annual compliance meeting under Rule 3110. Complying with these rules presently requires registered persons to complete a large number of small trainings throughout the year. If FINRA seeks to train registered persons annually, FINRA could consider adopting the mandatory components of Firm Element in Rule 1240(b) into the Regulatory Element component under Rule 1240(a), relieve member firms of the burden of training annually in response to FINRA's priorities, and allow member firms to continue to train their registered persons on those topics appropriate to the business of the member and in such a format as the member firm deems best suited to its business, whether that be at an annual compliance meeting, face to face, electronically, or otherwise. Thus, FINRA could eliminate the Firm Element component under Rule 1240(b), and merge those requirements with Rule 1240(a) and Rule 3110(a)(7) as appropriate.

Furthermore, Cambridge believes that if FINRA focuses on providing a robust, purposeful training on an annual basis, covering the relevant, meaningful, up to date content on which FINRA desires registered persons focus that year, member firms could eliminate a number of the additional trainings they produce each year. For example, Cambridge is already sourcing its anti-money laundering, cybersecurity, and many elective training requirements from FINRA's E-Learning Library. FINRA could take over administering the annual training pertaining to the securities knowledge, skill, and professionalism topics FINRA deems important, and any of the additional specific training requirements of which it feels members should be aware. Then FINRA could allow member firms to focus on relevant trainings tailored to their business and registered persons, and their roles, licenses, and needs.

Thus, Cambridge feels that combining these three requirements into two would alleviate the prospective additional burden, and would allow for more focused meaningful training on such important topics. Cambridge would be happy to further discuss any of the comments or recommendations in this letter with FINRA.

Respectfully submitted,

// Seth A. Miller

Seth A. Miller
General Counsel
Senior Vice President, Chief Risk Officer

This comment pertains specifically to section “Maintaining Qualifications Status Post Termination”.

Adopting this provision is a win for all the men and women who choose to stay home and take care of family, such as care giving for aging parents or raising young children.

Here’s an example. Sarah joins the securities industry at 23 and obtains 7 licenses over the next 8 years. At 31, she has her first child and chooses to stay home until the child is school age. If she wants to re-enter the securities industry at 36, she currently has to take all 7 licensing exams again. Under the proposal, she would be able to take continuing education while she is raising her child to keep her licenses current.

Women and men are punished for taking time out of work to do things such as taking care of elderly parents or raising children. When they do try to re enter the investment industry, they face massive obstacles, licensing being one of them. This rule would enable men and women to take time to care of family members without sacrificing their careers.

Thank you for recognizing this and taking steps to address it.

Linde Murphy, CRCP
M. E. Allison & Co., Inc.
950 E. Basse Rd. 2nd Fl
San Antonio, TX 78209

Post Oak Municipal Advisors supports the CE enhancements being considered by the CE council. In particular, we support the “Maintaining Qualification Status Post Termination.” If an individual could take CE courses and maintain his or her qualification status, it would be beneficial to the industry. Currently, individuals who leave the workforce to have or raise children, take care of elderly parents, or handle a family crisis are penalized for leaving the workforce for more than two years. The industry loses many qualified individuals who may not return to work because they will have to retake licensing exams. In addition, individuals who currently leave a broker/dealer for a municipal advisory firm such as Post Oak Municipal Advisors are forced to give up licensing qualifications even though they are still employed and involved in the industry. The current termination status rules are outdated and not in line with other industries. For example, many attorneys and CPAs can leave the workforce and put their license in inactive status and are not forced to give up their license when taking a leave of absence for more than two years. We support an unlimited duration of maintaining the license as long as the CE requirements are met.

Kind Regards,
Tracie Bonham Palmer
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713-328-0988 office
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November 8, 2018

By electronic mail to pubcom@finra.org.

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

Re: FINRA Regulatory Notice 18-26 – Continuing Education Program

Dear Ms. Piorko Mitchell:

On behalf of the North American Securities Administrators Association, Inc. (“NASAA”),¹ I hereby submit the following comments in response to FINRA Regulatory Notice 18-26 (the “Proposal”) related to FINRA’s Continuing Education Program (“CE Program”). In the Proposal, the Securities Industry/Regulatory Council on Continuing Education (the “Council”), on which NASAA participates as a liaison, seeks comments on several CE Program enhancements currently under consideration by the Council. Many of the enhancements under consideration—and the specific questions asked by the Council—are aimed very specifically toward FINRA-member firms and the operations of the CE Program. Generally, NASAA supports the proposed enhancements, including the proposed shift to an annual regulatory element requirement, enhancing available guidance and tools available to firms to assist in developing and administering the Firm Element, and the creation of a centralized content library. The remainder of our comments are focused on two issues raised by the Council’s Proposal: (1) establishing baseline levels of training that firms must offer to satisfy the Firm Element; and (2) allowing an individual to remain qualified following the termination of their registration by continuing to complete continuing education courses.

Firm Element Baselines

According to the Council, “[s]ome firms provide very limited amounts of Firm Element,” and the “Council is concerned that registered representatives at those firms may not be receiving adequate training.”² NASAA shares this concern. As the Council notes, current Firm Element

¹ NASAA is the association of the 67 state, provincial, and territorial securities regulatory agencies of the United States, Canada, and Mexico. NASAA serves as a forum for these regulators to work with each other to protect investors at the grassroots level and promote fair and open capital markets.

² FINRA Regulatory Notice 18-26, Continuing Education Program: *FINRA Requests Comment on Enhancements Under Consideration by the Securities Industry/Regulatory Council on Continuing Education*, September 6, 2018, at Attachment 1 pg. 6.

training must, at a minimum, address certain standards, such as suitability, but there are no hard and fast standards governing what level and/or types of training can satisfy the Firm Element requirement.³ Instead firms must consider their size, structure, and business model when designing and implementing their respective Firm Element programs.⁴ The current Firm Element structure provides significant—and beneficial—flexibility for firms in developing, maintaining, and administering training programs, but NASAA supports the Council’s proposal to consider establishing certain baseline levels and/or amounts of training.

Establishing certain baseline levels and/or amounts of Firm Element training would likely result in an overall increase in the quality and effectiveness of the training offered by firms. Better trained registered representatives are good for a firm’s business because they are likely more knowledgeable about the products and services the firm offers. Better trained individuals are also more likely to understand their regulatory obligations and their duties to customers thus resulting in increased investor protection. NASAA considers establishing baseline levels and/or amounts of Firm Element training as a win-win, and fully supports the Council’s proposal. However, there is no one-size-fits-all training program because there are innumerable combinations of broker size, complexity, and business model. The Council—and FINRA—should therefore be mindful to preserve much of the flexibility found in the current Firm Element framework when considering any Firm Element baseline requirements.

Maintaining Qualification Status Post Termination

The most significant change proposed by the Council would allow individuals, by continuing to complete CE requirements, to maintain their qualifications following the termination of their registration beyond the two-year period provided in the rules. Currently, following termination of registration, an individual’s qualifications (e.g. licensing examinations) remain valid for a period of two-years, allowing an individual to reenter the industry without having to retake any previously passed licensing examinations. NASAA’s members apply the same two-year qualification rule for state licensing of broker-dealer agents and investment adviser representatives.

NASAA appreciates the Council’s consideration of better aligning the qualification requirements for financial industry professionals with the qualification requirements for other licensed industries that do not require individuals to re-take initial qualification examinations if certain conditions are satisfied. The Council specifically referenced the legal profession as one such industry.⁵ However, any changes to the two-year post termination qualification framework would be a significant departure from current practice. There are many considerations and questions that must be answered before considering changes to the well-established requalification requirements. The Council recognizes the significance of this proposed departure by seeking input on several specific questions related to this proposal. Of particular interest to

³ *Id.* at 2. *See also* FINRA Rule 1240(b) (describing the minimum requirements of the Firm Element).

⁴ *Id.* at 2-3.

⁵ *Id.* at 8.

NASAA are the Council's questions about potential eligibility limitations on which individuals would be able to remain qualified for more than two years post termination. For example:

- Should there be an experience level at which time this "program" becomes available?
- Should certain conduct disqualify an otherwise eligible individual from participating in the "program?"⁶

NASAA is also interested in knowing more about how exactly such a "program" would work. More specifically:

- How many CE "credits" would be needed and in what period?
- Where and how would individuals complete the Firm Element substitute?
- Who would design and/or approve content for the Firm Element substitute?
- How would an individual report completion of the required CE and/or compliance with any other "program" requirements?
- How long could an individual remain qualified under this "program?"
- How would such information be tracked and verified?

In NASAA's view, it is too early for the Council to move forward with implementing any changes to the post-termination qualification framework because there are so many unanswered questions. That is not to say that—at this time—NASAA is opposed to such changes, only that without a detailed proposal on this topic, including the benefits for investors, it is difficult for NASAA to fully consider this idea.⁷ NASAA instead suggests that the Council first consider the feedback received in response to the Proposal and then, if it desires to move forward with changes to the post-termination qualification framework, develop a more detailed proposal laying out specifically how such changes would be implemented and monitored for compliance. Interested stakeholders would then be in a position to fully evaluate the proposal and offer constructive feedback.

⁶ NASAA initial response to these questions is yes, there should be certain limitations on an individual's ability to remain qualified outside of the current two-year period. However, without a detailed proposal on how such a program would be implemented, NASAA is unable to offer any more substantive feedback.

⁷ Nor does this mean NASAA would support such a change to the two-year termination framework. In the past, NASAA has advocated that continuing education is not a substitute for qualification examinations. *See* Letter from Melanie Senter Lubin, Maryland Securities Commissioner and Chair, NASAA CRD Steering Committee, to Marcia Asquith, FINRA Office of the Corporate Secretary, Re FINRA Regulatory Notice 09-70 Registration and Qualification Requirements, (March 1, 2010) available at <http://www.nasaa.org/wp-content/uploads/2011/07/20-NASAA-Comment-Letter-Regulatory-Notice09-70.pdf>.

NASAA appreciates the opportunity to offer public comments on the Council's proposed enhancements and looks forward to continuing to participate in the Council's efforts to enhance the CE Program. If you have any questions about this letter please contact NASAA General Counsel A. Valerie Mirko, at vm@nasaa.org or (202) 737-0900.

Sincerely,

A handwritten signature in blue ink, appearing to read 'Michael Pieciak', with a stylized, cursive script.

Michael Pieciak
NASAA President and Commissioner
Vermont Department of Financial Regulation

November 5, 2018

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ITG
New York, NY

ANDY NYBO
Burton-Taylor
Charleston, SC

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

Re: FINRA Regulatory Notice 18-26; Continuing Education Program

Dear Ms. Mitchell:

The Security Traders Association (“STA”)¹ appreciates the opportunity to offer comments on FINRA Regulatory Notice 18-26 (“Notice”) which seeks industry input on, “...enhancements to the Securities Industry Continuing Education Program (CE Program) under consideration by the Securities Industry/Regulatory Council on Continuing Education (CE Council).”

STA is comprised of twenty (20) affiliate organizations in the U.S. and four (4) in Canada, with membership comprised of individuals employed in the financial services industry. STA membership does not represent any specific business model, but rather encompasses a broad range of industry participants. It is from this broad based membership, including covered registered persons and previously registered persons within and outside the industry, which STA seeks to provide perspectives on the Notice. In addition to member insights, STA relies on Advisory Committees for input on its comment letters. For this particular comment letter, STA incorporated feedback from its Women in Finance Committee (“STA WIF”)² and Canadian STA (“CSTA”)³ affiliates

¹ STA is a trade organization founded in 1934 for individual professionals in the securities industry. STA is comprised of 24 Affiliate organizations with 4,200 individual professionals, most of who are engaged in the buying, selling and trading of securities. STA is committed to promoting goodwill and fostering high standards of integrity in accord with the Association’s founding principle, Dictum Meum Pactum – “My Word is My Bond.” <https://securitytraders.org/>

² STA WIF is a committee that operates under the Security Traders Association, (“STA”). The STA WIF Committee is comprised of members who serve at the national level of STA WIF and representatives from those STA affiliates who maintain a Women in Finance Initiative. Given STA’s long history and unique makeup of industry practitioners, STA WIF is well positioned to gather women of all seniority to assist in fulfilling its Mission Statement and Core Actions. <https://securitytraders.org/women-in-finance/>

³ The Canadian Security Traders Association, Inc. (“CSTA”) is a professional trade organization that works to improve the ethics, business standards and working environment for members who are engaged in the buying, selling and trading of securities (mainly equities). The CSTA represents over 850 members nationwide and is led by volunteer Governors from each of four distinct regions (Toronto, Montreal,

comprised of individuals subject to Investment Industry Regulatory Organization of Canada (“IIROC”) Continuing Education requirements⁴.

STA supports the CE Council in its efforts towards educating and training more than 600,000 securities professionals, thus ensuring they have the knowledge and skills necessary to help investors and promote the integrity of the U.S. capital markets.⁵ STA believes many of the enhancements being considered to the CE Program are consistent with the CE Council’s Mission Statement that includes, among other things that it, “Promote effective implementation of meaningful continuing education to the securities industry.”

As described in the Notice, enhancements to the CE Program for the Regulatory and Firm Elements under consideration broadly include:

1. Communicate regulatory developments in a timely manner via Regulatory Element.
2. Improve coordination between firm and regulatory training programs.
3. Incorporate diverse instructional formats to facilitate learning.
4. Identify and reduce redundancy in training programs.
5. Ensure all registered persons receive adequate training.
6. Enable previously registered individuals to maintain their qualifications while out of the industry.
7. Consider more defined minimum standards of CE for the industry.

Regulatory Element

STA sees benefits in changing the frequency of completing the Regulatory Element to annually however; we have serious concerns on the costs it will impose on the industry. Therefore, the CE Council needs to find additional means to make such a change cost effective.

Vancouver and the Prairies). The organization was founded in 2000 to serve as a national voice for our affiliate organizations. The CSTA is also affiliated with the Security Traders Association (STA) in the United States of America, which has approximately 4,200 members globally, making it the largest organization of its kind in the world. <https://canadiansta.org/about.php>

⁴ <http://www.iiloc.ca/industry/continuingeducationmember/Pages/default.aspx>

⁵ Letter from Catherine Makstnieks, Chair, Securities Industry/Regulatory Council on Continuing Education. <http://cecouncil.com/council/activities-new-initiatives/>

One of the enhancements under consideration is changing the current requirement for registered persons to complete the Regulatory Element from every three years following the second anniversary of their initial registration to annually. To address the costs associated with this change in frequency, the CE Council has suggested to prorate the fees on exams and to make improvements to the CRD system and Professional Gateway (FinPro) that would enable communication directly to registered persons, thus providing administrative relief to firms. STA sees benefits in changing the frequency of completing the Regulatory Element to annually and agrees with FINRA that doing so will better ensure “that registered persons receive timely education on the securities business.” We appreciate the offers by the CE Council to make this change cost neutral; however, we are very concerned this will not achieve the intended goal.

Under the current three year/two year cycle with employees staggered throughout the cycle, the costs associated with communicating to employees, tracking statuses and following up to ensure completion are meaningful. Compressing this function to all employees on the same one year cycle would increase this burden and cost significantly. Even though representatives would receive notifications directly from FinPro, firms still need to ensure that employees complete the Regulatory Element in a timely matter to avoid becoming CE Inactive. Once an employee is CE inactive, all of the burden falls on the firm to demonstrate that the individual did not act in a registered capacity.

Firm Element

The Notice seeks input on the CE Council’s consideration for creating a centralized content catalog to serve as an additional source of Firm Element content.

As stated in the Notice:

Firms have a variety of options for sourcing Firm Element content. Some firms develop materials internally. Others rely on third-party training providers.

Furthermore:

“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.”

STA supports the CE Council’s consideration for creating a centralized content catalog to serve as an additional source of Firm Element content and working together with third-party training providers.

STA believes benefits can accrue to firms and individual investors when regulators, with industry input, define industry standards in appropriate areas. Having defined regulatory industry standards ensures information is accurate and uniformly available. In addition, such standards foster private market solutions which transcend to lower costs.

In Canada, the Investment Industry Regulatory Organization of Canada, (“IIROC”) engages the Continuing Education Course Accreditation Process (CECAP) to review and recommend courses that are suitable for IIROC CE credit.⁶ Feedback has been positive from STA Canadian members on this mechanism for approving third-party training providers and having a centralized catalog. The regime provides for a wide range of subject matter content that meets regulatory standards on costs which are reasonable. STA believes that creating a similar regime will produce similar benefits in the U.S. in particular for those firms with unique business models and are challenged to find content resources.

STA recommends that forum discussions organized by third parties with the content and delivery responsibilities bore by FINRA, or an SRO representative, be eligible for meeting CE Firm Requirements. To be clear, the documentation obligation would remain with firms.

Additionally, STA recommends that the CE Council consider another policy employed in Canada which categorizes the participation in panel discussions as “alternate activities”⁷ that may qualify for CE credit under IIROC CE Rules. STA recommends that forum discussions organized by third parties, but whereby the content and delivery were the responsibility of FINRA or an SRO representative, be eligible for meeting CE Firm Requirements. To be clear, the documentation obligation and the determination as to whether the content is applicable for Firm CE credits would remain with member firms.

STA has witnessed such forums in Canada and we believe that instituting such a policy would provide a unique format for learning. Additionally, these events would provide for meaningful interaction with FINRA or other SRO representatives and the industry it oversees.

STA recommends that the CE Council create a new category to its Firm Element Advisory (FEA)⁸ and provide relevant resources under the title “Ethics.”

STA believes that ethics matter and that the CE Council and FINRA are uniquely positioned to lead industry-wide efforts on educating firms on the benefits and risks of ethical and unethical

⁶ IIROC Notice dated January 26, 2018, page 18 http://www.iiroc.ca/Documents/2018/9fe2a3a8-9360-4ffb-ac98-694e1d41ed51_en.pdf

⁷ Ibid, appendix D page 17

⁸ <http://www.cecouncil.com/firm-element/>

behavior. The financial services industry is built on trust, and unethical behavior, even if it occurs on rare occasions, does great harm. Ethical behavior can bring significant long-term benefits to a financial services company and the investors we serve. Since the 2008 financial crisis, regulators have applied tremendous amounts of resources towards rule making. STA believes that regulation alone cannot prevent every case of poor behavior by market participants which does harm to investors. There is a need for education in this area and we recommend that the CE Council create a new category title “Ethics” to its Firm Element Advisory (FEA) and provide relevant resources. Ancillary benefits for creating an ethics category to the Firm Element exist as well. Business ethics applies to a wide range, perhaps all, firms and this universal applicability makes it a viable content equivalent to the Firm Element for individuals who leave the industry.

Maintaining Qualification Status Post-Termination

STA supports the CE Council in pursuing a recommendation to allow previously registered individuals to maintain their qualification status while away from the industry.

STA believes that an unreasonable barrier to re-enter the financial services industry exists for individuals with a prolonged absence. This unreasonable barrier to entry exists due to a combination of two factors: (i) an individual’s license to practice automatically expires after a two-year lapse in association with a member firm, and (ii) previously registered individuals are not permitted to take continuing education while away from the industry. These combined factors – lapses in licenses and continuing education – need to be addressed in unison in order eliminate what STA believes is a flawed policy that impacts qualified individuals, in particular those who are primary childcare providers. In our letter⁹ to FINRA dated June 19, 2017, STA wrote:

...we (STA) believe that FINRA should institute a new reinstatement policy and process that has the following characteristics: the ability for individuals in a lapse state to take continuing education classes; requires individuals to apply and upon approval have their license(s) reinstated and guidelines which would allow employers to reasonably expect that a potential hire will have their license(s) reinstated upon employment. Reinstatement policies and processes exist in other industries such as the practice of law; therefore there are examples to compare.

STA notes that FINRA has already taken meaningful steps to begin to address making it easier to recruit and retain talent in the securities industry. Specifically, effective October 8, 2018, FINRA

⁹ STA letter to Jennifer Piorko Mitchell, The Office of the Corporate Secretary, FINRA, Re: Special Notice: Engagement Initiative, June 19, 2017. http://www.finra.org/sites/default/files/notice_comment_file_ref/SN-32117_STA_comment.pdf

instituted the Securities Industry Essential (“SIE”) Exam. The SIE carries attributes which address some of the concerns expressed in our June 19, 2017 letter. Individuals do not require a sponsoring firm in order to take the SIE, and a passing grade is valid for four (4) years as opposed to the two (2) year term for a Series 7 license. While individuals are still required to satisfy all other conditions of registration to practice, having passed an SIE exam provides employers with a reasonable expectation that the potential hire will obtain the additional conditions of registration and be able to practice.

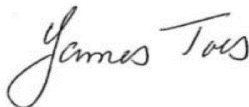
STA believes that the next contributing factor to the unreasonable barrier to re-entry which needs to be addressed is continuing education requirements for individuals away from the industry for a prolonged period of time. Many STA members know someone who made a positive impact on our industry and the investors we serve, who then left for an extended period of time. When this individual seeks to re-enter our industry they face an unreasonable barrier, in part, because they are uninformed on current practices. Consequently, many of these individuals seek employment elsewhere resulting in a loss of talent for our industry. Retaining talented people is critical for success in any industry but especially in financial services. STA believes that investors would be better served if the financial services industry had a reinstatement policy and procedure which permitted individuals to satisfy continuing education during a lapsed state. Under such a policy, employers would then have a reasonable expectation that a potential hire would be a candidate eligible for immediate registration.

Conclusion

The STA appreciates the opportunity to comment on the Continuing Education Program and we look forward to working with the CE Council and FINRA on enhancements. We also wish to acknowledge and thank FINRA and CE Council staff responsible for drafting the Notice.



Mike Rask
Chairman of the Board



James Toes
President & CEO

Appendix A

Maintaining Qualification Status Post Termination

Q #13. Does a CE program seem like an appropriate way to accomplish this?

A #13. Yes, given FINRA's unique role in licenses and registrations, and the level of responsibility they have in the day-to-day operations of the CE Program, it is appropriate for the CE Program to be the mechanism for any enhancements in this area.

Q #14. If the CE Council recommended introducing a CE program that allowed individuals to maintain their qualification status while outside the industry, how much CE would be sufficient?

A #14. STA believes the amount of CE should be consistent for individuals within and outside the industry. Requiring fewer CE courses to those outside the industry impedes their ability to be properly skilled when re-entering. Requiring additional CE to those outside the industry seems unreasonable, burdensome and unfair.

Q #15. If the CE Council recommended introducing such a program, should it impose an experience requirement for individuals to be eligible? If the CE Council recommended establishing a minimum duration of prior registration, what would be a reasonable requirement?

A #15. STA does not necessarily believe that years of experience should be a requirement. Obtaining the proper license demonstrates an understanding of the subject matter. Furthermore, we are not aware of experience requirements existing in other industries like law and accounting.

Q #16. Should there be a limit to how long a previously registered individual could maintain their qualification status via the CE program under consideration? If so, what duration is appropriate?

A #16. STA has no comment on what would be defined as too long or too short a period of time. We recommend that the CE Council harmonize time periods of eligibility for the CE Program with FINRA's Securities Industry Essentials (SIE) Exam. STA believes that harmonizing these time periods is common sense given how interconnected they are with regard towards requirements needed to obtain and maintain employment in the financial services industry. Any future changes pertaining to length of eligibility for the SIE Exam should correspond with similar time period adjustments for the CE Program.



NATIONAL ASSOCIATION OF REGISTERED SOCIAL SECURITY ANALYSTS

Jennifer Piorko Mitchell
Office of the Corporate Secretary
Financial Industry Regulatory Authority- FINRA®
1735 K Street, NW Washington, DC 20006-1506

Dear Ms. Mitchell:

As the Program Director of the National Association of Registered Social Security Analysts Ltd. (NARSSA.ORG), we appreciate the opportunity to comment on continuing education enhancements under consideration by the Securities Industry/Regulatory Council on Continuing Education.

Comments are specifically limited to changes under consideration related to Firm Element.

The Firm Element education requirement is currently unstructured and varies from firm to firm. In-house training and attendance at seminars and events cannot ensure delivery of an adequate level of training nor provide a measurement that certain knowledge has been obtained by the attendee.

We believe Firm Element education should be limited to online delivery. Any seminars, in-house training or education should be supportive in nature only to an online delivery method of course and subject matter testing.

NARSSA.ORG provides investment advisers, representatives and financial professionals with an online educational platform dedicated to Social Security and Medicare education and training. We believe effective education will help ensure that the financial needs of a growing senior population are being met by brokers, investment advisers and others in the financial services industry. Our online platform provides advisers with a five-course online curriculum which is a prerequisite for taking our online proctored exam to obtain the certificate credential as a Registered Social Security Analyst®. As a third-party training provider, these courses include randomized questions to prevent sharing of answers and are currently approved for CE by NASBA for the CPA profession, by the CFP Board for Certified Financial Planners and by the Internal Revenue Service for Enrolled Agents and other tax professionals that have continuing education requirements.

We believe that the CE Council should consider the approach taken by the CPA profession in which NASBA established quality assurance standards for delivery of continuing education. The Statement on Standards of Continuing Professional Education were developed by NASBA and the AICPA to promote consistent quality in CPE (CE) courses for the profession. A national registry of third-party providers of CPE was then established. These third-parties apply to NASBA for approval of their course content and delivery methods and adhere to standards established by the Board.

We support the CE Council in considering the creation of a centralized content catalog to serve as an additional source of Firm Element content, working together with third-party online training providers to offer a large catalog of readily available materials that are centrally located for convenience, that adhere to the standards of online education set by the CE Council. FINRA® should define minimum standards for Firm Element.

Michael Rosedale CPA
Program Director

The Regulatory Element should be more focused, shrunk, and administered annually.

At my firm, there is perennially a great deal of confusion between the Firm Element and the Regulatory Element. Each year, despite several explanations as to what each program is, I still have representatives who think they've done one when it was really the other and vice versa. Every variety of confusion imaginable that arises in reference to these programs with vaguely similar-sounding names would be alleviated if I had a way to "merge" the two programs together into what appears to be one program and have it fall at the same time each year for everyone.

Matthew Rothchild

Compliance Officer

EFS Advisors

440 Emerson Street N. #2

Cambridge, MN 55008

Office: 763-552-6075

Fax: 763-689-3742

I am completely for the proposal that would allow men or women to leave the industry and return without having to retake all the exams by fulfilling continuing education requirements. It seems to make a lot of sense.

Regards,

Karen Shea

Karen Shea

Vardon Capital, L.L.C.

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Summit, NJ 07902-0631

917-270-2771

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VIA ELECTRONIC MAIL

November 5, 2018

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

Re: FINRA Regulatory Notice 18-26, Continuing Education Program

Dear Ms. Mitchell:

On September 6, 2018, the Financial Industry Regulatory Authority (FINRA) published the Continuing Education Council (CE Council) request for public comment on proposed enhancements to the Securities Industry Continuing Education Program (CE Program).¹ The overall goal of the proposed changes are to address “advances in technology and learning theory” and to ensure that the content of the CE Program is both relevant and timely for those professionals who are required to take CE Program courses. An additional goal of the proposed changes is to “address the challenges that industry professionals face when attempting to re-enter the industry after an absence.”

The Financial Services Institute² (FSI) appreciates the opportunity to comment on this important proposal. FSI applauds the CE Council for taking this careful and thoughtful approach to reviewing the CE Program and for seeking stakeholder input prior to finalizing the changes. FSI believes the goals of the proposed changes to the CE Program serve additional benefits of being responsive to changing demographics and needs of those entering the industry as well as evolving investor demands and goals. For these reasons we are largely supportive of the proposed changes and we provide some additional suggestions to the CE Council in more detailed comments below.

Background on FSI Members

The independent financial services community has been an important and active part of the lives of American investors for more than 40 years. In the U.S., there are approximately 167,000 independent financial advisors, which account for approximately 64.5% percent of all producing registered representatives.³ These financial advisors are self-employed independent contractors, rather than employees of Independent Broker-Dealers (IBD).

¹ Available at: <http://www.finra.org/sites/default/files/Regulatory-Notice-18-26.pdf>

² The Financial Services Institute (FSI) is an advocacy association comprised of members from the independent financial services industry, and is the only organization advocating solely on behalf of independent financial advisors and independent financial services firms. Since 2004, through advocacy, education and public awareness, FSI has been working to create a healthier regulatory environment for these members so they can provide affordable, objective financial advice to hard-working Main Street Americans.

³ The use of the term “financial advisor” or “advisor” in this letter is a reference to an individual who is a registered representative of a broker-dealer, an investment adviser representative of a registered investment adviser firm, or a

FSI member firms provide business support to financial advisors in addition to supervising their business practices and arranging for the execution and clearing of customer transactions. Independent financial advisors are small-business owners who typically have strong ties to their communities and know their clients personally. These financial advisors provide comprehensive and affordable financial services that help millions of individuals, families, small businesses, associations, organizations and retirement plans with financial education, planning, implementation, and investment monitoring. Due to their unique business model, FSI member firms and their affiliated financial advisors are especially well positioned to provide middle-class Americans with the financial advice, products, and services necessary to achieve their investment goals.

Discussion

FSI appreciates the opportunity to comment on the proposed changes developed by the CE Council. FSI finds the proposed changes and enhancements to be a common-sense approach to the goals of the CE Council. The Regulatory Notice address specific questions on the “areas of greatest interest” to the CE Council and FINRA. To the extent possible, we provide answers and input on specific questions but defer to FINRA member firms to answer various questions they are in a better position to address. To the extent FSI can provide useful input on the various questions, our input and suggestions are discussed in greater detail below.

I. Regulatory Element

A. Introduction

The Regulatory Element of the CE Program is intended to ensure registered persons understand their current regulatory obligations with specific emphasis on recent rule changes and significant industry issues. FSI members recognize the importance of the Regulatory Element portion of the CE Program

B. Frequency (Question 1)

Much of FSI members’ input on the proposed change to an annual requirement is positive. However, many firm members are interested in whether the annual frequency will eliminate the need for the Annual Compliance Meeting (ACM). FSI recently commented on FINRA’s Retrospective Rule Review of the Annual Compliance Meeting requirement and found that the majority of our individual financial advisor members find the Annual Compliance Meeting very useful to understand their compliance obligations and requirements.⁴ As such, we encourage the CE Council to give further thought as to whether or how an annual Regulatory Element requirement could be combined with the Annual Compliance meeting in order to streamline the process while still providing value to individual financial advisors.

Additionally, member firms expressed concern about how the annual requirement will be executed. For example, will the required completion date continue to be based on the

dual registrant. The use of the term “investment adviser” or “adviser” in this letter is a reference to a firm or individual registered with the SEC or state securities division as an investment adviser.

⁴ FINRA Regulatory Notice 18-4 available at: <http://www.finra.org/industry/notices/18-14> and FSI’s Comment Letter available at: http://www.finra.org/sites/default/files/notice_comment_file_ref/18-14_FSI_Comment.pdf.

anniversary of the registered person's date of hire/registration with the firm? FSI member firms note that if the required completion date is similar or the same for each person required to complete the training, this could overtax systems that may not be able to support the volume of training all at once. As such, it would be helpful for the CE Council to provide clear guidance to firms on the Regulatory Element requirement to be completed by a registered person who joins the firm mid-year. Similarly, if a person sits for an examination and passes and subsequently becomes registered, firms will need to understand when the annual requirement will become applicable. Lastly, firms will necessitate reporting of completion of the annual requirement so the firm can effectively track who has or has not taken the training and properly supervise their compliance with the requirement.

C. Narrowed Focus (Question 3)

FSI members are very supportive of narrowing the focus of the Regulatory Element to focus on topics relevant to the specific registrations held by the registered person taking the CE. FSI member firms suggest that there should also be an "Ethics" component to the Regulatory Element training. Furthermore, FSI member firms suggest that specific training on issues of global application should also be part of the Regulatory Element with customized related training the responsibility of the firms. For example, Regulatory Element training could train attendees on typical cybersecurity scams while the Firm Element will train attendees on how the firm requires they handle cybersecurity incidents and the relevant policies and procedures. FSI member firms also suggest that real-life scenarios and examples are particularly helpful with Regulatory Element training.

D. Other (Questions 2, 4, and 5)

As mentioned above, there is some concern among FSI members as to how an annual requirement will be tracked and that the annual nature of the requirement will increase the effort necessary to effectively track compliance. However, the consensus among FSI member firms is that the benefits of having an annual Regulatory Element requirement outweigh the concerns regarding potential demands on firm resources. FSI members also suggest that to the extent FINRA is not already coordinating with other stakeholders, FINRA should collaborate with other regulatory bodies including the MSRB, SEC, CBOE, and NYSE in developing timely content.

II. **Firm Element**

A. Introduction

The Firm Element portion of the CE Program service to address specific firm policies and procedures, and issues directly related to the products and services offered by the firm. While the content is specific to the firm, the CE Council provides guidance and resources to firms to assist them in creating Firm Element content.

B. Usefulness of Firm Element (Question 6)

With regard to Firm Element Advisory (FEA), FSI members find the material mostly useful, but too voluminous to be as useful as it could be. One member noted that the FEA is currently almost 50 pages, which can be overwhelming to firms. Additionally, Anti-Money Laundering and Cybersecurity elements in the FEA tend to "water it down." FSI members suggest the AML and

Cybersecurity topics be addressed separately from the FEA so as to cut down on the volume of information contained in the FEA and increase its focus and effectiveness.

FSI member firms believe it is necessary for the material to continue to be firm-generated but suggest that FINRA can create and offer content that firms can utilize. Firms would not, however, want the materials to be mandatory but instead act as a valuable resource to them as they develop their Regulatory Element training. Most of FSI member firms operate under a hybrid model, with the broker-dealer also having an associated Registered Investment Advisor firm and their associated financial advisors are dually registered, able to offer products and services through either model. Due to the hybrid nature of FSI member firms and their financial advisors' dually registered status, FSI members would benefit greatly from material that contains hybrid-specific content or at the very least, the ability to customize modules to reflect the dual nature of the firm.

B. Amount of Firm Element Training and Mode of Delivery (Question 7)

The majority of FSI member firms provide the Firm Element CE Program content electronically. This allows efficient tracking and also provides the necessary flexibility to their advisors to take the course and fulfill their requirements. As mentioned above, one of the reasons FSI's financial advisor members support the Annual Compliance Meeting requirement and find it helpful, is their ability to ask questions in real-time and related to the content at hand. FSI member firms who provide online flexibility to their advisors by holding their Annual Compliance Meeting via a web-based application maintain this ability to ask questions via the web portal while the advisor virtually attends the meeting. This is an additional reason FSI member firms believe online delivery is practical and effective.

C. Other (Questions 8 through 12)

FSI member firms largely do not allow conference and seminars held by third parties to be counted towards Firm Element requirement and are unlikely to utilize these third party means to satisfy their advisors' requirements. The reasons are twofold: Firms find third party content too difficult to track to ensure the content does, indeed, meet their requirements and there is no efficient way to ensure the advisor actually attended the conference or seminar even if the content did qualify for Firm Element Training.

III. Maintaining Qualification Status Post Termination

A. Introduction

As outlined in the regulatory notice, registered persons who have terminated their registration with a FINRA member firm must re-register with a firm within two years or forfeit their license. Formerly registered persons who have forfeited their license because of non-registration are then precluded from taking CE Content and remaining qualified. The CE Council is proposing changes to allow "previously registered individuals to complete an annual Regulatory Element as well as additional content equivalent to the Firm Element while out of the securities industry." FSI member firms are very supportive of and enthusiastic about these proposed changes.

B. Appropriateness (Question 13)

As a practical matter, allowing registered persons to maintain their industry knowledge and qualifications in order to re-enter the industry at a later time is a no-brainer. Not only does this provide necessary flexibility to those who have worked hard to qualify to work in the industry, but it also ensures they maintain the requisite level of knowledge and expertise about issues and regulations to support the important goal of investor protection. FSI members strongly support this change and urge the CE Council to adopt it.

C. Amount/Frequency (Question 14)

While FSI members are very supportive of the proposed changes to allow industry professionals to remain qualified, they note that the proposed criteria for maintaining CE requirements are potentially more than those of other professions, such as attorneys and doctors who can forfeit their license but take CE in order to maintain their licenses and become active again at a later date.

D. Duration of Ability to Maintain Qualification (Questions 16 and 18)

The CE Council proposes allowing formerly registered persons a period of seven years in which to maintain their qualifications through continuing education, at which time they would no longer be eligible to maintain their qualifications or license. FSI members feel that this is an unnecessary limitation and, like other professions, the formerly registered person should be allowed to maintain their qualifications indefinitely so long as they continue to fulfill their CE requirements each year. Furthermore, FSI members feel that the requirement that a person who maintains their qualifications while no longer registered have been active five out of the past ten years is too onerous. Instead, we suggest the CE Council consider lessening the requirement from five to three of the past ten years.

E. Other (Questions 15 and 17)

FSI defers to other commenters on specific answers to questions 15 and 17. However, we encourage the CE Council to consider developing and making available material specific to persons who were previously registered and working to maintain their qualifications. The material could focus on recent developments and issues while also providing remedial training on basic issues and obligations so that these individuals are receiving training that reminds them of their obligations and keeps the information at the front of their mind and also provides timely and relevant information that will allow them to keep abreast of industry-specific issues of which they should be aware. One FSI member suggested that because FINRA has a robust library of self-paced training available 'off-the-shelf' covering a number of topics, FINRA could package a set of these training courses to correspond to a particular year's exam findings. Another approach would be to design required curriculum that all outside industry registrants must complete in combination with some elective choices taken from the broader catalogue.

IV. General Questions

A. Introduction

The CE Council requests additional general input on which issues should be prioritized and whether there are alternative approaches they should also consider.

B. Priority Issues (Question 19) and Alternative Approaches (Question 20)

FSI defers to other commenters on specific answers to questions 19 and 20. However, we strongly encourage the CE Council to obtain the input of individual financial advisors who are required to complete CE requirements right now. As the targeted audience of the Regulatory Element and Firm Element, they are the best source to determine the potential effectiveness of the proposed changes. As one of the only trade associations with individual financial advisor members, FSI stands ready to assist the CE Council in tapping the collective thinking of financial advisors. Also, should FINRA form a committee comprised of financial advisors, that committee could serve as a valuable resource in developing effective CE content.

Conclusion

We are committed to constructive engagement in the regulatory process and welcome the opportunity to work with FINRA and the CE Council on this and other important regulatory efforts

Thank you for considering FSI's comments. Should you have any questions, please contact me at (202) 393-0022.

Respectfully submitted,



Robin Traxler, Esq.
Vice President, Advocacy Policy & Associate General Counsel



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November 5, 2018

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

RE: FINRA Regulatory Notice 18-26 Continuing Education Program

Dear Ms. Mitchell:

The Security Traders Association of New York, Inc. (“STANY”)¹ respectfully submits these comments in response to enhancements under consideration by the Securities Industry Regulatory Council on Continuing Education (“CE Council”) to the Securities Industry Regulatory Council on Continuing Education Program (“CE Program”).

STANY appreciates the value of reviewing and refining regulatory requirements as markets and technology evolve and supports the CE Council’s efforts to modernize the CE Program. The effort by the CE Council to enhance the ability of financial service professionals to keep abreast of current regulatory initiatives and relevant topics in order to maintain exacting standards of professionalism in the industry, is commendable. As is the CE Council’s efforts to meet the needs of the industry in efficient and cost ways.

As an industry association representing securities professionals, STANY appreciates the effort that registered persons undergo to obtain and maintain industry licenses. We acknowledge the importance of qualified individuals to the professionalism and integrity of the industry. As such, STANY fully supports vigorous licensing and continuing education requirements for financial services professionals. However, we agree with the CE Council that changes in technology, as well as advances in learning and education, warrant a review of the current requirements and support changes that reduce confusion, redundancy and costs associated with continuing education. Many of the recent changes to the CE Program have

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 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.

been positive, but we agree that there is more room for improvement and are pleased to see the CE Council offer suggestions and seek industry participation aimed at making the CE Program even better.

Regulatory Element

Narrowing the Focus of Testing and Adopting a Modular Structure

STANY agrees that it is important that the information communicated to registered persons through the Regulatory Element be relevant to the positions in which they are employed and supports the CE Council's efforts to restructure the Regulatory Element to create targeted learning units. 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 both seem to be appropriate ways to enhance relevancy.

Annual Requirements

STANY believes that most firms make earnest efforts to provide their employees with requisite information about relevant regulatory changes to enable them to do their jobs in compliance with the latest securities regulations. Nevertheless, we can appreciate the suggestion of the CE Council that annual Regulatory Requirement obligations may ensure that rule changes and regulatory issues deemed most important by FINRA are communicated in a timely fashion. However, the CE Council has suggested that annual CE obligations may increase relative costs associated with compliance on the part of firms, particularly those costs associated with monitoring and verifying participation of associated persons. While STANY is not able to opine on the potential added burden occasioned by an annual Regulatory Requirement, if the frequency of the Regulatory Element were increased, we would hope that the CE Council does all it can to minimize the added compliance efforts which may be most difficult for smaller firms. Direct email notifications to registered persons is one step which may reduce challenges of monitoring regulatory compliance, but will not completely eliminate the added burden on back office and compliance staff. Enhancements to the CRD system will likely also be required.

Coordination of the Regulatory and Firm Elements

Publishing the Regulatory Element topics for the coming year in advance would be helpful to firms when planning their Firm Element portion of required CE. It should help to reduce redundancies identified by the CE Council.

Firm Element

Other Training and Credentialing Programs

The CE Council notes that 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. From experience, STANY is aware that many unaffiliated professionals, both those licenses remain valid during the current two-year window and those whose licenses have lapsed, also attend industry conferences hosted by brokerage firms, law firms and associations such as Sifma, STA, STANY and other STA affiliates across the United States, NOIP and the Industry Options Council among others. Unlike in other licensed industries and the securities industry in Canada, this training has not been certified for CE credit. Within the legal profession, current practitioners, as well as licensed attorneys not actively practicing law, participate in the same continuing legal education provided by many low cost and free sources including conferences whose topics have been pre-approved for CE credit. Members of the bar, whether they are actively practicing law or not, are required to complete a certain number of hours in a two-year period (with recently admitted members obligated to complete additional hours) proof of which consists of a certificate of participation issued by the conference or lecture provider. A similar practice is followed by the Canadian security regulators to great effect.

We would suggest that when considering credits for the Firm Element, the CE Council consider a mechanism whereby industry conferences can present their agendas to the CE Content Committee for

certification in whole or in part for CE credit. With publication of Regulatory Element Topics and with information provided through the Firm Element Advisory, industry groups could tailor their offerings to meet specific educational needs of the professionals who already attend their conferences. Given that the CE Council is considering opportunities for reciprocity with other credential programs, some of whom rely on conferences and sources outside the firm, we respectfully suggest that industry conferences including those mentioned above, likewise, be considered. 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. 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 requirement.

Maintaining Qualification Status Post Termination

STANY enthusiastically supports the CE Council's efforts to address the challenges that professionals face when attempting to re-enter the industry after an absence. Professions that rely on their practitioners to remain current on developing regulations and changing practices such as law, accounting and medicine all have ways in which those who step away from their profession can retain their licenses. We see no reason why securities professionals should not be afforded the same ability to retain their hard-earned credentials through continuing education.

Unlike other licensed professions, reentry hurdles are onerous and have caused many otherwise qualified securities professionals to seek work outside the industry. Requalification by examination or waiver of the exam has been a significant burden to individuals seeking to reenter the industry and on the firms seeking to hire them. The current two-year limitation on registration has had an outsized impact on women who have taken time away from work for parental reasons. The ability to maintain registration while on extended maternity leave will assist the industry in creating and maintaining a more diverse workforce.

Besides facing the burden of re-licensing, individuals who take a break from the securities industry are often uninformed on current practices because they are limited in their ability to take continuing education during their absence. This is also unique to our industry. Moreover, those who attend industry conferences to remain current on regulatory changes and industry practices, have no way to show prospective employers of their efforts to keep abreast of trends, nor do they receive any credit for their efforts. To assist talented professionals who have been downsized or otherwise taken a break from their industry careers, STANY permits unaffiliated persons to remain members of the association and encourages them to participate in industry related conferences and events. Many capable professionals would choose to remain in the industry and contribute their talents if given the chance. We are encouraged that the CE Council is seeking to make it easier for them to do so.

Previously registered persons, as well as registered persons unaffiliated with a firm, should be able to retain their licenses and not have to requalify by examination or obtain a waiver upon returning to the industry if they complete annual Regulatory Element education, as well as continuing education equivalent to the Firm Element as determined by the CE Council during their absence from the industry. As mentioned in the proposal, these individuals will still be required to satisfy other eligibility requirements for association with a firm for reentry.

We suggest that there are many ways in which these professionals should be able to obtain the equivalent of Firm Element training. We do not believe that tracking or monitoring unaffiliated person should present a significant issue for FINRA. The legal profession, mentioned by the CE Council as a model for its proposed program, uses certifications issued by those hosting educational sessions that qualify for CE. Similar certificates can be obtained in the securities industry and electronically sent to CRD with the

burden to do so on the representative seeking to maintain his or her qualifications.

STANY supports 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. Likewise, currently, people that move to a buy side firm or an industry vendor lose their licenses since those firms are not regulated by FINRA. Those individuals, many of whom participate in the industry and have similar duties to those they performed at regulated firms, should be able to undertake CE activities to maintain their licenses. This would ease the burden on securities professionals moving between these types of firms, while also improving the overall level of qualifications in the industry. Previously registered individuals working either at FINRA registered firms but in a capacity that no longer requires registration or in the industry at firms that are not regulated by FINRA, should be permitted to complete the same CE as registered persons. If a modular approach to CE is implemented, these individuals should be permitted to take those modules consistent with either their prior registration or the most general module available.

Eligibility Requirements and Program Duration

STANY does not believe that it is necessary or appropriate to place the same constraints on eligibility to maintain qualification status as the Financial Services Affiliate Waiver Program. Requiring registration for five years within the previous ten-year period would severely limit the application of the proposed program for post termination qualification. We do not advocate for any specific limit. Provided the CE required during absence from the industry is robust, we believe it is 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 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.

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

Respectfully submitted,

Kimberly Unger
CEO & Executive Director



November 5, 2018

Jennifer Piorko Mitchell
Office of the Corporate Secretary
Financial Industry Regulatory Authority, Inc.
1735 K Street, NW
Washington, DC 20006-1506

**Re: FINRA Regulatory Notice 18-26:
ARM Comments on Enhancements Under Consideration by the
Securities Industry/Regulatory Council on Continuing Education**

Dear Ms. Mitchell:

The Association of Registration Management, Inc. ("ARM") appreciates the opportunity to comment on Financial Industry Regulatory Authority, Inc. ("FINRA") Regulatory Notice 18-26 ("RN 18-26"), discussing enhancements under consideration by the Securities Industry/Regulatory Council on Continuing Education ("CE Council"). ARM supports the efforts of the CE Council to enhance the Securities Industry Continuing Education Program ("CE Program") and the comment that follow indicate our support for CE Council's ongoing work.

ARM is an organization that exists for the primary purpose of representing the financial services industry on issues that concern the registration and licensing functions. The organization, established in 1975, has now provided that representation for over 40 years. ARM appreciates the opportunity to submit this letter and present feedback collected from the financial securities industry on this topic and the related process to its member firms.

ARM supports the efforts of the CE Council to enhance the CE Program and is submitting this comment letter to assert its agreement and collaboration with SIFMA's comments. On behalf of our member firms, ARM is fully in favor of the CE Council's recommendations. More specifically, our organization truly appreciates the following proposed enhancements:

- ARM fully agrees with the plan to modernize the CE program with the shorter requirement and annual administration
- ARM supports the CE Council's proposed modular structure which would allow registered persons more flexibility in selecting content most relevant to their respective job functions. The standard modules do not currently provide targeted instruction and education to all types of registered persons. Since the CE Council is proposing more frequent training, then the targeted module training would streamline training and improve the relevance of topics.
- ARM supports the CE Council's idea to create a centralized content catalog which would be very effective in providing adequate training and education to registered persons rather than the standardized modules which may or may not be relevant.

In addition to the matters above, ARM would like to submit the following recommendations regarding CE Programs:

- ARM believes that duplicative CE requirements should be eliminated. Our member firms feel their internal training programs, which include annual compliance trainings, AML trainings, and other programs related to regulatory issues suffice to keep registered representatives appropriately updated. Internal programs focus their trainings on topics and issues that are relevant to their business practices, models, and client-types. In this manner, internal training programs are more effective than external

regulatory programs. Therefore, the duplicative requirements the CE Program have become redundant and provide a significantly lower educational impact.

- ARM proposes allowing currently registered individuals to maintain their qualification status beyond the existing two-year term period through the completion of the CE requirement. These individuals often become due for their CE requirement while they are unemployed. Currently there is no mechanism for the formerly registered to complete the requirement. This expansion of the CE program would also reduce the number of individuals who would otherwise have a “CE Inactive” status when joining a new firm.
- ARM also recommends using new CRD-related technologies to improve CE processes and communications. More specifically, ARM believes that the introduction of FinPro allows for the increased availability of auto-notifications, if firms wish to use such a communication process. FinPro could notify a candidate and then send regular reminders until the CE requirement is complete.

ARM appreciates the opportunity comment on RN 18-26. We commend FINRA and the CE Council on their continued efforts to enhance the CE Program and ensure that registered persons receive timely education on issues and the regulatory requirements applicable to their respective job functions. ARM looks forward to a continuing dialogue with FINRA on each one of these individual sub-topics and working together towards implementing CE improvements.

Please contact me if you wish to discuss the matter in more detail, if you have any questions, or if I can assist with these issues.

Sincerely,

Michele Van Tassel

President, Association of Registration Management

michele.vantassel@credit-suisse.com

November 5, 2018

By Electronic Mail to pubcom@finra.org

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

Re: FINRA Regulatory Notice 18-26: SIFMA Comments on Enhancements under Consideration by the Securities Industry/Regulatory Council on Continuing Education

Dear Ms. Mitchell:

The Securities Industry and Financial Markets Association (“SIFMA”)¹ appreciates the opportunity to comment on Financial Industry Regulatory Authority, Inc. (“FINRA”) Regulatory Notice 18-26 (“RN 18-26”),² discussing enhancements under consideration by the Securities Industry/Regulatory Council on Continuing Education (the “CE Council”) to the Securities Industry Continuing Education Program (the “CE Program”).

¹ SIFMA is the leading trade association for broker-dealers, investment banks and asset managers operating in the U.S. and global capital markets. On behalf of our industry’s nearly 1 million employees, we advocate for legislation, regulation and business policy, affecting retail and institutional investors, equity and fixed income markets and related products and services. We serve as an industry coordinating body to promote fair and orderly markets, informed regulatory compliance, and efficient market operations and resiliency. We also provide a forum for industry policy and professional development. SIFMA, with offices in New York and Washington, D.C., is the U.S. regional member of the Global Financial Markets Association (GFMA). For more information, visit <http://www.sifma.org/>.

² See FINRA RN 18-26 (Sept. 6, 2018), available at <http://www.finra.org/sites/default/files/Regulatory-Notice-18-26.pdf>.

I. EXECUTIVE SUMMARY

SIFMA supports the efforts of the CE Council to enhance the CE Program and is submitting this comment letter to inform the CE Council's ongoing work. As set forth below, SIFMA believes that the CE Council can best further its efforts with respect to enhancing the CE Program by:

- enabling previously registered individuals to maintain their qualification status through participation in an annual continuing education program while outside the securities industry, subject to reasonable eligibility standards;
- allowing training for other programs – such as the annual compliance meeting, anti-money laundering (“AML”), privacy and ethics training, and other credentialing programs – to count toward satisfying the Firm Element requirement of the CE Program;
- restructuring the Regulatory Element requirement of the CE Program to provide registered persons with greater flexibility in selecting content most relevant to their job functions and registration types;
- making topics of the Regulatory Element for the coming year available to firms in advance to support the development of firm training programs to meet the Firm Element requirement;
- creating a centralized content catalog to serve as an additional source of Firm Element content;
- improving the visibility of the CE Council's guidance and resources;
- combining Firm Element and Regulatory Element training into a single annual learning plan requirement; and
- creating enhanced reporting and automated notification functions within the CRD system and/or the Financial Professional Gateway to notify registered persons of their continuing education obligations and to mitigate the additional efforts required by firms to monitor registered persons' compliance with annual Regulatory Element requirements.

II. SUMMARY OF RN 18-26

On September 6, 2018, FINRA published RN 18-26 to request comment from member firms and other interested parties on enhancements to the CE Program under consideration by the CE Council. The program enhancements under consideration were published on the CE Council's website³ and included as an attachment to RN 18-26.⁴

As discussed in RN 18-26, since 1995, the CE Program has consisted of two parts – a Regulatory Element and a Firm Element – designed to provide targeted educational material that facilitates registered persons maintaining adequate knowledge and understanding of the rules and practices necessary to perform their registered activities.⁵ The Regulatory Element was intended to focus on regulatory requirements and industry standards and the Firm Element was intended to focus on securities products, services and strategies offered by firms, among other topics such as firm policies and industry trends. The CE Program provides a baseline continuing education requirement; firms often provide additional training. Registered persons also obtain additional training on their own by attending conferences and other events.

In general, the enhancements under consideration by the CE Council include: (1) transitioning the Regulatory Element program to a more focused and shorter learning requirement administered annually; (2) gathering feedback on the current Firm Element program and supporting resources; and (3) gathering feedback on the overlap of the Firm Element Program with other firm training requirements. The overall goal of the program review is to reflect advances in technology and learning theory while continuing to ensure that registered persons receive timely education on the securities business and the regulatory requirements applicable to their respective functions.

The CE Council also is exploring program changes that would allow individuals to maintain their qualification status following the termination of their registrations by completing continuing education to address the challenges that industry professionals face when attempting to re-enter the industry after an absence.

³ See <http://cecouncil.com/council/activities-new-initiatives/>. A summary of the program enhancements can be found at: <http://cecouncil.com/media/266544/quick-ref-guide-ce-program-enhance-suggestions-council-sept-2018.pdf>.

⁴ See *supra* note 2.

⁵ See *Enhancements Under Consideration for the Securities Industry Continuing Education Program* Securities Industry/Regulatory Council on Continuing Education (Sept. 6, 2018) at 1, available at <http://cecouncil.com/media/266531/ce-program-enhancements-final-.pdf>.

III. SIFMA COMMENTS ON RN 18-26

A. USE OF CE PROGRAM TO MAINTAIN LICENSE AFTER TERMINATION

Currently, individuals whose registrations have been terminated for two (2) or more years are required to requalify by examination, or obtain a waiver of the examination requirement, to re-register. SIFMA is encouraged by and supports the CE Council's exploration of changes that would allow individuals to maintain their qualification status beyond two (2) years following the termination of their registrations. SIFMA believes that this consideration should be actively pursued by the CE Council, as it would help broker-dealers attract and foster retention of talented individuals with securities industry experience.

There are several generations of individuals in the securities industry, and life events – *e.g.*, establishing a family and managing health issues for oneself and others – can interrupt and interfere with an individual's career pursuit, often for extended periods of time (*i.e.*, beyond two (2) years). Allowing individuals to maintain their registration qualifications through participation in an annual continuing education program while outside the securities industry would be an effective approach to keep individuals informed and trained on important industry developments. Further, it would be consistent with the approach taken by individuals providing professional services in other industries, such as the legal profession, where individuals are permitted to maintain their professional licenses by participating in continuing education programs despite periods of time when they are not acting in a professional capacity.⁶

SIFMA believes that implementing a continuing education program for terminated individuals, subject to reasonable minimum eligibility requirements and readily available programs designed to keep individuals informed on current compliance, regulatory, ethical, and sales practice standards, would render the two-year (2) termination rule unnecessary for individuals satisfying the program's eligibility requirements. SIFMA agrees with the CE Council's program considerations that would allow individuals seeking to maintain their qualification status while no longer associated with a firm to complete the required annual Regulatory Element and additional assigned learning units through a FINRA continuing education delivery platform.

The CE Council cited to FINRA's Financial Services Affiliate Waiver Program ("FSAWP") as an example of possible eligibility requirements to apply to individuals who rely on continuing education to maintain their licenses. FSAWP is a waiver program for

⁶ Professional licensing requirements are regulated at the state level. The requirements, including continuing education, for maintaining a professional license, such as for CPAs, real estate agents, professional engineers and land surveyors, licensed marriage and family therapists, licensed mental health counselors, and licensed social workers, will vary by state.

individuals who leave a FINRA member firm to work for a foreign or domestic services affiliate of a FINRA member. To be eligible for the program, an individual must meet the following conditions: (1) the individual must have been registered as a representative or principal for a total of five (5) years within the most recent ten-year (10) period prior to his or her initial designation under the program, and (2) the individual must have been registered as a representative or principal for at least one year prior to his or her initial designation under the program with the member firm that is requesting the designation.⁷ An eligible registered person can then keep his or her qualifications and not lapse for up to seven (7) years as long as the registered person keeps his or her continuing education current.

While SIFMA supports the eligibility requirements for the FSAWP, SIFMA also believes that these requirements create hardships for younger registered persons who are coming into the industry, starting families, and electing to stay at home to raise their children. Accordingly, SIFMA recommends that the CE Council consider lessening or removing altogether the minimum eligibility standards for individuals who are permitted to use continuing education to maintain their license qualifications in order to help firms attract and retain talented young professionals to the securities industry. Further, SIFMA supports allowing eligible persons to keep their registration qualifications active and not lapse as long as registered persons keep their continuing education current.

In response to the CE Council's request for comment on whether the CE Program should allow previously registered individuals to maintain their qualification status while associated with a firm but working in a capacity that does not require registration (*i.e.*, individuals who are permissively registered with a firm), SIFMA believes the answer to this question is yes. SIFMA's answer to this question is not impacted by FINRA's recent expansion of the categories of permissive registrations. However, SIFMA supports any efforts by FINRA and the CE Council to facilitate firms' abilities to satisfy their supervisory obligations with respect to permissively registered individuals, for example, through enhancements to the CRD system and BrokerCheck that enable firms to easily identify and communicate with registered persons maintaining permissive registrations about their continuing education obligations.

B. ELIMINATE DUPLICATIVE TRAINING REQUIREMENTS

The CE Council sought suggestions for allowing training for other programs – such as the annual compliance meeting, AML training, and other credentialing programs – to count toward satisfying the Firm Element requirement. SIFMA encourages FINRA to permit firms to include the additional, required training registered persons undergo to satisfy a portion of the Firm Element requirements. SIFMA believes that firms should

⁷ See generally FINRA Rule 1210.09 and <http://www.finra.org/industry/financial-services-affiliate-waiver-program-fsawp>.

have flexibility in determining how to fulfill the requirements. As SIFMA stated in a comment letter to FINRA earlier this year, the annual compliance meeting requirement has largely become duplicative, in both form and content, of certain FINRA mandated continuing education requirements (the Firm Element).⁸ The AML training required by FINRA Rule 3310(e) is another example of training that is often duplicative. Additional examples include training required by other financial regulators, such as state insurance regulators for registered persons licensed to sell annuity products. Because many of the same concerns (*e.g.*, AML, sales practices, ethics, privacy, financial products, and cybersecurity) exist across the financial services sectors, the training already required by other financial regulators is often duplicative of the Firm Element training.

SIFMA also notes that many registered persons have earned and maintain professional designations that require regular continuing education that may overlap with the Firm Element. SIFMA recommends that firms be given flexibility based on firm size and needs to consider continuing education undergone by registered persons to maintain such designations to be considered for formal reciprocity.⁹

By granting formal reciprocity, where appropriate, the CE Council and FINRA would allow firms to avoid the unnecessary, duplicative, and inefficient requirements that result in registered persons receiving training multiple times on the same topic. We also recommend that FINRA reach out to these standard-setting organizations to urge them to consider recognizing the completion of Firm Element to promote reciprocity and minimize inefficiency and duplication. Eliminating duplicative continuing education requirements would result in significant savings across firms, be operationally more efficient, result in better training, and provide for a more holistic approach to training.

C. REGULATORY ELEMENT - CONTENT RELEVANCE TO LICENSE HELD

The CE Council has requested advice on whether it should restructure the Regulatory Element program to allow registered persons greater flexibility in selecting content most relevant to their industry functions and registration types. Specifically, the CE Counsel is considering “creat[ing] targeted learning units” to replace otherwise

⁸ See Letter from Kevin Zambrowicz, Managing Director & Associate General Counsel, SIFMA, to Jennifer Piorko Mitchell, Office of the Corporate Secretary, FINRA, re: FINRA Regulatory Notice 18-14: SIFMA Comment on the Effectiveness and Efficiency of FINRA’s Rule on the Annual Compliance Meeting (June 25, 2018), available at http://www.finra.org/sites/default/files/18-14_SIFMA_Comment.pdf.

⁹ SIFMA recommends that FINRA consider the continuing education undergone by registered persons to maintain the following designations for formal reciprocity with the Firm Element: Accredited Asset Management Specialist (AAMS), Certified Financial Planner (CFP), Chartered Financial Consultant (CHFC), Chartered Financial Analyst (CFA), Chartered Life Underwriter (CLU), Chartered Retirement Planning Counselor (CRPC), Chartered Retirement Planning Specialist (CRPS), Accredited Domestic Partnership Advisor (ADPA), and Certified Investment Management Analyst (CIMA).

standard modules so that “[i]ndividuals would only receive those portions of the Regulatory Element that are pertinent to the registrations that they hold.” The CE Council believes that such changes would reduce the amount of content that an individual is presented while ensuring that the individual is receiving relevant material.

SIFMA supports the CE Council’s proposed modular structure, which SIFMA believes would significantly advance continuing education’s primary goal of encouraging registrants to expand their knowledge base and remain current on developments that impact their job performance. Contouring content to fit different registrations will increase subject matter proficiency, and naturally, continuing education will have the largest practical effect if it topically relates to a person’s work. SIFMA also expects that a modular structure would support firms’ compliance efforts by increasing interest while reducing burdens associated with participation. Moreover, the CE Council’s structure under consideration would place registrants in line with other professionals subject to continuing education requirements, such as lawyers, architects, engineers, and realtors, all of whom have at least some discretion in choosing topics for their sessions.

In addition, the CE Council’s suggestions to require more frequent continuing education and to make topics of the Regulatory Element available to firms in advance support a move toward tailoring materials’ relevance to the varying audiences’ registrations. Because Regulatory Element coursework may become an annual requirement, it makes sense to mold that coursework to timely, emerging topics and issues that affect registered persons, and for those topics and issues to be made known to firms well in advance so that they can appropriately complement the Regulatory Element with the content of the Firm Element. Moreover, before considering implementing annual Regulatory Element requirements, the CE Council will need to build a library of institutional courses. Given the implementation of the new registration rules on October 1, 2018, if FINRA were to adopt this new structure of regulatory continuing education, firms would request considerable lead time before implementation.

D. FIRM ELEMENT – CENTRALIZED CONTENT CATALOG

The CE Council stated that it is considering creating a centralized content catalog to serve as an additional source of Firm Element content. The CE Council also stated that it would work together with FINRA and third-party training providers to offer a large catalog of readily available materials that are centrally located for convenience and that firms would have easy access to necessary courses and could select from multiple providers to satisfy a portion of or their entire Firm Element requirements. Courses offered by third-party vendors, FINRA, and others would be included and available in the course catalog and FINRA and other self-regulatory organizations (“SROs”) could include existing educational courses and develop additional courses as needed.

SIFMA supports the CE Council's ideas to create a centralized content catalog that would serve as a helpful and valuable resource to the industry. SIFMA would be willing to consult with the CE Council, SROs, and third-party training providers as they work together to determine the types of resources to include in the catalog. Additional considerations would have to be explored for example, regarding costs, technology requirements and reporting capabilities of the centralized content source. SIFMA notes, however, that firms often create and develop content to satisfy their Firm Element requirements, and SIFMA believes that FINRA and the CE Council should preserve firms' flexibility to develop in-house content as necessary to meet the unique needs of the firm.

The CE Council also sought feedback on the value of guidance and resources it provides firms, such as the Firm Element Advisory on the cecouncil.com website. SIFMA believes that this information is useful but is not well known to firms and is generally out of sight except when firms are considering their annual continuing education requirements. SIFMA recommends that the CE Council consider enhancing the frequency of guidance and types of resources provided to users addressing current training requirements of various regulators (*e.g.*, FINRA, the Municipal Securities Rulemaking Board, and the National Futures Association). To improve the visibility of the CE Council's guidance and resources, SIFMA recommends that the CE Council enhance its marketing efforts, for example, by publishing the Firm Element Advisory in a regulatory notice, providing periodic email or other communications to interested persons and including links to the content in additional website locations frequented by compliance and other appropriate personnel. SIFMA also recommends that the CE Council consider enhancements to improve users' direct access to top trending themes and regulatory filing information, as users are often required to filter through other information before accessing the desired content. SIFMA also supports increased transparency about who serves on the CE Council and how members are selected.

E. REGULATORY ELEMENT AND FIRM ELEMENT

The CE Council solicited comment on the most important issues that it should consider when developing changes to industry continuing education requirements, including alternative approaches, other than the ideas discussed in RN 18-26.

SIFMA encourages the CE Council to view securities industry training holistically and not solely through the lens of "Regulatory Element" and "Firm Element" continuing education programs. As previously noted, various SRO and federal regulator rules require or encourage firms to deliver various training such as an annual compliance meeting, AML/BSA training, code of conduct training, and risk management training. Such training shares the intent of the Regulatory Element and Firm Element training requirements, "...to provide targeted educational material that facilitates registered persons maintaining adequate knowledge and understanding of the rules and practices necessary to perform

their registered activities.”¹⁰ An unintended consequence of the various training requirements and expectations may be that training content overlaps or appears repetitive creating the perception that the training efforts are redundant and unproductive. By looking holistically across training requirements and expectations the CE Council may identify opportunities to streamline training requirements and improve registrant engagement in training efforts.

To this end and in view of the proposals under consideration to improve the relevancy of the Regulatory Element training, notably:

- An annual cycle;
- Targeted learning units; and
- Publishing learning topics in advance.

SIFMA recommends that the CE Council consider combining Firm Element and Regulatory Element training and only have one annual learning plan requirement. SIFMA also recommends that the annual learning plan requirement permit consideration of other SRO and federal regulator required or encouraged training in the development of the annual learning plan. As stated earlier, firms would need to know well in advance what content was being covered in the Regulatory Element to avoid duplication; perhaps certain topics could be provided in cycles.

SIFMA believes that combining the two components of the CE Program into a single annual learning requirement is a logical consideration based on the enhancements under review by the CE Council. SIFMA also believes that implementing a single annual learning plan requirement would further reduce inefficiencies, avoid duplication, and enable a firm to better allocate its resources, and offer some course flexibility based on a firm's needs analysis (*e.g.*, some of the elective courses as part of the single learning plan might be unique to a specific firm) when designing an effective continuing education plan.

Given the suggested annual frequency, registered representatives should be allowed 60 to 90 days to complete their continuing education requirement with window openings in alignment with annual anniversaries. SIFMA also believes that a centralized catalog could be helpful. Pursuant to this approach, member firms would have the flexibility to continue to develop business/company specific ACM modules and other in-person or online training content to the extent deemed appropriate and necessary by the firm to meet its needs. It should be up to firms to develop and maintain sufficient supporting documentation.

¹⁰ See <http://www.finra.org/newsroom/2018/ce-council-and-finra-request-comment-potential-enhancements-securities-industry>.

F. AUTO NOTIFICATION TO REGISTERED PERSONS FROM FINRA

The CE Council has discussed with FINRA possible enhancements to the CRD system and the Financial Professional Gateway, a FINRA system intended to improve access to data and delivery of services to registered representatives, to mitigate the additional efforts that would be required by firms to monitor participation of annual Regulatory Element requirements. Possible enhancements include the opportunity and flexibility for firms to opt into system-generated email notifications. For example, the system could send notifications directly to registered persons at the start of the Regulatory Element window and periodically thereafter until they have met the requirement.

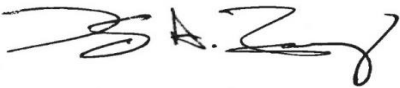
SIFMA supports these enhanced reporting and automated notification functions, including processes that would provide automated notifications to registered persons that their continuing education window is about to open or has opened. SIFMA also encourages FINRA to design the system to give firms the ability to receive automated notifications sent to registered persons and to control when notifications are sent. The system enhancements should consider common factors across the various operating systems amongst member firms and consider requirements needed to enable an Alert Function, Single Sign-on feature, as well as a robust marketing/communication plan. As part of the communication plan, FINRA should include instructions on navigating the selected site since many users do not utilize CRD or the Financial Professional Gateway on a regular basis. Including member firms on the notifications will assist firms in meeting their compliance obligations. The creation of standard reporting as well as customized reporting will also help firms quickly monitor and reconcile issues and promote compliance. Firms also may prefer to notify registered persons of their continuing obligations in advance of when the system would otherwise provide the notification.

IV. CONCLUSION

SIFMA appreciates the opportunity to comment on RN 18-26. SIFMA commends FINRA and the CE Council on their continued efforts to enhance the CE Program and ensure that registered persons receive timely education on the securities business and the regulatory requirements applicable to their respective functions. SIFMA looks forward to a continuing dialogue with FINRA and the CE Council on these topics.

If you have any questions or require further information, please contact me at (202) 962-7386, my colleague, Bernard Canepa, at (202) 962-7300, or our counsel, Mark Attar of Schiff Hardin LLP, at (202) 778-6434.

Very truly yours,



Kevin A. Zambrowicz
Managing Director &
Associate General Counsel



Bernard V. Canepa
Vice President &
Assistant General Counsel

cc: Ann McCague, Co-Chair, SIFMA Compliance & Regulatory Policy Committee
Mary Beth Findlay, Co-Chair, SIFMA Compliance & Regulatory Policy Committee

Gene Porter, Co-Chair, SIFMA Registration & Reporting Task Force
Michele Van Tassel, Co-Chair, SIFMA Registration & Reporting Task Force

Mark Attar, Schiff Hardin LLP

Regulatory Notice

20-05

Continuing Education Program Transformation

FINRA Requests Comment on a Proposal to Implement the Recommendations of the CE Council Regarding Enhancements to the Continuing Education Program for Securities Industry Professionals

Comment Period Expires: April 20, 2020

Summary

FINRA seeks comment on a 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.¹ The proposal would change the: (1) Regulatory Element to provide annual training, make the content more relevant, incorporate diverse instructional formats, publicize the learning topics in advance and enhance the related management systems; (2) Firm Element to expressly recognize other training requirements, improve the guidance and resources available to firms and establish a content catalog; and (3) Continuing Education Program to enable individuals who terminate their registrations the option of maintaining their qualification by completing continuing education.

The proposed rule text is available in [Attachment A](#).

Questions regarding this *Notice* should be directed to:

- ▶ Afshin Atabaki, Special Advisor and Associate General Counsel, Office of General Counsel, at (202) 728-8902;
- ▶ David Scrams, Vice President, Testing and Continuing Education Department, at (240) 386-5950; or
- ▶ Patricia Monterosso, Associate Director, Testing and Continuing Education Department, at (212) 858-4086.

February 18, 2020

Notice Type

- ▶ Request for Comment

Suggested Routing

- ▶ Compliance
- ▶ Operations
- ▶ Registered Persons
- ▶ Registration
- ▶ Senior Management
- ▶ Training

Key Topics

- ▶ Annual Requirement
- ▶ Content Catalog
- ▶ Continuing Education
- ▶ Firm Element
- ▶ Qualification
- ▶ Regulatory Element
- ▶ Termination of Registrations

Referenced Rules & Notices

- ▶ FINRA By-Laws, Article III
- ▶ FINRA Rules 1210, 1240, 3110(a)(7), 3270, 3310(e) and 8310 and the FINRA Rule 9520 Series
- ▶ Regulatory Notices 17-30, 18-26 and 19-34
- ▶ SEA Sections 3(a)(39) and 15(b)(4)

Questions concerning the Economic Impact Assessment in this *Notice* should be directed to:

- ▶ Lori Walsh, Deputy Chief Economist, Office of the Chief Economist (OCE), at (202) 728-8323; or
- ▶ Dror Y. Kenett, Economist, OCE, at (202) 728-8208.

Action Requested

FINRA encourages all interested parties to comment. Comments must be received by April 20, 2020.

Comments must be submitted through one of the following methods:

- ▶ emailing comments to pubcom@finra.org; or
- ▶ mailing comments in hard copy to:
Jennifer Piorko Mitchell
Office of the Corporate Secretary
FINRA
1735 K Street, NW
Washington, DC 20006-1506

To help FINRA process comments more efficiently, persons should use only one method to comment.

Important Note: All comments received in response to this *Notice* will be made available to the public on the FINRA website. In general, FINRA will post comments as they are received.²

Before becoming effective, a proposed rule change must be authorized for filing with the Securities and Exchange Commission (SEC or Commission) by the FINRA Board of Governors, and then must be filed with the SEC pursuant to Section 19(b) of the Securities Exchange Act of 1934 (SEA).³

Background and Discussion

The program of continuing education for registered persons of broker-dealers (CE program) was established by the CE Council nearly 25 years ago.⁴ Registered persons of broker-dealers are required to participate in continuing education consisting of a Regulatory Element and a Firm Element.⁵ The Regulatory Element is generally delivered every three years and focuses on regulatory requirements and industry standards, while the Firm Element is an annual requirement and focuses on securities products, services and strategies firms offer, firm policies and industry trends.

The CE program has evolved since its inception in 1995, and changes in technology and learning theory have created opportunities for further enhancement.⁶ For example, technological and test center capacity constraints that existed at program inception resulted in the three-year time frame and the format for administering the Regulatory Element of the CE program. The 2015 transition of the delivery of the Regulatory Element to an online platform (CE Online) removed these constraints and allowed for increased efficiency, such as updating regulatory content in a more timely fashion, eliminating geographic constraints and presenting material in an optimal learning format. Similarly, the Firm Element of the CE program exists in an evolving environment where there are multiple other training programs that could serve as a valuable component of the Firm Element and ensure delivery of an appropriate level of training for registered persons participating in such other training programs.

To address these changes, in September 2018, the CE Council published a document outlining several potential enhancements to the CE program. These enhancements were designed to: (1) ensure that registered persons receive relevant and sufficient Regulatory Element training on an annual basis; (2) provide firms with the guidance and resources necessary to design effective and efficient Firm Element training programs; and (3) provide a path for previously registered individuals to maintain their qualification through continuing education.

In support of the CE Council, FINRA published [*Regulatory Notice 18-26*](#) requesting feedback on the CE Council's suggested enhancements. In response to the *Notice*, FINRA received 22 comment letters that are generally supportive of the potential enhancements the CE Council identified.⁷ The commenters express overwhelming interest in implementing a mechanism for allowing previously registered individuals to maintain their qualification after the termination of their registrations for longer than the current two-year period. In addition, a majority of commenters see value in moving to an annual Regulatory Element requirement in order to provide registered persons with more timely and relevant education and training. However, many express concern that doing so could increase the administrative and operational burden on both firms and registered persons, particularly for firms with a narrowly focused business model (*e.g.*, the sale of mutual funds and variable annuities). One commenter expresses concern that increasing the frequency of the Regulatory Element may exacerbate the existing burden on those without ready access to a high-speed internet connection, which is currently required for accessing CE Online. Many commenters are in favor of Regulatory Element content that is tailored and specific to each registration category rather than content that applies generally to all registered persons. Some of these commenters question whether there are sufficient regulatory developments occurring annually that would be relevant to individuals with limited registrations, such as registered persons engaged in the sale of mutual funds and variable annuities. Further, commenters widely support the creation of a content catalog that firms could leverage for administering education and training for their Firm Element programs. Finally, a number of commenters request more guidance on the Firm Element component, including express

guidance that other training requirements (e.g., anti-money laundering (AML) compliance program and annual compliance meeting) may count towards satisfying the Firm Element requirement.⁸

After reviewing the public comments and further discussions, on September 12, 2019, the CE Council published the following recommendations regarding the CE program:

- ▶ transition to an annual Regulatory Element;
- ▶ design Regulatory Element content that is more tailored and relevant to each registration category with diverse instructional formats;
- ▶ publish the Regulatory Element learning topics for each coming year in advance;
- ▶ enhance the functionality of the FINRA systems to facilitate compliance with the Regulatory Element;
- ▶ recognize other training requirements for purposes of satisfying the Firm Element;
- ▶ improve the guidance and resources provided to firms for conducting the Firm Element annual needs analysis and for planning their respective training;
- ▶ develop a content catalog that firms may optionally use for selecting or supplementing Firm Element content; and
- ▶ consider rule changes that would enable individuals who were previously registered to maintain their qualification by participating in an annual continuing education program.⁹

FINRA is publishing this *Regulatory Notice* to solicit comment on a proposal to implement the CE Council's recommendations. As discussed in more detail below, FINRA is proposing to amend several of its rules as part of implementing these recommendations.

Regulatory Element

Recommendation: Transition to Annual Requirement

Currently, FINRA Rule 1240(a) (Regulatory Element) requires registered persons to complete the Regulatory Element within prescribed intervals based on their registration anniversary date.¹⁰ Specifically, a registered person is required to complete the Regulatory Element initially within 120 days after the person's second registration anniversary date and, thereafter, within 120 days after every third registration anniversary date.¹¹ In addition, registered persons who become subject to a significant disciplinary action may be required to retake the Regulatory Element within 120 days of the effective date of the disciplinary action, if they remain registered.¹² As noted above, the current time frames were established at a time when most individuals had to complete the Regulatory Element at a test center and were designed to address the capacity challenges of the test center-based delivery model. The 2015 transition to CE Online provided individuals the flexibility to complete the content at a location of their choosing, including their private residence, at any time during their 120-day window.

To provide registered persons more timely training on significant regulatory developments, the CE Council recommends that the Regulatory Element be administered annually.

To implement this recommendation, FINRA is proposing to amend Rule 1240(a) to require registered persons to complete the Regulatory Element annually by the end of each calendar year.¹³ Firms would have the flexibility to require their registered persons to complete the Regulatory Element at any time during the calendar year, which would allow firms to coordinate the timing of the Regulatory Element with other training requirements, including the Firm Element. For example, a member firm may require its registered persons to complete both their Regulatory Element and Firm Element by October 1 of each year.

Individuals who fail to complete their Regulatory Element by the end of each calendar year would be automatically designated as CE inactive in the CRD system on January 15 of the next calendar year. If an individual fails to complete the Regulatory Element by the end of the calendar year but subsequently completes it prior to being designated as CE inactive (that is, prior to January 15 of the next calendar year), the firm with which the individual is associated must document the basis for the individual's failure to complete the Regulatory Element by the end of the calendar year and retain such documentation. In addition, as currently allowed, a firm may submit a written request, with supporting documentation, to FINRA to extend the time by which a registered person must complete the Regulatory Element. In such cases, for good cause shown, FINRA would grant an extension of time for an individual to complete the required Regulatory Element.

Consistent with current requirements, individuals would be restricted from performing, or receiving compensation for, any activities requiring registration while they remain in a CE inactive status. Individuals who are designated as CE inactive would be required to complete all of their pending and upcoming annual Regulatory Element, including any annual Regulatory Element that becomes due during their CE inactive period, in order for the CE inactive designation to be removed. Finally, if an individual remains CE inactive for a two-year period, the individual would be required to requalify by examination or obtain an examination waiver in order to re-register with a member. Similar to the current process, this two-year period is calculated from the date individuals become CE inactive, and it continues to run regardless of whether they terminate their registrations before the end of the two-year period.

Under the proposal, registered persons would be required on an annual basis to complete approximately one-third of the content that they currently complete. However, individuals with multiple registrations may be subject to more content than individuals with a single registration because, as noted below, they would be required to complete content specific to each registration category that they hold. For example, individuals registered as General Securities Representatives and Securities Traders would be required annually to complete content that is relevant to both representative-level registration categories (sales and trading) and, thus, they would be required to complete more content than individuals

registered solely as General Securities Representatives. Similarly, for example, individuals registered as General Securities Representatives and General Securities Principals would be required annually to complete both representative- and principal-level content. The session fee for the annual Regulatory Element will be addressed as part of a separate proposal.

Timing and Frequency of Regulatory Element for Registered Persons

Existing Registrants

All individuals registered with FINRA in a representative or principal registration category immediately prior to the implementation date of the proposal would be required to complete their Regulatory Element for that registration category by the end of the calendar year in which the proposal is implemented and by the end of each calendar year in which they remain registered. For example, if the proposal were implemented on January 1, 2022, an individual registered in the CRD system as a General Securities Representative on December 31, 2021, would be required to complete her annual Regulatory Element for that category by December 31, 2022,¹⁴ regardless of whether she had completed the current Regulatory Element requirement in 2021. She would also be required to complete her annual requirement by the end of each following year in which she remains registered (*i.e.*, by December 31, 2023, by December 31, 2024, and so on).¹⁵ However, if such individuals obtain a new registration in any given year, their Regulatory Element content would not reflect the new registration category until the beginning of the following calendar year. If, in the example above, the individual registers as a General Securities Principal in 2022, her Regulatory Element content for 2022 would only reflect the General Securities Representative content. Her Regulatory Element content for 2023 would reflect content for both registration categories and would be due by December 31, 2023.

Individuals Registering on or After the Implementation Date

Individuals who are registering with FINRA in a representative or principal registration category for the first time on or after the implementation date of the proposal would be required to complete their Regulatory Element for that registration category by the end of the next calendar year following their registration. For example, if the proposal were implemented on January 1, 2022, an individual registering for the first time in 2022 as a Securities Trader would be required to complete his Regulatory Element for the Securities Trader registration category by December 31, 2023.¹⁶ Such individuals would also be required to complete their Regulatory Element by the end of each subsequent calendar year in which they remain registered.¹⁷ However, if such individuals obtain a new registration in any given year, their Regulatory Element content would not reflect the new registration category until the beginning of the following calendar year. If, in the example above, the individual subsequently registers as a General Securities Representative in 2024, his Regulatory Element content for 2024 would only reflect the Securities Trader content. His Regulatory Element content for 2025 would reflect content for both registration categories and would be due by December 31, 2025.

Individuals who are re-registering with FINRA in a representative or principal registration category on or after the implementation date of the proposal would also be required to complete their Regulatory Element content for that registration category by the end of the next calendar year following their registration, provided that they have already completed Regulatory Element content for that registration category for the calendar year in which they are re-registering or that they are re-registering by having passed an examination for that registration category or by having obtained an unconditional examination waiver for that registration category.¹⁸ Individuals who are re-registering with FINRA in a representative or principal registration category on or after the implementation date of the proposal and who have not satisfied any of the three criteria above would be required to complete the Regulatory Element content for that category by the end of the calendar year in which they re-register.

In addition, if an individual has not completed any Regulatory Element content for a terminated registration category in the calendar year(s) prior to re-registering, FINRA would not approve a registration request for that category until the individual has completed that annual Regulatory Element content, has passed an examination for that category or has obtained an unconditional examination waiver for that category, whichever is applicable. For example, assuming the proposal were implemented on January 1, 2022, if an individual terminates his Investment Banking Representative registration on May 1, 2022, and applies to re-register as an Investment Banking Representative on March 1, 2024, without having completed any Regulatory Element content for that registration category in 2022, 2023 or 2024, FINRA would not approve his registration request until he completes his 2022 and 2023 Regulatory Element content. Further, upon registration, his 2024 Regulatory Element content for the Investment Banking Representative category would be due by December 31, 2024. In this example, if he fails to complete his 2022 and 2023 Regulatory Element by May 1, 2024, his qualification status would lapse, and he would need to requalify by passing the Series 79 examination or by receiving an examination waiver.

Individuals who are re-registering on or after the implementation date of the proposal would also be required to complete their Regulatory Element by the end of each subsequent calendar year in which they remain registered. However, if such individuals obtain a new registration in any given year by passing an examination or obtaining an unconditional examination waiver, their Regulatory Element content would not reflect the new registration category until the beginning of the following calendar year. If, in the example above, the Investment Banking Representative subsequently registers as a General Securities Representative in 2025 by passing the Series 7 examination, his Regulatory Element content for 2025 would only reflect the Investment Banking Representative content. His Regulatory Element content for 2026 would reflect content for both registration categories and would be due by December 31, 2026.

Disciplined Registrants

As described above, currently, registered persons who become subject to a significant disciplinary action may be required to retake the Regulatory Element within 120 days of the effective date of the disciplinary action if they remain registered. FINRA is proposing to amend Rule 1240(a) to provide that such persons may be required to complete assigned continuing education content in a manner specified by FINRA.

Recommendation: Design More Relevant Content With Diverse Instructional Formats

The current Regulatory Element consists of two subprograms: S101 (General Program for Registered Persons); and S201 (Registered Principals and Supervisors). Individuals who maintain solely representative registrations are required to complete the S101 content. Individuals who maintain a principal registration, whether solely or in conjunction with representative registrations, are required to complete the S201 content. Each subprogram includes four training modules. Three of the S101 modules cover general regulatory topics applicable to all representatives.¹⁹ The remaining module is a self-selection module, which allows representatives to select specific content relevant to their functions at a firm (*e.g.*, sales, trading, investment banking).²⁰ The four modules of the S201 program cover general regulatory topics applicable to all principals.²¹

Each module leads individuals through a case that provides a story depicting situations that they may encounter in the course of their work. Each case also contains relevant educational content. Individuals are required to complete one case in each of the four modules. Individuals must review the story content of each case and respond to a series of related questions that assess their understanding of the materials presented. If an individual is unable to answer the questions in a particular case, they will have to retake that case until they can demonstrate proficiency with the subject matter.

While some of the current Regulatory Element content is unique to particular registration categories (*i.e.*, the self-selection module of the S101), most of the content has broad application to representatives and principals. Moreover, the content is presented in a single format. These characteristics are a result of the delivery constraints that existed at program inception, which are no longer at issue since the transition to CE Online.

The CE Council recommends that the Regulatory Element content be redesigned to become more tailored and relevant to the registration categories an individual holds and to incorporate diverse instructional formats.

FINRA will work with the CE Council to: (1) replace the S101 and S201 subprograms with a consolidated Regulatory Element program; (2) identify significant rule changes and other regulatory developments relevant to each registration category;²² and (3) determine the overall amount of learning content needed. FINRA would then work with the CE Council and the CE Content Committee, composed of industry experts, to create tailored content for each registration category. In addition, FINRA is proposing to amend Rule 1240(a) to require registered persons to complete Regulatory Element content relevant to each registration category that they hold.

FINRA will also work with the CE Council to incorporate a variety of instructional formats and not just rely on the current case format. However, regardless of the format, registered persons would continue to be subject to some form of educational assessment to evaluate their understanding of the materials presented.

Recommendation: Publish Learning Topics

The Regulatory Element currently includes a content outline that provides the general regulatory topics covered in the program (*e.g.*, types of communications) and, where applicable, some examples (*e.g.*, email, instant messaging, social media, telemarketing, advertising, seminars). However, the specific learning topics are not available to firms beforehand, which can make it difficult for firms to avoid duplication of topics when developing their Firm Element.

To address this issue, the CE Council recommends that the specific learning topics for the annual Regulatory Element be published in advance of each coming year.

FINRA will work with the CE Council to identify and publish the Regulatory Element learning topics for each coming year in advance. Specifically, by October 1 of each year, FINRA and the CE Council will publish the learning topics for the next year. As noted above, the learning topics will consist of significant rule changes and other regulatory developments relevant to each registration category. Firms and individuals will be able to access the learning topics through the CE Council website or FINRA.org. The learning topics will be listed with the registration category to which they relate. The advance publication of the learning topics will allow firms to review the Regulatory Element topics when developing their Firm Element training plan to avoid unnecessary duplication of topics. In addition, if there are any other critical rule changes or other regulatory developments that arise during the course of a given year, FINRA and the CE Council will work to provide registered persons timely and sufficient training on such rule changes and developments.

Recommendation: Enhance Functionality of FINRA Systems

Currently, firms rely primarily on the CRD system to track and manage completion of the Regulatory Element by their registered persons. The CRD system provides firms with data, reporting and notifications. Further, each registered person currently launches and tracks completion of the program through CE Online.

The CE Council recommends that FINRA enhance the functionality of the CRD system and other systems to facilitate compliance with the proposed changes to the Regulatory Element, including the proposed transition to an annual requirement.

FINRA recognizes that the transition to an annual requirement will increase the number of registered persons who would be subject to the Regulatory Element annually.²³ Therefore, to assist compliance with the proposed changes to the Regulatory Element, FINRA would

enhance the CRD system to provide firms with additional management and tracking functionality. FINRA would also enhance the FINRA Financial Professional GatewaySM (FinPro) system to enable registered persons to launch and track completion of the program through that system, rather than through CE Online. The FinPro system would send automated email notifications regarding the Regulatory Element requirement directly to registered persons. The system would then continue to send notifications to registered persons until they have completed their Regulatory Element session. In addition, firms could elect to be copied on all system-generated notifications sent to a registered person.

Firm Element

Recommendation: Recognize Other Training Requirements

Unlike other annual training requirements that apply to all registered persons, such as the annual compliance meeting requirement, the Firm Element only applies to certain registered persons. Specifically, FINRA Rule 1240(b) (Firm Element) currently requires each firm to develop and administer an annual Firm Element training program for covered registered persons. A “covered registered person” is defined as any registered person who has direct contact with customers in the conduct of a member firm’s securities sales, trading and investment banking activities, any individual who is registered as an Operations Professional or a Research Analyst, and the immediate supervisors of any such persons.²⁴

To date, other required training, including the training requirements relating to the AML compliance program and those relating to the annual compliance meeting,²⁵ have not been expressly recognized for purposes of satisfying Firm Element training.

The CE Council recommends that other training requirements, including those relating to the AML compliance program and annual compliance meeting, be expressly recognized in determining whether individuals have satisfied the Firm Element requirement.

FINRA is proposing to amend Rule 1240(b) to provide that member firms may consider training relating to the AML compliance program and annual compliance meeting towards satisfying an individual’s annual Firm Element requirement.²⁶

In conjunction with this proposed change, FINRA is also proposing to amend Rule 1240(b) to extend Firm Element training to all registered persons, including individuals who maintain solely a permissive registration consistent with FINRA Rule 1210.02 (Permissive Registrations), thereby aligning the Firm Element requirement with other broadly based training requirements, such as the annual compliance meeting requirement. However, given the proposed recognition of other training requirements towards satisfying the Firm Element requirement, registered persons may find that they do not have to complete any additional training beyond what they are required to complete today. For example,

with respect to a registered person working on AML compliance at a firm, the firm may determine that the individual has satisfied the annual Firm Element requirement for a given year by completing AML training for that year and participating in the annual compliance meeting. As another example, with respect to a permissively registered person working in a clerical or administrative capacity for a firm, the firm may determine that the individual has satisfied the annual Firm Element requirement for a given year by participating in the firm-wide annual compliance meeting.

Recommendation: Improve Guidance and Resources

The CE Council currently publishes a quarterly Firm Element Advisory (FEA), which identifies and recommends pertinent regulatory and sales practice issues for firms to consider including in their Firm Element training plans. The FEA also provides general guidance on conducting an annual needs analysis, access to reports summarizing a firm's performance on the Regulatory Element and a number of regulator-provided training resources on the topics covered in the FEA. Archived and updated FEAs are available on the CE Council website.

The CE Council recommends that the Firm Element guidance and resources provided to firms, including the material provided through the FEA, be improved to better assist firms in planning their respective programs.

FINRA and the CE Council will work towards improving the guidance and resources available to firms to develop effective Firm Element training programs, such as updated templates for documenting training plans and specific principles for conducting the required annual needs analysis. In addition, as discussed below, FINRA and the CE Council will work on developing a content catalog to provide firms additional optional sources from which to select or supplement their Firm Element content.

Recommendation: Develop Content Catalog

Currently, each firm may select the content to be covered in the annual Firm Element from a variety of sources, including from content that is developed internally by the firm, or externally by a third party or an SRO. However, firms are not provided a centralized location from which to select relevant content for Firm Element training, which may make it more difficult for some firms to find relevant content for their respective training programs.

The CE Council recommends the development of a content catalog that would serve as an optional resource from which firms could select or supplement their Firm Element content.

FINRA and the CE Council will work to develop a catalog of continuing education content that would serve as an optional resource for firms to select relevant Firm Element content and create learning plans for their registered persons. The catalog would include content

developed by third-party training providers, FINRA and the other SROs participating in the CE program. Firms would have the option of using the content in the catalog for purposes of their Firm Element training—they would not be obligated to select content from the catalog. Therefore, firms would continue to have the option of developing their own content for use in their Firm Element training or working directly with third-party training providers to develop content.

The catalog would also serve other purposes. As discussed below, individuals who opt in to the proposed program to maintain their qualification following the termination of a registration category would be subject to annual continuing education, a portion of which would include content selected by FINRA and the CE Council from the content catalog.

Maintaining Qualification

Recommendation: Consider Rule Changes Enabling Previously Registered Individuals to Maintain Qualification Through Continuing Education

Registered persons of broker-dealers may terminate one or more of their registrations for a variety of reasons, such as life events, career changes or business reorganizations. Currently, individuals whose registrations as representatives or principals have been terminated for two or more years may re-register as representatives or principals only if they requalify by retaking and passing the applicable representative- or principal-level examination or if they obtain a waiver of such examination(s), regardless of having satisfied their continuing education requirements throughout their careers.²⁷ Waivers are granted either on a case-by-case basis or under FSAWP, which includes a Regulatory Element requirement and other eligibility conditions.²⁸

While registered persons of broker-dealers are subject to continuing education, they are unable to extend that continuing education in order to maintain their qualification following the termination of any of their registrations. The same is not true for other professionals who are required to complete continuing education,²⁹ including lawyers and accountants. Such other professionals may maintain their qualification to work in their respective fields during a period of absence from their careers by satisfying continuing education requirements for their credential.

To address this issue, the CE Council recommends that FINRA, and the other SROs participating in the CE program, consider rule changes that would enable previously registered individuals to maintain their qualification for their terminated registration categories by participating in an annual continuing education program.

In response, FINRA is proposing 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 to maintain their qualification for a terminated registration category.³⁰ As discussed more fully below, subject to specified eligibility criteria, the

proposal would provide such individuals the option of maintaining their qualification beyond the current two-year limitation by satisfying an annual continuing education requirement.³¹ The proposed program would be available to eligible individuals who terminate any of their representative or principal registration categories and wish to maintain their qualification for any of the terminated categories.³² FINRA is proposing to make conforming changes to Rule 1210.08 to reflect the proposed program.

To be eligible, among other criteria, individuals must have been registered in the terminated registration category for a minimum time period immediately prior to the termination of that category. Eligible individuals would have the option of participating in the proposed program for a specified amount of time following the termination of that registration category.³³ In addition, individuals may regain eligibility to participate in the program each time they satisfy the eligibility criteria. Therefore, individuals could participate in the program multiple times during the course of their careers and each time up to the specified amount of time permitted. Eligible individuals who decide not to opt in to the proposed program would continue to be subject to the current two-year limitation on their qualification.³⁴

By enabling individuals the option of maintaining their qualification in such a manner, the proposal would achieve a number of goals. It would provide them with flexibility to address life and career events and necessary absences from registered functions without the added challenge of having to requalify each time. It would also incentivize them to stay current on their respective securities industry knowledge following the termination of any of their registration categories. Further, if they choose to participate in the program, they would be subject to a continuing education standard that would be as rigorous as the standard to which registered persons are subject, which promotes investor protection.

Eligibility Criteria

The following individuals would be eligible to opt in to the program:

- ▶ Individuals who terminate any of their registration categories on or after the implementation date of the proposed program, provided that they were registered in that registration category for at least one year immediately prior to the termination of that registration category, they were not subject to a statutory disqualification during the applicable registration period, and they were not CE inactive for two consecutive years (New Participants);
- ▶ Individuals who terminated any of their registration categories within two years immediately prior to the implementation date of the proposed program, provided that they were registered in that registration category for at least one year immediately prior to the termination of that registration category, they were not subject to a statutory disqualification during the applicable registration period, and they were not CE inactive for two consecutive years (Transition Participants);³⁵ and

- Individuals participating in FSAWP immediately prior to the implementation date of the proposed program (FSAWP Participants).³⁶

Notification and Opt-In Period

FINRA would notify New Participants of their eligibility to participate in the proposed program following their Form U5 (Uniform Termination Notice for Securities Industry Registration) submission. New Participants would then have to decide whether to join the program. New Participants would have the option of joining the program either at the time of their Form U5 submission or at another time within two years of the termination of their registration categories.

FINRA would notify Transition Participants and FSAWP Participants of their eligibility to participate in the proposed program three months prior to the implementation date. Transition Participants and FSAWP Participants would then have to decide whether to join the program by the implementation date. For example, assuming the proposed program were implemented on January 1, 2022, a Transition Participant who terminates a registration category in March 2020 would be notified by October 1, 2021, of his eligibility to participate in the program, and he would need to decide whether to join the program by January 1, 2022.

FINRA would enhance the FinPro system to notify previously registered individuals of their eligibility to participate in the program, enable them to affirmatively opt in and notify them of their annual continuing education requirement if they opt in.

Participation Time Period

New Participants and Transition 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 FSAWP. The proposed program is intended to complement an individual's experience in a particular registration category and to address life events and economic downturns that may necessitate a period of absence from registered functions. The participation time period for FSAWP Participants who decide to join the proposed program would be up to seven years following the termination of their registrations as part of FSAWP.

With respect to Transition Participants and FSAWP Participants who decide to join the proposed program, FINRA would retroactively adjust their participation time period by deducting the amount of time that such individuals were unregistered prior to the implementation date because such individuals would not have been subject to annual continuing education prior to that date. For example, if the proposed program were implemented on January 1, 2022, the participation time period for an FSAWP Participant who joins the proposed program and who terminated his registration with FINRA on January 1, 2020, as reflected on his Form U5, would end on January 1, 2027 (*i.e.*, seven years

from the date he terminated his registration with FINRA). This time period adjustment would only impact the initial participation time period of these individuals. It would not impact any subsequent participation time period if these individuals become re-eligible to participate in the program after the implementation date. Transition Participants and FSAWP Participants who become re-eligible to participate in the program at some point after the implementation date would be considered as New Participants if they choose to re-join the program.

Program participants would be able to re-register in the applicable representative or principal registration category at any point during their participation time period without having to retake a qualification examination or obtain an examination waiver, provided that they complete the required annual content while in the program.³⁷ For example, assuming the proposed program were implemented on January 1, 2022, if a New Participant terminates his General Securities Representative registration in 2022 and joins the program that year to maintain his qualification, he could subsequently re-register as a General Securities Representative in 2026 without having to retake the Series 7 examination or obtain an unconditional waiver of the examination, provided that he completed the required annual content while in the program, including his 2025 annual content. In addition, once such individuals re-register a registration category, they would be required to complete their annual Regulatory Element content for that category by the end of the calendar year in which they re-register, unless they already completed their annual Regulatory Element content for that registration category as program participants. Therefore, in the example above, the New Participant would be required to complete his 2026 Regulatory Element content as a General Securities Representative by December 31, 2026, unless he already completed his 2026 annual content as a program participant prior to re-registering.

In addition, individuals may regain eligibility to participate in the program each time they remain registered in a registration category for at least one year immediately prior to the termination of that registration category without being subject to a statutory disqualification or a two-year CE inactive status, as noted above. Therefore, individuals could participate in the program multiple times during the course of their careers and each time up to seven years.

Content of Program

The annual continuing education under the proposed program would consist of a combination of Regulatory Element content and content selected by FINRA and the CE Council from the Firm Element content catalog discussed above. The content would correspond to the registration category for which an individual wishes to maintain his or her qualification. The content would include an educational assessment, which would require participants to demonstrate proficiency with the subject matter.

Timing and Frequency of Continuing Education

New Participants who decide to join the program would be required to complete their annual content for a terminated registration category by the end of the calendar year in which they terminate that category, unless they already completed their annual Regulatory Element content for that year. New Participants who have completed their annual Regulatory Element content for the year in which they terminate a registration category would be required to complete their annual content under the program by the end of the calendar year following the termination of that category. For example, if the proposal were implemented on January 1, 2022, a New Participant who terminates a registration category on May 1, 2022, and joins the proposed program at that time, after completing her 2022 Regulatory Element content for that category, would be required to complete her annual content under the program by December 31, 2023. As previously noted, New Participants have the option of joining the program on a later date following their Form U5 submission but within two years of the termination of their registration categories. New Participants who decide to join the program on a later date following their Form U5 submission would be required to complete any annual content that they missed in the interim period between the date of their Form U5 submission and the later date on which they joined the program. Such individuals would have to complete any missed annual content within two years of the termination of their registration categories. In the example above, if the New Participant decides to join the program on January 1, 2024, she would be required to complete the annual content that was due by December 31, 2023, by May 1, 2024.

Transition Participants and FSAWP Participants who decide to join the program would be required to complete their annual content under the program by the end of the calendar year in which the program is implemented. For example, if the proposal were implemented on January 1, 2022, a Transition Participant who decides to join the program for a registration category that was terminated in 2021 would be required to complete his annual content for that category under the program by December 31, 2022.

Program participants would also be required to complete their annual content by the end of each subsequent calendar year that they remain in the proposed program. A program participant may submit a written request, with supporting documentation, to FINRA to extend the time by which the participant must complete the continuing education under the program. For good cause shown, FINRA would grant an extension of time for such participants to complete the required annual content.

Impact of CE Inactive Status on Eligibility

Individuals who have been CE inactive for two consecutive years, as noted above, would not be eligible to join the proposed program. Moreover, individuals who join the program and subsequently become CE inactive for two consecutive years with respect to any of their registration categories with FINRA would not be eligible to continue in the proposed program.

New Participants who are in a CE inactive status and who terminate their registrations prior to the end of the two-year period would be eligible to participate in the proposed program, provided that they satisfy all of their outstanding Regulatory Element prior to the end of the two-year period. For example, if the proposal were implemented on January 1, 2022, an individual who terminates his registrations on March 1, 2022, after having been CE inactive since October 1, 2020, would be eligible to participate in the proposed program if he completes his outstanding Regulatory Element prior to October 1, 2022. Transition Participants who are in a CE inactive status and who terminated their registrations prior to the end of the two-year period would be eligible to participate in the proposed program, provided that they have not been CE inactive for two consecutive years and they satisfy all of their outstanding Regulatory Element in a manner specified by FINRA. FINRA would provide such New Participants and Transition Participants a mechanism through which they could complete their outstanding Regulatory Element.

Impact of Statutory Disqualification on Eligibility

As noted above, individuals who are subject to a statutory disqualification prior to the termination of their registrations would not be eligible to join the proposed program. In addition, individuals who become subject to a statutory disqualification after the termination of their registrations would become ineligible to participate in the program. This would include otherwise eligible individuals who become subject to a statutory disqualification while participating in the program. For example, if the proposal were implemented on January 1, 2022, an individual who joins the program on May 1, 2022, and becomes subject to a statutory disqualification on November 1, 2027, would thus become ineligible to participate in the program, regardless of whether she completed the required annual content under the program prior to becoming subject to a statutory disqualification. In this example, she would be required to requalify by retaking the applicable representative- or principal-level examination in order to re-register with a member firm, in addition to satisfying the eligibility conditions for association with a firm.³⁸ An individual is considered to be subject to a statutory disqualification irrespective of any review, appeal or final decision by FINRA or the SEC regarding the individual's eligibility to associate with a member firm pursuant to the Rule 9520 Series (Eligibility Proceedings).

Failure to Complete

Program participants who fail to complete the required annual content for a registration category would be provided an opportunity to continue in the program by completing any missed content, provided that the registration category has not been terminated for two or more years. Program participants who fail to complete the required annual content for a registration category that has been terminated for two or more years would not be eligible to continue in the program. For example, if the proposal were implemented on January 1, 2022, a program participant who completes the required annual content for the General Securities Representative category in 2022, 2023, 2024 and 2025 but fails to complete the 2026 annual content would not be eligible to continue in the program beyond 2026.

In addition, program participants who fail to complete the required annual content for a registration category could still re-register without having to requalify by examination if they do so within two years following the termination of that registration category. As noted above, however, if an individual has not completed any Regulatory Element content for a terminated registration category in the calendar year(s) prior to re-registering, FINRA would not approve a registration request for that category until the individual has completed that annual Regulatory Element content.

Two-Year Qualification Period

As described above, the proposal would not eliminate the current two-year qualification period. Rather, it would provide eligible individuals that join the proposed program the ability to maintain their qualification beyond the two-year limitation by completing annual continuing education. Accordingly, eligible individuals who decide not to join the proposed program and individuals who are not eligible to participate, other than individuals whose registrations have been revoked pursuant to FINRA Rule 8310 and individuals who have been CE inactive for two or more years,³⁹ could still re-register following the termination of any of their registration categories without having to requalify by examination or having to obtain an unconditional examination waiver if they re-register within two years of the termination of the registration category,⁴⁰ in addition to satisfying the eligibility conditions for association with a firm.⁴¹

Economic Impact of the Proposal

FINRA has undertaken an economic impact assessment, as set forth below, to further analyze the regulatory need for the proposed changes, their potential economic impacts, including anticipated costs, benefits, and distributional and competitive effects, relative to the current baseline, and the alternatives FINRA considered in assessing how best to meet its regulatory objective.

Regulatory Need

FINRA is proposing to make changes to the CE program, including the related FINRA rules, as part of ongoing efforts to address and implement the CE Council's September 2019 recommendations. FINRA's efforts are focused on the three main areas emphasized by the CE Council, as described above: (1) ensure that registered persons receive relevant and sufficient Regulatory Element training on an annual basis; (2) provide firms with the guidance and resources necessary to design effective and efficient Firm Element training programs; and (3) provide a path for previously registered individuals to maintain their qualification through continuing education.

The proposed changes are expected to result in a more efficient CE program that addresses relevant regulatory requirements and provides individuals the best tools and resources to understand and comply with such requirements, enhancing investor protection. Moreover, the proposed changes would provide new channels for individuals to maintain their qualification status for a terminated registration category and, in so doing, could increase the likelihood that professionals who need to step away from the industry for a period could return.

Economic Baseline

The economic baseline for the proposed changes is the existing CE program. As described above, registered persons of broker-dealers are required to participate in continuing education consisting of a Regulatory Element and a Firm Element. The Regulatory Element is generally delivered every three years and focuses on regulatory requirements and industry standards, while the Firm Element is an annual requirement and focuses on securities products, services and strategies firms offer, firm policies and industry trends.

As stated above, under the current regime, individuals generally have a two-year window from the termination of their association with a member firm to return to the industry without requalifying by examination or obtaining a waiver. According to FINRA analysis, the total number of registered persons, approximately 630,000, has remained the same, relatively speaking, over the past few years even as individual registered persons regularly change their status by ending and renewing their association with a firm.⁴² Across this pool of registered persons, approximately 65 percent hold only one registration category (for example either a General Securities Representative registration or an Investment Company and Variable Contracts Products Representative registration), 25 percent hold two registrations (for example a General Securities Representative registration and an Investment Banking Representative registration), and the remainder hold three registrations or more. In recent years, out of the approximately 630,000 registered persons, approximately 90,000 end their registration with all firms they are registered with at some point during the year. Out of these, about half do not renew their registration and are considered to have left the securities industry.

Under the current baseline, registered persons who chose to give up their association with any member firm are given a two-year grace period in which they can return without being required to retake a qualification examination or obtain an examination waiver. Individuals who seek to re-register more than two years after terminating their association are required to requalify by passing an examination or obtaining an examination waiver. Requalification imposes costs in the form of time spent preparing for and taking the examinations, potential limitations to the activities permitted to be conducted until the requalification is completed, and the direct registration costs. FINRA understands anecdotally that these costs do deter some significant portion of the population from re-registering today.

Figure 1, as an example, presents a plot of the number of registered persons that re-register within a given number of years after having terminated their registrations for at least 60 days.⁴³ We focus on registered persons who terminated their registrations in either 2007, 2008 or 2009 and the period of time until they re-register with the same or a different firm.⁴⁴ Each bar in Figure 1 represents a 100-day period and, roughly speaking, three-and-a-half bars represent one year. As can be observed in Figure 1, for all three origination years, there is an increase in the number of previously registered persons who re-register towards the end of the second year from their date of termination. This is consistent with the incentive in the current rule permitting individuals to re-register without having to requalify by passing an examination or having to obtain an examination waiver and supports the assumption that the requalification process imposes direct and indirect economic costs. After this point, there is a significant drop in the number of individuals who re-register.

Moreover, following the end of the second year after terminating their registrations, the number of individuals re-registering remains low and tapers off slowly. Finally, an analysis of the stage in the Regulatory Element cycle at which registered persons terminate their registrations, on average, across the time period of 2007–2016, suggests that registered persons who terminate their registrations tend to do so approximately 530 days before their next Regulatory Element would be due (*i.e.*, on average in the middle of a current three-year Regulatory Element cycle).

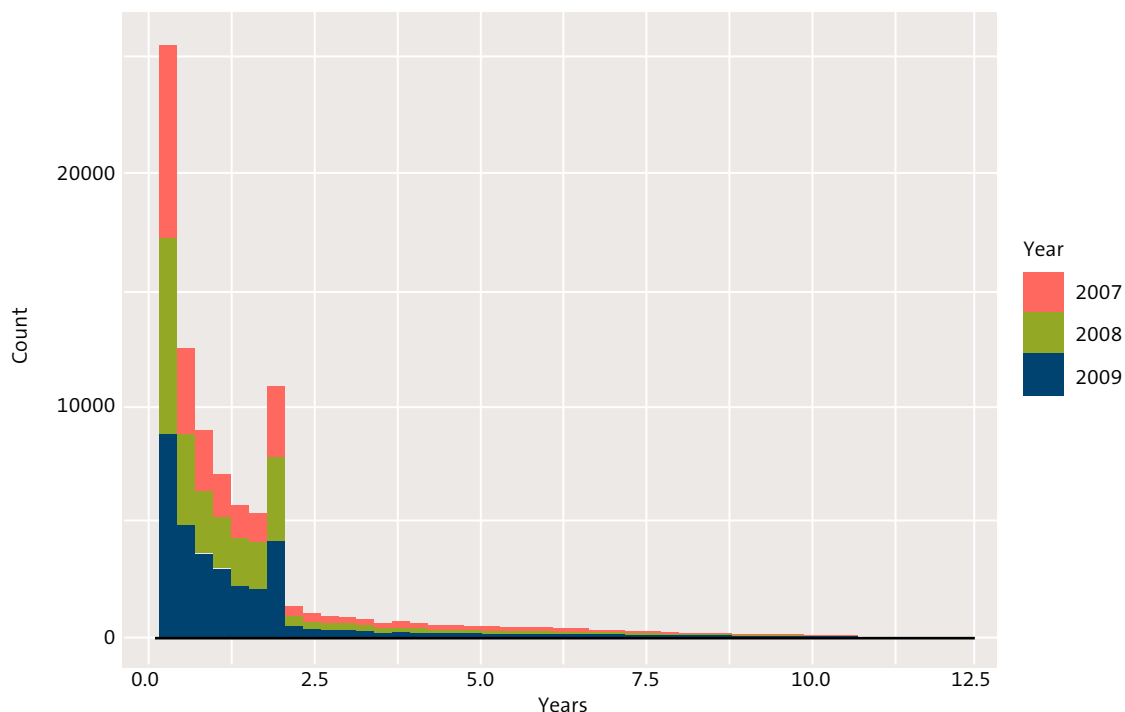


Figure 1: Plot of the number of previously registered persons that re-register within a given number of years after having terminated their registrations for at least 60 days in either 2007, 2008 or 2009. Each bar represents 100 days, and every year is accordingly represented by approximately three-and-a-half bars.

With respect to member firms, the economic baseline is derived from the current processes and procedures used to implement the existing CE program. As discussed above, member firms are responsible for the appropriate monitoring of the compliance of their registered persons with the three-year Regulatory Element cycle, and for administering the annual Firm Element. Further, member firms may experience material negative impact where they are not able to retain qualified experienced persons because of professional and personal events that require them to take a leave of absence from the industry.

Economic Impacts

FINRA believes that economic impacts of the proposed changes would result in both benefits and costs to member firms and registered persons and could potentially benefit the investor community.

Benefits

FINRA believes that the proposed changes would result in two main benefits to registered persons.

First, as discussed above, one of the main recommendations of the CE Council was to transition from a three-year to an annual Regulatory Element requirement. Such an annual requirement is implemented for other professionals, such as Certified Public Accountants (CPAs), Chartered Financial Analysts (CFAs) and lawyers.⁴⁵ The 2015 transition to CE Online resulted in a more efficient program and added a new dimension of flexibility to the CE program, in terms of the content, timing and availability of the program. The proposed changes would transform the Regulatory Element from the current three-year cycle to an annual cycle. This change would allow the Regulatory Element to focus on current issues and recent regulatory changes and enhance registered persons' understanding of the changes through more frequent assessments. A transition to an annual cycle is expected to benefit registered persons by ensuring that they have an understanding of recent regulatory changes and are thus able to perform their work in a compliant and effective manner. Under the current program, a regulatory change could take place in the beginning of a three-year Regulatory Element cycle and thus result in some portion of the individuals in that cycle being assessed on their knowledge of the change at a significantly later date.

Second, FINRA believes that a significant benefit of the proposed changes for registered persons would be the increased flexibility in terms of maintaining their qualification for a terminated registration category. As can be observed in Figure 1, there is an increase in the number of individuals who return to the industry towards the end of the two-year period, which is the current grace period for maintaining their qualification status. Extending this period to seven years through the completion of continuing education would provide flexibility to individuals, as well as potentially result in increased retention of expertise in the industry.

With respect to increased flexibility, extending the current two-year period to seven years would allow individuals to manage significant life events, including professional changes and development (such as pursuing educational goals, a career change to a role in the firm that is not part of the broker-dealer, working overseas for an extended period due to a career change or an attempt at a different career path) or personal life events (such as birth or adoption of a child, unexpected loss in the family or relocation due to family needs). Through discussions with industry representatives, FINRA staff has learned that this proposal could potentially lower the barrier to re-entry to the industry. Some firms indicated that a significant benefit can arise in cases where an individual leaves the broker-dealer to gain experience in an affiliate of a parent company, for instance in an affiliated commercial bank, investment adviser or foreign affiliate. Others indicated that the proposal could potentially be relevant for under-represented populations in the securities industry, such as, for example, female registrants.

With respect to member firms, FINRA believes that the proposed changes will result in three main benefits. First, it is expected that the transition to an annual Regulatory Element cycle will reduce member firms' regulatory risk, as well as enhance compliance and reduce compliance-related costs.

Second, the proposed changes would further enhance and streamline the Firm Element requirement. These changes include an express recognition of existing firm training programs, such as the annual compliance meeting, towards satisfying a registered individual's Firm Element requirement, potentially saving firms compliance resources currently devoted to developing and implementing different training programs. The proposed changes would also result in the development of a content catalog, managed by FINRA, which would serve as an optional resource from which firms could select or supplement their Firm Element content. Such a catalog could provide firms with a more cost-efficient resource for Firm Element content.

Third, with respect to the extended time period for maintaining a qualification status, FINRA believes that the proposed changes could result in added flexibility for member firms in terms of hiring and reduce search costs in terms of identifying qualified candidates. This could ultimately extend the potential pool of securities industry professionals, and potentially benefit firms regardless of their size. Through discussions with industry representatives, FINRA staff has learned that this could permit firms to better retain skilled professionals, more easily provide individuals with professional development outside the broker-dealer, and facilitate the hiring process for experienced professionals who have required the career flexibility.

Finally, FINRA believes that the investor community will ultimately benefit from the proposed changes. These benefits will stem from the potential increase in the knowledge and ongoing training of registered persons, as well as through the increased flexibility of retention of skill and experience in the industry.

Costs

FINRA believes that, alongside the anticipated benefits discussed above, the proposed changes would also result in costs for both member firms and registered persons.

With respect to registered persons, FINRA anticipates three main costs that may result from the proposed changes. First, the move to an annual Regulatory Element cycle will increase the frequency of the required training and the associated impact of failing to complete the annual content. However, as discussed above, registered persons would be required on an annual basis to complete approximately one-third of the content that they currently complete in a three-year cycle. Further, this anticipated increase in burdens is expected to be smaller for individuals with a single registration category than for individuals with more than one registration category. Individuals with more than one registration category (approximately 35 percent of registered persons) may have more Regulatory Element content (including the associated time commitment) in a given year, in comparison to individuals with only a single registration category. Second, the introduction of Regulatory Element notifications directly to registered persons could shift some of the time management burden to them. Third, the eligibility requirements for maintaining a qualification status for a terminated registration category will require an individual to have been registered with FINRA in that registration category for at least one year, which could limit potential career changes that may occur within a shorter period.

With respect to member firms, FINRA anticipates some costs that may result from the proposed changes. It is anticipated that such costs will be higher in aggregate for larger firms versus smaller firms, as they are expected to be related to the size of member firms, in terms of their personnel. Economies of scale likely exist in the application of the proposed requirements, and large firms may benefit from lower marginal costs. The transition to an annual Regulatory Element requirement could ultimately increase the administrative and operational burden on member firms due to changes to compliance systems. This is anticipated in terms of the resources required to implement and monitor compliance with the program on an annual basis. These resources would also need to be potentially further increased to address the proposed extension of the Firm Element requirement to all registered persons.

Alternatives Considered

FINRA considered a range of alternatives in developing the proposal. These included alternative frequency of the Regulatory Element requirement, alternative time periods for becoming eligible to maintain a qualification status for a terminated registration category and alternative time periods for maintaining a qualification status. The proposed changes reflect a consideration of the various alternatives, and FINRA believes that the proposed changes strike the appropriate balance in addressing the recommendations of the CE Council while preserving the ultimate goals of the CE program, upholding investor protection and ensuring that securities industry professionals remain knowledgeable and compliant.

Request for Comment

FINRA requests comment on all aspects of the proposal. FINRA requests that commenters provide empirical data or other factual support for their comments wherever possible. FINRA specifically requests comment concerning the following issues:

1. Does focusing the Regulatory Element on rule changes and significant regulatory issues relevant to each registration category seem appropriate? Would this help distinguish the Regulatory Element from the Firm Element? Are there other topics that should be included within the Regulatory Element?
2. Would the transition to an annual Regulatory Element requirement or the focus on rule changes and significant regulatory issues relevant to each registration category disparately impact specific populations? If so, would the introduction of greater diversity in instructional formats and delivery modes alleviate any such potential impacts? Are there any other mitigations that FINRA should consider to address any such potential impacts?
3. FINRA is proposing possible enhancements to the CRD system and FinPro system to facilitate the transition to an annual Regulatory Element requirement. Would enhanced reporting and automated notification functions help mitigate the additional efforts required to monitor participation in, and completion of, an annual requirement? What other system enhancements would firms find helpful?
4. Are member firms currently requiring all registered persons to complete Firm Element training? Does the express recognition of other training requirements, including the annual compliance meeting, towards satisfying the Firm Element training mitigate the potential burdens associated with extending the Firm Element to all registered persons?
5. Are the eligibility criteria for participation in the proposed program to maintain a qualification status for a terminated registration category appropriate? Is a participation time period of seven years sufficient? Should FINRA consider other options for eligibility or the length of time an individual can participate in the program?
6. In light of the proposed program to maintain a qualification status for a terminated registration category through continuing education, should FINRA eliminate the two-year qualification period?
7. Are there approaches other than the proposed changes that FINRA should consider?
8. What other economic impacts, including costs and benefits, might be associated with the proposal? Who might be affected and how? Please provide estimates or estimated ranges for costs and benefits wherever possible.
9. Would the proposal impose any other competitive impacts that FINRA has not considered?

Endnotes

1. The CE Council is composed of securities industry representatives and representatives of self-regulatory organizations (SROs). The CE Council was formed in 1995 upon a recommendation from the Securities Industry Task Force on Continuing Education and was tasked with facilitating the development of uniform continuing education requirements for registered persons of broker-dealers.
2. Persons submitting comments are cautioned that FINRA does not redact or edit personal identifying information, such as names or email addresses, from comment submissions. Persons should submit only information that they wish to make publicly available. *See Notice to Members 03-73* (November 2003) for more information.
3. *See* SEA Section 19 and rules thereunder. After a proposed rule change is filed with the SEC, the proposed rule change generally is published for public comment in the *Federal Register*. Certain limited types of proposed rule changes take effect upon filing with the SEC. *See* SEA Section 19(b)(3) and SEA Rule 19b-4.
4. The CE program is codified under SRO rules. *See, e.g.,* FINRA Rule 1240 (Continuing Education Requirements).
5. These are baseline requirements—firms can offer additional training to individuals, and individuals can receive additional training on their own.
6. The Regulatory Element of the CE Program was introduced in 1995 with the S101 program for all registration categories. The S201 program for supervisors was introduced in 1998 followed by the S106 program for Investment Company and Variable Contracts Products Representatives in 2001. These programs were redesigned in 2010 to focus on learning and reflect advances in adult learning theory and technology. The S901 program for Operations Professionals was introduced in 2013. The S106 and S901 programs were discontinued in 2018.
7. The comment letters are available on FINRA's website at www.finra.org.
8. FINRA recently undertook a retrospective review of the annual compliance meeting requirement resulting in a determination to maintain the requirement without change. *See Regulatory Notice 19-34* (October 18, 2019).
9. The recommendations are available on the CE Council website at www.cecouncil.com.
10. Individuals participating in the Financial Services Affiliate Waiver Program (FSAWP) under FINRA Rule 1210.09 (Waiver of Examinations for Individuals Working for a Financial Services Industry Affiliate of a Member) are also subject to the Regulatory Element. The Regulatory Element correlates to their most recent registration category, and it must be completed based on the same cycle had they remained registered. An individual's registration anniversary date is generally the date they initially registered in the Central Registration Depository (CRD®) system. However, an individual's registration anniversary date would be reset if the individual has been out of the industry for two or more years and is required to requalify by examination, or obtain an examination waiver, in order to re-register. Currently, an individual's registration anniversary date would also be reset if the individual obtains a conditional examination waiver that requires them to complete the Regulatory Element by a specified date.
11. FINRA may extend the time for completion of the Regulatory Element on a case-by-case basis for good cause shown. A registered person who has not completed the Regulatory Element within the prescribed period will have his or her FINRA registrations deemed inactive and designated as "CE inactive" in the CRD system until the requirements of the program have been satisfied. A CE inactive person is prohibited from performing, or being compensated for,

any activities requiring registration, including supervision. Moreover, if registered persons remain CE inactive for two consecutive years, they must requalify (or obtain a waiver of the applicable qualification examination(s)) to be re-eligible for registration. This two-year period is calculated from the date such persons become CE inactive, and it continues to run regardless of whether they terminate their registrations before the end of the two-year period. Therefore, if registered persons terminate their registrations while in a CE inactive status, they must satisfy all outstanding Regulatory Element prior to the end of the two-year period in order to re-register with a member without having to requalify by examination or having to obtain an examination waiver. *See* FINRA Rule 1240(a).

12. An individual is subject to a significant disciplinary action under FINRA Rule 1240 if the individual is: (1) subject to any statutory disqualification as defined in SEA Section 3(a)(39); (2) subject to a suspension or the imposition of a fine of \$5,000 or more for violation of any provision of any securities law or regulation, or any agreement with or rule or standard of conduct of any securities governmental agency, SRO, or as imposed by any such agency or SRO in connection with a disciplinary proceeding; or (3) ordered as a sanction in a disciplinary action to retake the Regulatory Element by any securities governmental agency or SRO. *See* FINRA Rule 1240(a)(3) (Disciplinary Actions). Further, if an individual is subject to a significant disciplinary action, the cycle for participation in the Regulatory Element may be adjusted to reflect the effective date of the disciplinary action rather than the individual's registration anniversary date.
13. FINRA Rule 1240(a) currently excludes Foreign Associates from the Regulatory Element requirement. The proposal would continue to exclude them.
14. As noted elsewhere in the *Notice*, firms may require their registered persons to complete the proposed Regulatory Element sooner than December 31.
15. *See id.*
16. *See id.*
17. *See id.*
18. *See supra* note 10 (for description of a conditional examination waiver).
19. Module A: Responsibilities to Customers; Module B: Operational Responsibilities; and Module C: Regulatory Responsibilities.
20. Module D: Personalized Content – D.1 Series 6 Retail Sales; D.2 Series 7 Retail Sales; D.3 Institutional Sales; D.4 Trading; D.5 Operations; D.6 Investment Banking; and D.7 Research.
21. Module A: Supervision and Control; Module B: Handling Customer Accounts, Trade & Settlement Practices; Module C: New and Secondary Offerings and Corporate Finance; and Module D: Product Knowledge and Related Supervisory Considerations.
22. However, in any given year, there may be particular content that is relevant to more than one registration category. For instance, if there is a change to FINRA Rule 3270 (Outside Business Activities of Registered Persons) that is substantive enough to warrant coverage in the annual Regulatory Element, the annual Regulatory Element for each registration category would include that topic.
23. Today, approximately 200,000 registered persons complete the Regulatory Element annually.
24. *See* FINRA Rule 1240(b)(1).
25. *See* FINRA Rules 3310(e) and 3110(a)(7).

26. Firms would continue to have the flexibility to determine how best to meet the Firm Element requirement. In addition, the CE Council will consider issuing best practices and guidance to help firms evaluate other financial industry continuing education programs for purposes of satisfying the Firm Element.
27. *See* FINRA Rule 1210.08 (Lapse of Registration and Expiration of SIE). The two years are calculated from the date the individual terminates his or her registrations and the date FINRA receives a new application for registration. The two-year restriction only applies to the representative- and principal-level examinations, and it does not extend to the Securities Industry Essentials (SIE) examination. The SIE examination is valid for four years, but having a valid SIE examination alone does not qualify an individual for registration as a representative or principal. Further, individuals whose registrations as representatives or principals have been revoked pursuant to FINRA Rule 8310 (Sanctions for Violation of the Rules) are required to requalify by retaking the applicable representative- or principal-level examination in order to re-register as representatives or principals, in addition to satisfying the eligibility conditions for association with a firm (*see* SEA Sections 3(a) (39) and 15(b)(4) and Article III of the FINRA By-Laws).
28. *See* FINRA Rules 1210.03 (Qualification Examinations and Waivers of Examinations) and 1210.09. *See also supra* note 10.
29. Investment adviser representatives (IARs) are also subject to a two-year limitation to maintain their qualification following the termination of their registrations. However, unlike registered persons of broker-dealers, IARs are not currently required to complete any continuing education.
30. Effective October 1, 2018, FINRA eliminated several representative-level registration categories, such as the category for Corporate Securities Representative. *See Regulatory Notice 17-30* (October 2017). Individuals registered in these eliminated representative categories would not be eligible to participate in the proposed program. This extends to individuals who are registered in a principal registration category that includes one of these eliminated representative categories as a co-requisite registration.
31. Individuals who have solely passed the SIE examination are not eligible to participate in the proposed program because passing the SIE examination alone does not make them a registered person.
32. These would include individuals who maintain any permissive registration categories as provided under FINRA Rule 1210.02. However, it would not include individuals who terminate a limited registration category that is a subset of a broader registration category for which they remain qualified. For instance, it would not include an individual who maintains his registration as a General Securities Representative but who terminates his registration as an Investment Company and Variable Contracts Products Representative. Such individuals have the option of re-registering in the more limited registration category without having to requalify by examination or obtain an examination waiver so long as they continue to remain qualified for the broader registration category.
33. *See id.*
34. The two-year limitation does not apply to a limited registration category that is a subset of a broader registration category. *See supra* note 32.

35. Individuals who were last registered two or more years immediately prior to the implementation date of the proposed program would not be eligible to participate in the program.
36. Under current FINRA Rule 1210.09, individuals participating in FSAWP are subject to separate eligibility conditions, including a requirement that they be registered as a representative or principal for a total of five years within the most recent 10-year period prior to their initial FSAWP designation. FINRA is proposing to terminate FSAWP and delete Rule 1210.09.
37. Program participants who are maintaining their qualification status for a principal registration category that includes one or more co-requisite representative registrations must also complete required annual continuing education for the co-requisite registrations in order to maintain their qualification status for the principal registration category.
38. *See* SEA Sections 3(a)(39) and 15(b)(4) and Article III of the FINRA By-Laws.
39. Individuals whose registrations as representatives or principals have been revoked pursuant to FINRA Rule 8310 are required to requalify by examination in order to re-register, in addition to satisfying the eligibility conditions for association with a firm. *See supra* note 27. Individuals who have been CE inactive for two or more years must requalify by examination or obtain an examination waiver in order to re-register with a member. *See supra* note 11.
40. The two-year limitation does not apply to a limited registration category that is a subset of a broader registration category. *See supra* note 34. In addition, as previously noted, if an individual has not completed any Regulatory Element content for a terminated registration category in the calendar year(s) prior to re-registering, FINRA would not approve a registration request for that category until the individual has completed that annual Regulatory Element content.
41. *See supra* note 38.
42. *See, e.g.,* [2019 FINRA Industry Snapshot](#).
43. The minimum 60 days for employment gap is following the definition proposed in the [2019 FINRA Industry Snapshot](#).
44. The period of 2007 – 2009 covers the events before, during and after the 2008 financial crisis. These events had an effect on the number of individuals leaving the industry, which indeed rose during this period. However, the trends observed for these years do not appear to be extreme outliers and moreover, potentially reflect changes in labor markets that the proposed CE program transformation is targeting. Further, the three years selected for the analysis provide the means to study the trends of individuals returning to the industry up to a period of 10 years of being away from it.
45. Generally speaking, the CFA requires 20 hours of continuing education on an annual basis. *See* [CFA's Continuing Education \(CE\) Program](#). The American Institute of CPAs (AICPA) requires 120 credit hours of continuing education over a three-year period, with the requirement of 40 credit hours per year. *See* AICPA's [Continuing Professional Education \(CPE\) Requirements for CPAs](#). The American Bar Association (ABA) requires up to 15 hours of continuing education per year, with some differences across states. *See* ABA's [Mandatory CLE](#) program. None of these three professions requires members to be active practitioners to maintain their credentials.

Exhibit 2d

Alphabetical List of Written Comments
Regulatory Notice 20-05

1. Iñigo Bengoechea, CFA Institute (“CFA”) (June 29, 2020)
2. Belinda Blaine & Jennifer Grego, Morgan Stanley (“Morgan Stanley”) (July 1, 2020)
3. Mike Brunner, The Huntington Investment Company (“Huntington”) (April 30, 2020)
4. Carrie L. Chelko & Norman L. Ashkenas, Fidelity Investments (“Fidelity”) (June 18, 2020)
5. Nanette K. Chern & Susan K. Moscaritolo, Foreside (“Foreside”) (June 23, 2020)
6. Cathy A. Cucharale, Cucharale Consulting Group LLC (“Cucharale”) (February 19, 2020)
7. Robert Daniels, Meixin Securities LLC (“Meixin”) (May 21, 2020)
8. Frank C. Dealy, Executive Advisors, Inc. (“Executive Advisors”) (May 28, 2020)
9. John H. Donegan, Pacer Financial, Inc. (“Pacer”) (July 29, 2020)
10. John Gebauer, National Regulatory Services (“NRS”) (June 30, 2020)
11. Christopher Gerold, North American Securities Administrators Association, Inc. (“NASAA”) (June 30, 2020)
12. Richard Izzo, Association of Registration Management, Inc. (“ARM”) (June 16, 2020)
13. Jennifer Lewis, MML Investors Services LLC (“MML”) (May 21, 2020)
14. Emily Micale, Insured Retirement Institute (“IRI”) (June 30, 2020)
15. Lisa Miller, Esq. (“Miller”) (May 18, 2020)
16. Seth A. Miller, Cambridge Investment Research, Inc. (“Cambridge”) (June 30, 2020)
17. Michelle Oroschakoff, LPL Financial LLC (“LPL”) (May 29, 2020)

18. James Rabenstine, Nationwide Financial Services, Inc. (“Nationwide”) (June 30, 2020)
19. Lisa Roth, Monahan & Roth, LLC (“Monahan & Roth”) (May 29, 2020)
20. Howard Spindel & Rosemarie Connell, Integrated Solutions (“Integrated Solutions”) (June 30, 2020)
21. Robin M. Traxler, Financial Services Institute (“FSI”) (May 21, 2020)
22. Kimberly Unger, The Security Traders Association of New York, Inc. (“STANY”) (June 26, 2020)
23. Kristen Wagner, National Financial Alliance (“NFA”) (April 30, 2020)
24. John S. Watts, PFS Investments, Inc. (“PFS”) (June 26, 2020)
25. Kelly Welker, Renaissance Wealth Management Group of Texas (“RWMG”) (May 1, 2020)
26. Kevin Zambrowicz, Securities Industry and Financial Markets Association (“SIFMA”) (April 22, 2020)

Ms. Jennifer Piorko Mitchell
Office of the Corporate Secretary
Financial Industry Regulatory Authority
1735 K Street, NW
Washington, DC 20006-1506

June 29, 2020

Re: FINRA Request for Comment on a Proposal to Implement the Recommendations of the CE Council Regarding Enhancements to the Continuing Education Program for Securities Industry Professionals.

Dear Ms. Mitchell,

CFA Institute appreciates the opportunity to provide comments on Regulatory Notice 20-05 (“the Notice”) pertaining to the implementation of a series of recommendations by the CE Council to the Continuing Education (“CE”) requirements for Securities Industry Professionals. CFA Institute represents the views of investment professionals before standard setters, regulatory authorities, and legislative bodies worldwide on issues that affect the practice of financial analysis and investment management, education and licensing requirements for investment professionals, and on issues that affect the integrity and accountability of global financial markets.

After carefully studying the proposals contained in the Notice, we would like to express our support for the majority of them, as they are balanced and beneficial to the investment industry. Nevertheless, we have included some suggestions for your analysis.

CFA Institute’s position on CE Programs

CE programs (or “Professional Learning” as we like to call it at CFA Institute nowadays) perform a critical role in maintaining high proficiency standards. While investment professionals may be able to demonstrate proficiency at one point in time by passing a licensing exam, we believe it is necessary that these professionals be required to keep their knowledge current while they practice in the industry.

Therefore, it is essential that supervisory agencies promote robust CE programs that require completion of educational activities that can help achieve and maintain quality in professional services. The investment management industry today is characterized by rapid changes, advancing technology and increasing complexity. Thus, investment professionals must be compelled to further their knowledge, skills, and abilities to ensure quality of services.

At CFA Institute, we believe that effective CE programs have the following characteristics:

- Require the completion of frequent CE (either each calendar year or in two-year cycles)
- Are flexible in nature, in terms of permitted activities, but also in terms of the content a registered representative may study.
- Require completing both an ethics/regulatory element and a knowledge of business/firm element.

Feedback on questions open for comment:

1. Does focusing the Regulatory Element on rule changes and significant regulatory issues relevant to each registration category seem appropriate? Would this help distinguish the Regulatory Element from the Firm Element? Are there other topics that should be included within the Regulatory Element?

Our view is that the Regulatory Element should focus primarily on regulatory rules, changes to those rules and significant compliance issues. In this regard, we wonder if the Regulatory Element should also incorporate both the Anti Money Laundering training (AML) and the Annual Compliance Meeting training (ACM) to help differentiate from the other professional development activities that may be applied in the Firm Element. This change could also address some of the concerns expressed with respect to not having sufficient changes in regulation from year to year to support an annual Regulatory Element.

Further in this line of thinking, we also given thought to whether a change in the terms could facilitate distinguishing more clearly the two elements of the Continuing Education program. Perhaps naming the program elements “Compliance Training” and “Professional Development Training” may help further reduce confusing the two elements required within the CE program at FINRA.

As to other topics to include, we would like to suggest that ethics training be featured more prominently as part of the Regulatory Element to promote that securities industry professionals utilize an ethical mindset in their daily interactions with clients. It is our position that ethical behavior goes beyond simply following laws and established rules. It is about knowing how to navigate ambiguous ethical situations and put the interests of investors first when the rules are unclear.

Thus, we would recommend integrating our [Ethical Decision Making Course](#) and our [Giving Voice to Values](#) course within the Regulatory Element requirements.

2. Would the transition to an annual Regulatory Element requirement or the focus on rule changes and significant regulatory issues relevant to each registration category disparately impact specific populations? If so, would the introduction of greater diversity in instructional formats and delivery modes alleviate any such potential impacts? Are there any other mitigations that FINRA should consider to address any such potential impacts?

We understand that the transition to annual Regulatory Element may impact specially those individuals who have registrations in multiple categories. For this particular issue, we support the introduction of greater instructional formats, however, it is our understanding, that the introduction of these additional formats may still not reduce the burden on these individuals in terms of time and effort. Therefore, it may be necessary to consider other possible solutions that may help mitigate the additional burden.

One possible way to solve for this would be to introduce the concept of primary registration category and ensure individuals complete the Regulatory Element for this category annually. In this way the primary registration category would be covered, and the additional registration category requirements could be covered on alternative years or on a rotating basis. This proposed solution could create additional complexities if not properly supported by technological enhancements to the CRD system.

3. FINRA is proposing possible enhancements to the CRD system and FinPro system to facilitate the transition to an annual Regulatory Element requirement. Would enhanced reporting and automated notification functions help mitigate the additional efforts required to monitor participation in, and completion of, an annual requirement? What other system enhancements would firms find helpful?

We consider that enhanced reporting and automated notification functions through the CRD and FinPro systems would certainly benefit firms to help them navigate the new requirements.

4. Are member firms currently requiring all registered persons to complete Firm Element training? Does the express recognition of other training requirements, including the annual compliance meeting, towards satisfying the Firm Element training mitigate the potential burdens associated with extending the Firm Element to all registered persons?

For question 4, we support FINRA's recommendation to recognize other training requirements to meet the Firm Element. The express recognition should help mitigate burdens derived from extending the Firm Element to all registered persons.

As to the development of a content catalog, managed by FINRA, we are fully supportive of it, and would suggest it incorporates courses and content offered by CFA Institute. Examples of content that could feature on this catalog could be passing any level of the CFA program, or the CIPM, to participating in one of our online webinars or courses.

5. Are the eligibility criteria for participation in the proposed program to maintain a qualification status for a terminated registration category appropriate? Is a participation time period of seven years sufficient? Should FINRA consider other options for eligibility or the length of time an individual can participate in the program?

We support the proposal by FINRA to enable individuals who terminate their registrations the option of maintaining their qualification by completing continuing education. In our view this proposal recognizes the changing nature of people's careers, life circumstances and will allow individuals to enjoy a high degree of flexibility to return to the industry should they be forced to leave it.

Additionally, the proposal also recognizes the need for lifelong learning by incentivizing the completion of a CE program, which is something CFA Institute upholds very strongly and advocates for regularly. We have no doubt that to succeed in a highly competitive and ever-changing investment industry, investment professionals must be committed to furthering their knowledge, skills, and abilities throughout their careers.

As to the eligibility criteria itself, we believe it is appropriate, but would argue that there should not be a cap of seven years for participation. Other professions such as the accountants allow to retain the qualifications indefinitely as long as the CE program has been completed, with no restrictions as to time.

6. In light of the proposed program to maintain a qualification status for a terminated registration category through continuing education, should FINRA eliminate the two-year qualification period?

For this question, in light of the proposed program to maintain qualification status for a terminated registration category through continuing education, we believe it would make sense to eliminate the two year qualification period.

7. Are there approaches other than the proposed changes that FINRA should consider?

With respect to approaches we would suggest that FINRA considers introducing a competency framework. The competency framework would provide registrants with guidance in terms of how to develop their skills throughout their professional career and would inform the CE program. It would provide guidance not only on the skills and knowledge needed to (1) develop in an existing job role, but also to (2) transition into a new job role.

At CFA Institute, we have recently developed a [competency framework](#) to inform the ongoing development and relevance of the CFA Program and our Professional Learning activities. Our framework consists of three broad competency areas (Technical, Personal & Business, and Ethical) across a range of job role families.

To access the competency framework, please click [here](#). To check on the competencies necessary for each role click into the relevant cells and work down the column to review the competencies most relevant in each role.

8. What other economic impacts, including costs and benefits, might be associated with the proposal? Who might be affected and how? Please provide estimates or estimated ranges for costs and benefits wherever possible.

We have no comments for this question.

9. Would the proposal impose any other competitive impacts that FINRA has not considered?

We have no comments for this question.

CFA Institute would be pleased to discuss our comments in greater detail, or to provide any other assistance that would be helpful. If you have any questions, please do not hesitate to contact us.

Yours sincerely,

On behalf of CFA Institute:



Inigo Bengoechea, CFA
CFA Institute
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Tel: 212 418 6895
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June 30, 2020

Submitted electronically to pubcom@finra.org

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

Re: FINRA Regulatory Notice 20-05: Comments on Proposal to Implement the Recommendations of the CE Council Regarding Enhancements to the Continuing Education Program for Securities Industry Professionals

Dear Ms. Mitchell,

Morgan Stanley appreciates the opportunity to comment on FINRA Regulatory Notice 20-05 (“RN 20-05”), detailing FINRA’s proposal (the “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 pursuant to FINRA Rule 1240.¹

Morgan Stanley is a global financial services firm with a number of U.S. registered broker-dealer subsidiaries, including Morgan Stanley Smith Barney LLC and Morgan Stanley & Co. LLC (collectively referred to in this letter as “Morgan Stanley”). Together, these two broker-dealers have approximately 26,000 registered representatives covering the wealth management and institutional (investment banking, sales and trading, research) businesses. While Morgan Stanley supports FINRA’s efforts to enhance and modernize continuing education requirements, we respectfully submit a number of suggestions below that we believe would enhance the Proposal without impairing the overall goals of the CE Council.

I. The FINRA Proposal Should Permit a 30-Day Window to Allow Firms to Effectively Identify, Address and Document Year-end Overdue Continuing Education (“CE”)

The Proposal requires individuals to complete CE by year-end and includes a 15-day window in the following year before approved registrations are changed to a CE Inactive status. To the extent a registered person completes their CE prior to January 15th, firms must document the reasons for the failure to complete during the calendar year.

¹ FINRA Rule 1240(a) requires a registered person to complete the Regulatory Element initially within 120 days after the person’s second registration anniversary date and, thereafter, within 120 days after every third registration anniversary date.

Morgan Stanley requests clarification regarding the registration status of the individual who has not completed their CE during some or all of the 15-day period (i.e., active or inactive). In addition, the 15-day window does not appear to provide sufficient time for firms, particularly those with a large number of registered persons, to effectively and fully address the necessary identification, tracking, completion, and documentation of overdue completion of CE, particularly since it coincides with the FINRA year-end renewals cycle. Morgan Stanley respectfully proposes a 30-day window, during which time individuals would maintain an active registration and would have the opportunity to complete any overdue CE. This expanded time period would allow firms adequate time to notify, track and document the reason for overdue completion of CE (e.g., maternity leave, medical leave or illness), and would align with other FINRA registration requirements, including the 30-day period of conditional approval granted to applicants who have pending fingerprint submissions.

II. The Proposal Should be Modified to Include an Implementation Period for the Adoption of FinPro and to Allow Firms to Issue their Own Communications in Connection with Regulatory Element Requirements

The FINRA Proposal indicates that all registered persons would use the new FINRA Financial Professional GatewaySM (FinPro) system to launch and track completion of their Regulatory Element training, rather than using CE Online, as they do today. Given the impact of this change, Morgan Stanley requests that FINRA consider an implementation period to allow firms to provide education, training and support to assist their employees in successfully transitioning to using this new system.

The FINRA Proposal also indicates that the FinPro system would be used by FINRA to directly communicate with registered persons regarding Regulatory Element CE requirements, and continue to send them notifications until complete. This would be a notable change from the current construct, where firms communicate directly with their registered personnel regarding continuing education. Morgan Stanley urges FINRA to give firms the option of communicating directly with their registered persons about the Regulatory Element and to set their own internal timelines to fulfill the annual requirement. This approach would enable firms to craft tailored communications that proactively address employee questions and to establish training schedules that would allow sufficient time for follow-up to facilitate full compliance by the proposed calendar year deadline.

III. The Proposal's Requirements Regarding the Application of Registration Category Specific CE Inactive Status to New Hires Should Be Clarified

The FINRA Proposal outlines conditions where individuals may be eligible to obtain certain individual registration categories, but will not be approved until they take Regulatory Element CE related to the category (see p.7 of RN 20-05). The Proposal is unclear as to how this information will be available to firms during the hiring and onboarding process. This process is expected to create additional burdens on the Human Resources and Registration departments of hiring firms because it will require checking

CE statuses related to each registration category. Additionally, it potentially lengthens the time it takes to onboard an individual into a registered role in all categories, by requiring them to take any outstanding CE related to specific registration categories. Morgan Stanley requests that the Proposal be clarified to provide information regarding the process for onboarding new hires with respect to registration category specific CE requirements and the resources FINRA will provide hiring firms to evaluate registration category specific CE requirements. Morgan Stanley recommends that registration category specific CE requirements be available to a hiring firm via WebCRD, during the pre-hire process, with consent of candidate.

IV. The Proposal Should be Modified to Address Operational and Compliance Challenges Posed by an Annual Regulatory Element

Regarding the CE Council recommendation that the Regulatory Element be administered annually, Morgan Stanley supports more timely training for registered persons on significant regulatory developments.

We also support the CE Council's recommendation to design more relevant content with diverse instructional formats. However, for firms such as Morgan Stanley with approximately 26,000 registered persons, many of whom hold multiple registrations, the Proposal for an annual Regulatory Element requirement poses certain potential operational and compliance challenges. In order to provide sufficient time for follow up to assure full and timely completion of this annual requirement, firms may need to set the deadline for completion earlier than the full 365 days, further compressing an already shortened timeline. In addition, individuals with multiple registrations could experience an increase in the overall time spent training over the course of a year, over and above annual Firm Element and internal training requirements.

We respectfully request that FINRA consider a phased approach with respect to the change in frequency of the Regulatory Element. FINRA could consider transitioning the Regulatory Element initially to an every-other-year requirement, instead of transitioning immediately to an annual requirement, to allow firms sufficient time to make the necessary changes to policies, systems, staffing and resources, in order to monitor registered persons' compliance in completing the annual Regulatory Element. By analyzing the results of a move to an every-other-year Regulatory Element CE cycle, FINRA would be able to perform a cost-benefit analysis to determine the impact of the change in frequency and to further consider if the benefits of the transition to an annual requirement outweigh the costs.

V. The Proposal Should Include a Cap on the Number of CE Modules

We respectfully request FINRA to consider a "cap" on the number of Regulatory Element modules to be assigned and completed in a CE cycle, as proposed in SIFMA's comment letter to RN-20-05, and rotation of modules during subsequent CE cycles when a registered person reaches the cap. This would provide a

registered individual holding multiple licenses with relevant and timely training while balancing the total amount of training required in a CE cycle. As an example of when an individual may have to take a large volume of training modules: under the current Proposal, someone who holds an OS, GS, RP, GP and RP registrations would be expected to complete modules on Operations, General Securities, Research topics plus the principal based supervision of those areas. At a minimum, we request that FINRA conduct a cost/benefit analysis to determine the maximum number of hours that an individual with multiple licenses would be required to spend on CE.

VI. Conclusion

Morgan Stanley appreciates the opportunity to comment on RN 20-05 and FINRA's consideration of our views. We reiterate our strong support for modernizing the CE requirement and look forward to a continuing dialogue with FINRA on the Proposal.

Very truly yours,

DocuSigned by:
Belinda Blaine
EBED81EF22AC426...

Belinda Blaine

Managing Director and Chief Compliance Officer
Morgan Stanley & Co. LLC

DocuSigned by:
Jennifer Grego
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Jennifer Grego

Managing Director and Chief Compliance Officer
Morgan Stanley Smith Barney LLC

April 30, 2020

Via email to pubcom@finra.org

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

RE: FINRA Requests Comment on a Proposal to Implement the Recommendations of the CE Council Regarding Enhancements to the Continuing Education Program for Securities Industry Professionals

Dear Ms. Mitchell,

The Huntington Investment Company (“HIC”) appreciates the opportunity to comment on the proposal to implement the CE Council’s recommendation to enhance the Continuing Education Program. We hope these comments will assist FINRA and the CE Council in further developing the Program.

COMMENTS ON THE REGULATORY ELEMENT RECOMMENDATIONS

Transition to Annual Requirement & Enhance Functionality of FINRA Systems

HIC supports transitioning the Regulatory Element training to an annual requirement and agrees that this recommendation provides registered persons more timely training on significant regulatory developments. HIC also appreciates the Council’s recommendation to decrease the time demand for an annual Regulatory Element, compared to the time demand of a two or three-year requirement.

While HIC supports the recommendation, it has identified two impacts it believes FINRA and the Council should consider in relation to time demands of registered and non-registered persons of the firm.

First, an annual requirement with a standard year-end due date for all registered representatives would increase tracking, reporting, and escalation for Compliance and Supervision staff. If the recommendation is implemented, HIC would have to adjust its current policies and procedures related to supervising completion of the Regulatory Element and supervising ongoing background reviews of its registered representatives. Additionally, if this proposed change is approved, HIC would have to adjust the way it conducts background review for existing registered representatives, as HIC currently uses the FINRA CE Exam cycle to determine which group of registered representatives’ background review will be conducted for the period.

Secondly, a substantial amount of HIC’s registered representatives are required to complete continuing education related to professional designations, insurance licenses, retirement plans business, and banking functions. Increasing the frequency of the Regulatory Element adds additional time demands,

and even possibly duplication of training on topics (cybersecurity, ethics, privacy, etc.), to these registered representatives who already maintain full professional schedules. As noted later in the comment letter, allowing AML compliance and annual compliance meeting training to satisfy the Firm Element would ease this time demand and possible redundancy in topics.

Design More Relevant Content with Diverse Instructional Formats

HIC strongly supports the recommendation to redesign content to be more tailored and relevant to the registration categories an individual holds and to incorporate diverse instructional formats. HIC applies this same approach when developing training for its colleagues given the findings from research related to adult learning.

Publish Learning Topics

HIC strongly supports the recommendation for FINRA to publish learning topics for the annual Regulatory Element in advance of each coming year. This would greatly assist firms in planning and creating internal communications and training. HIC dedicates considerable time planning and organizing the various training topics and courses it delivers to its colleagues throughout the year to avoid duplicating topics, when possible. Knowledge of the Regulatory Element topics that far in advance would only aid HIC's planning.

COMMENTS ON THE FIRM ELEMENT RECOMMENDATIONS

Recognize Other Training Requirements

HIC strongly supports the recommendation to amend Rule 1240(b) to allow firms to consider training relating to AML compliance and the annual compliance meeting to satisfy an individual's Firm Element requirement. Today, HIC requires all registered representatives of the firm to complete the annual compliance meeting, not just covered registered persons as defined by FINRA. Additionally, HIC believes Firm Element training can be less effective than the AML compliance training and the annual compliance meeting because the Firm Element content is created by a third-party and not specific to internal policies and procedures. HIC spends considerable time planning, preparing, and creating both the AML compliance and annual compliance meeting curriculums to ensure they adequately engage our colleagues and address both relevant internal policies and procedures and external rules and regulations. The additional Firm Element courses can be redundant and ineffectual. In addition, if the recommended annual Regulatory Element requirement is adopted, allowing the AML compliance and annual compliance meeting to satisfy Firm Element eases the time demand and possible redundancy of topics of additional Firm Element training.

Improve Guidance and Resources & Develop Content Catalog

HIC supports the recommendation to provide firms with updated templates for documenting needs analysis and a content catalog. HIC believes its current process and template are effective, but always appreciates any additional guidance from FINRA. Additionally, HIC would also appreciate a content catalog. Assuming AML compliance and annual compliance meeting training would satisfy Firm Element, HIC may not leverage the content catalog for Firm Element but would certainly review the material and evaluate the content for use.

COMMENTS ON THE MAINTAINING QUALIFICATION RECOMMENDATIONS

HIC strongly supports the recommendation to amend Rule 1240 to establish a continuing education program that would allow individuals who were previously registered to maintain their qualification by participating in an annual continuing education program. HIC believes the current two-year qualification period discourages registered representatives from exploring stretch opportunities and broadening their knowledge base through roles that do not require registration that many firms in the industry offer. The recommendation would support a registered representative's decision to explore these opportunities while maintaining the freedom to return to the securities industry without the burden of re-testing. HIC believes registered representatives who gain added depth of knowledge and experiences from these opportunities outside the industry, while completing annual continuing education, would only add value to their organizations and the investing public upon return.

CONCLUSION

HIC believes increasing the frequency of training, utilizing advances in technology, and tailoring training to the audience will lead to more informed and educated colleagues. HIC appreciates and supports FINRA's consideration to increase communication and provide a content catalog to firms. HIC believes the combination of these efforts along with a keen focus on the time demands of securities professionals would result in a better learning experience for our colleagues.

HIC appreciates the opportunity to provide feedback to FINRA regarding the Proposal. If you would like to discuss HIC's comments further, please feel free to contact Mike Brunner at (614) 480-0511 or mike.e.brunner@huntington.com.

Sincerely,

Huntington Investment Company Compliance

June 18, 2020

Submitted electronically

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

Re: Regulatory Notice 20-05 – Continuing Education Program Transformation

Dear Ms. Mitchell:

Fidelity Investments (“Fidelity”)¹ appreciates the opportunity to comment on the Financial Industry Regulatory Authority’s (“FINRA’s”) Regulatory Notice 20-05 (the “Notice”), which requests comment on proposed enhancements to FINRA’s Continuing Education Program (“CE”) under consideration by the Securities Industry/Regulatory Council on Continuing Education (“CE Council”). Fidelity generally agrees with many of the views expressed by the Securities Industry and Financial Markets Association (“SIFMA”) in its comment letter on the Notice (“SIFMA Letter”). We submit this letter to supplement SIFMA’s comment letter with our own views on certain specific positions.

A. Executive Summary

We applaud FINRA and the CE Council for their continued review of CE. Fidelity submitted a comment letter in 2018 supporting the earlier proposal outlined in Regulatory Notice 18-26, and continues to support transformation of the CE Program and the updated proposal outlined in Regulatory Notice 20-05. We believe that Fidelity offers a unique perspective given our diverse business model and multiple member broker-dealers. Our comments include the following points:

- Fidelity supports developing a content catalog and additional resources that firms may use for selecting or supplementing Firm Element content.
- Fidelity strongly supports the proposed rule change that will enable individuals who were previously registered to maintain their qualification by participating in an annual continuing education program.

B. Firm Element Proposals

Fidelity supports the development of an optional catalog that member firms can use as each firm deems appropriate. As identified in the proposal, we believe that having a catalog

maintained by FINRA will help member firms save valuable time and resources. We also look forward to the additional guidance and resources that FINRA plans to provide.

C. Maintaining Qualification Proposal

Fidelity strongly supports the proposal to allow individuals with the opportunity to maintain registration qualifications through the completion of Regulatory CE. The proposal will help to minimize one of the existing impediments that exists today when an individual decides to leave the industry for personal or professional reasons and then contemplates returning after two years. We also believe that the proposal will help to promote career diversity and vitality, increasing the breadth and diversity of candidates joining the financial services industry, which ultimately benefits investors.

We would also like to see FINRA eliminate the arbitrary seven-year expiration on eligibility. Similar to other professions, such as attorneys and accountants, we feel that individuals should have the ability to maintain qualification indefinitely as long as they continue to complete their Regulatory CE.

Fidelity thanks FINRA for considering our comments. We would be pleased to provide any further information and respond to any questions that arise.

Sincerely,



Carrie L. Chelko
Chief Compliance Officer
Fidelity Brokerage Services LLC



Norman L. Ashkenas
Chief Compliance Officer
National Financial Services LLC
Fidelity Distributor Company LLC

June 23, 2020

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

Dear Ms. Mitchell:

We are pleased to comment on the Regulatory Notice 20-05 regarding FINRA's proposal to Implement the Recommendations of the CE Council Regarding Enhancements to the Continuing Education Program for Securities Industry Professionals. We support FINRA's proposal to modernize the continuing education program and recognize the need to implement a more frequent cycle to facilitate other proposed matters.

The Foreside family of companies ("Foreside" or the "Firm") includes twenty affiliated broker-dealers. As the principal underwriter of investment companies or as placement agent for alternative investments, the Firm primarily engages in back office compliance services. The Firm may also hold the securities licenses of certain employees of a sponsor/investment adviser or third-party marketer engaged in marketing funds to financial intermediaries, investment advisers and accredited or qualified investors that are primarily institutions. The Firm may also hold certain securities licenses of personnel employed by the Firm's parent company. Neither the Firm nor its Representatives open or maintain customer accounts or accept any customer funds for investment on behalf of any Foreside broker-dealer. Investment monies are either wired or mailed directly to the issuer, if applicable, the adviser, or to a third-party agent of the issuer.

Regulatory Element

We believe that narrowing the focus of the Regulatory Element to rule changes and significant regulatory issues is an appropriate focus. In addition, the relevance of topics should be more timely and based on registrations held. We would welcome the advanced publishing of Regulatory Element topics to ensure firms have adequate time to evaluate the Regulatory Element focus and the potential impact on the Firm Element training. We believe that the enhanced functionality of

FINRA systems will be critical in assisting firms with the added administrative burden of tracking and ensuring completion of an annual regulatory element requirement by a firm's registered representatives. We strongly disagree with the proposed 15-day grace period before a representative is considered CE inactive and believe this will increase the administrative tracking burden for firms.

Firm Element

Improved guidance and resources, including any FINRA content catalogs and courses would be helpful; firms should be able to customize or tailor training models to align with their specific needs.

Maintaining Qualification

We very much support an effort by FINRA to amend Rule 1240 to allow previously registered individuals to maintain their qualification status while away from the industry through continuing Regulatory Element participation. This would be similar to continuing education requirements in other professions (e.g., attorney or accountant continuing legal education) and could be accomplished online through FINRA's Regulatory Element program. This would be a welcome enhancement for those who terminate their licenses for a variety of reasons, including a career change, a life event or an organizational restructuring and wish to re-enter the industry more than two years from their termination date. Such a continuing education process would eliminate the burden for individuals to re-test if they have participated in this CE program. We do not believe that imposing restrictions or time limits is necessary as long as a candidate has completed the required continuing education, and firms should have the ability to assess candidate qualifications beyond the CE requirements.

Other Considerations

While we applaud the effort to enhance the frequency and content of the Regulatory Element, we believe that there are several overlapping compliance requirements that may add to duplication and administrative challenges. By adding an annual Regulatory Element to a compliance calendar that already includes an annual Firm Element program and the annual compliance meeting, we would request that FINRA take a holistic approach and consider consolidating these requirements. Given the numerous compliance obligations, at times it is difficult to develop unique training plans and ensure completion of each obligation; a holistic approach would allow a firm to develop the appropriate training program based on their business model and permitted activities.

Lastly, we seek clarification as to whether or not FINRA has worked with state regulators to maintain state registrations beyond two-years.

Thank you for your time and consideration.

Sincerely,

A handwritten signature in cursive script, appearing to read "N K Chern".

Nanette K. Chern
Chief Compliance Officer

A handwritten signature in cursive script, appearing to read "Susan K. Moscaritolo".

Susan K. Moscaritolo
Chief Compliance Officer

I would like to provide comment on the proposal to implement an enhanced CE program.

The option to allow individuals who terminate their registrations with a firm to maintain their qualifications by completing continuing education is extremely important! Individuals terminate their registrations for many different reasons. The requirement that you need to retake all of your exams, if you are not registered with a firm within 2 years of your termination, is unconceivable. To align the financial industry with CE requirements similar to other professional industries is a huge step forward. If this proposed enhancement to the current CE program is approved, I would like to see it implemented retroactively at least for any individual who is currently within a 2 year unregistered status.

In addition, allowing individuals to take exams, prior to becoming registered or after terminating their registration, without being sponsored by a firm would be another huge improvement. This would provide individuals the ability to expand on their education and provide them with qualifications needed before taking a position with a firm. Allowing them to keep their new registrations through the new proposed continuing education program would further enhance this process by keeping them current with industry changes while they look for the right firm to register with.

Thank you for permitting me to comment on this very important topic!

Cathy A. Cucharale

President



[\[linkedin.com\]](https://www.linkedin.com/company/cucharale-group)

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COMPLIANCE. BUSINESS. MANAGEMENT. SOLUTIONS.

This email is in response to Regulatory Notice 20-05.

1) I am indifferent to an annual Regulatory Element. Currently, on an annual basis, we conduct Firm Element, and have an annual training meeting.

2) I believe enhancing Firm Element is a good idea

3) I wholeheartedly endorse allowing terminated registered representatives to maintain their licenses if they take continuing education, like other professions. I personally felt this pain. I left a firm, and took on several consulting roles in an unregistered capacity. As my licenses were about to lapse, I spoke with FINRA, re: getting a waiver. FINRA said, "a waiver can only be discussed when employed by a firm." But I said, a firm will not employ me if unregistered. So it was a which came first scenario, the chicken or the egg. I wrote a letter to the Ombudsman and also to SIFMA, noting how our industry is not inline with others. When my licenses lapsed, I became Unemployable! I was finally able to find a firm that took a chance on me that I would get the waivers.

The industry needs to recognize that people may take time away to take care of a child, let go in a down market, etc.

Providing the ability to complete continuing education to maintain one's registrations is an excellent idea!

Thank you.

--

Robert Daniels
Chief Compliance Officer
Meixin Securities LLC
516-281-4242

For an RR who has been associated with Member Firms since 1980, 40 years, conducting investments for clients in large and mid-cap equities, mutual funds, and large capitalized ETFs, it is offensive to some how be forced to conduct any regulatory continuing education MUCH LESS the every three years period currently effective.

I will bet that I have been in the securities business, without a customer or regulatory complaint, longer than members of the National Regulatory Counsel have been on the planet.

It seems to me that this is a case of a solution looking for a problem to solve.

The current cost for Reg CE for the 600,000 registered persons is \$50 per session or \$30 Million Dollar over a rolling three year period.

Looks to me like our regulators stand to collect \$90 Million Dollars over a three year period based on this Proposal.

Frank C. Dealy
Executive Advisors, Inc.
Email: EXADV@GRANDECOM. NET
Tel: 972-886-0067



July 29, 2020

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

Dear Ms. Mitchell,

Pacer Financial is hereby commenting on Regulatory Notice 20-05 in regard to the proposed Implementation of the Continuing Education (CE) Council's enhancement to the current CE program. Pacer Financial is in favor of the modernization of the CE program.

Pacer Financial is in favor of the proposed change to the current Regulatory Element enhancement and agree that updating the content of the educational modules should be undertaken so that the topics better reflect the registrations held by the particular registered representative or Principal. Pacer Financial is also in favor of having advanced notice of the CE topics so that we can evaluate the potential impact this will have on our own Firm Element Compliance Presentations. Pacer Financial does not agree with the proposed grace period (15 days) notice of inactive CE status.

Pacer Financial is in Favor of the proposed amendment to Rule 1240 that will permit previously registered persons to maintain their FINRA qualification exams while they are not involved in the securities industry or decide to take on a different role at their respective Firms. This would make it more attractive for persons to pursue other interests then possibly re-enter the Securities industry as long as they participate in the Regulatory Continuing Education Program. Pacer Financial has stringent candidate review processes in place and knowing that a potential employee had maintained their continuing education while pursuing other ventures would be a welcomed asset to our candidate processing program. Removal of the burden to re-test an individual would be an industry enhancement.

Pacer Financial is not in agreement with the FINRA proposal to require all registered individuals to complete their Regulatory Element training requirement annually. Pacer Financial has a continued commitment to Compliance and provides frequent training programs for various topics (Social Media, AML, Cybersecurity and Firm Element). Requiring an additional annual regulatory requirement would serve to overwhelm our registered employees and registered Principals.

Thank you for allowing Pacer Financial this opportunity to comment on this important subject matter.

Regards,

John H. Donegan
Chief Compliance Officer
Pacer Financial, Inc
500 Chesterfield Parkway
Malvern, Pa 19355
john.donegan@pacerfinancial.com

June 30, 2020

Financial Industry Regulatory Authority, Inc.
Attn: Jennifer Piorko Mitchell
Office of the Corporate Secretary
1735 K Street, NW
Washington, DC 20006-1506

SUBMITTED VIA EMAIL: pubcom@finra.org

Re: FINRA Regulatory Notice 20 – 05 Request for Comments on Proposal to Implement the Recommendations of the CE Council Regarding Enhancements to the Continuing Education Program for Securities Industry Professionals

Dear Ms. Mitchell:

National Regulatory Services (NRS) appreciates the opportunity to comment on Regulatory Notice 20-05, proposing to implement the Securities Industry/Regulatory Council on Continuing Education's (CE Council's) recommendations for enhancing continuing education requirements for security professionals (Proposal¹). NRS commends the Financial Industry Regulatory Authority, Inc. (FINRA) for undertaking these efforts and views the Proposal as a positive step toward fostering investor protection by ensuring that securities industry registered professionals have sufficient knowledge and training.

NRS supports the Proposal, subject to the comments and recommendations set forth below.

Background on NRS and NRS Clients

NRS serves 6,000 broker-dealers, investment advisers, and investment companies ranging from small institutions to the largest global investment management complexes, private fund managers and other financial firms. Many of these firms provide retirement and financial planning advice to retail investors.

Since 1983, NRS has provided its clients with exceptional compliance and consulting services, compliance technology solutions, national conferences, seminars, the NRS Investment Adviser Certified Compliance Professional (IACCP®) designation program and, through its FIRE brand, securities exam prep and Firm Element continuing education. NRS FIRE Solutions is a recognized leader in securities examination preparation. NRS is a division of Accuity, the leading provider of global payment routing data, AML screening software, and services that allow organizations, across multiple industries, to maximize efficiency and facilitate compliance

¹ See, generally, FINRA Regulatory Notice 20-05.

of their transactions. For more than 150 years, Accuity has provided its worldwide clients, including financial institutions, corporations and government organizations in over 150 countries, with solutions and services packaged in multiple formats to serve their diverse needs.

FINRA requests comment on all aspects of the proposal and specifically requests comment concerning the following issues:

1. Does focusing the Regulatory Element on rule changes and significant regulatory issues relevant to each registration category seem appropriate? Would this help distinguish the Regulatory Element from the Firm Element? Are there other topics that should be included within the Regulatory Element?
2. Would the transition to an annual Regulatory Element requirement or the focus on rule changes and significant regulatory issues relevant to each registration category disparately impact specific populations? If so, would the introduction of greater diversity in instructional formats and delivery modes alleviate any such potential impacts? Are there any other mitigations that FINRA should consider to address any such potential impacts?
3. FINRA is proposing possible enhancements to the CRD system and FinPro system to facilitate the transition to an annual Regulatory Element requirement. Would enhanced reporting and automated notification functions help mitigate the additional efforts required to monitor participation in, and completion of, an annual requirement? What other system enhancements would firms find helpful?
4. Are member firms currently requiring all registered persons to complete Firm Element training? Does the express recognition of other training requirements, including the annual compliance meeting, towards satisfying the Firm Element training mitigate the potential burdens associated with extending the Firm Element to all registered persons?
5. Are the eligibility criteria for participation in the proposed program to maintain a qualification status for a terminated registration category appropriate? Is a participation time period of seven years sufficient? Should FINRA consider other options for eligibility or the length of time an individual can participate in the program?
6. In light of the proposed program to maintain a qualification status for a terminated registration category through continuing education, should FINRA eliminate the two year qualification period?
7. Are there approaches other than the proposed changes that FINRA should consider?
8. What other economic impacts, including costs and benefits, might be associated with the proposal? Who might be affected and how? Please provide estimates or estimated ranges for costs and benefits wherever possible.
9. Would the proposal impose any other competitive impacts that FINRA has not considered?

NRS has organized our comments based on the various questions in the Proposal. Rather than responding to all questions and sub-questions, NRS has limited this response to those matters for which we believe our experience and insights are most relevant.

Regulatory Element

NRS fully supports the Council's recommendations to implement an annual Regulatory Element Continuing Education program. We believe this will provide more efficient and uniform education on industry standards and developing industry topics. Making this an annual requirement will also simplify the process of tracking Regulatory Element requirements and allow firms to more easily incorporate a well-rounded education package into their Firm Element training program.

FINRA specifically requests comment concerning the following issues:

1. Does focusing the Regulatory Element on rule changes and significant regulatory issues relevant to each registration category seem appropriate?

NRS believes that FINRA's proposed approach to developing Regulatory Element content based on significant regulatory issues relevant to each registration category will provide a more meaningful training experience for each covered individual, as well as a front-line for the industry that is better prepared to deliver the service and knowledge that their customers need.

Tailoring instruction based on the participant's prior knowledge (field of practice by registration category) is known to be a powerful factor for improving learning outcomes. (Lalley & Gentile, 2009).² A one size fits all approach may have irrelevant content that would not be as easily embraced by the intended audience.

Would this help distinguish the Regulatory Element from the Firm Element?

To the front-line registered representatives, the distinction between Regulatory Element and Firm Element may not be apparently evident. From a firm's CE administrator perspective, the distinction should be evident in their purposes and particularly in how the Regulatory Element has influence over the firm's Firm CE Needs Analysis.

Historically, FINRA has used the results of Regulatory Element examinations to produce quarterly Performance Reports that compared scores of individuals (by registration category) within a member firm to industry average scores. These reports gave firms a meaningful assessment of training needs to consider in their CE Needs Analysis. NRS suggests that FINRA continue to produce these reports (quarterly or real-time) to identify training weaknesses at a firm level and provide important data that will allow firms and their CE vendors to improve the efficacy of their training program through targeted changes and updates.

² Lalley, J. P., & Gentile, J. R. (2009). Adapting instruction to individuals: based on the evidence, What should it mean? International Journal of Teaching and Learning in Higher Education, 20(3), 462–475. Retrieved from [http://www.isetl.org/ijtlhe/pdf/IJTLHE20\(3\).pdf#page=156](http://www.isetl.org/ijtlhe/pdf/IJTLHE20(3).pdf#page=156) \n <http://www.eric.ed.gov/PDFS/EJ869330.pdf>

NRS also fully supports the Council's recommendation to publish the anticipated learning topics as this would provide definition to the performance reports and a clear identification of specific training needs.

2. Would the transition to an annual Regulatory Element requirement or the focus on rule changes and significant regulatory issues relevant to each registration category disparately impact specific populations?

NRS does not believe *the focus on rule changes and significant regulatory issues will disparately impact specific populations.*

As mentioned earlier, NRS believes that an annual Regulatory Element requirement tailored to the audience will provide two benefits; 1) a reduction in annual training requirements (1/3 of original requirement), and 2) more meaningful content for the intended audience.

Firm Element and CE Needs Analysis

FINRA specifically requests comment concerning the following issues:

- Are member firms currently requiring all registered persons to complete Firm Element training? Does the express recognition of other training requirements, including the annual compliance meeting, towards satisfying the Firm Element training mitigate the potential burdens associated with extending the Firm Element to all registered persons?
 - Are there approaches other than the proposed changes that FINRA should consider?
 - Would the proposal impose any other competitive impacts that FINRA has not considered?
- 4. Does the express recognition of other training requirements, including the annual compliance meeting, towards satisfying the Firm Element training mitigate the potential burdens associated with extending the Firm Element to all registered persons?**

NRS appreciates and supports the Council's efforts to reduce redundant training efforts by allowing training requirements for AML, Ethics, and ACM programs to satisfy Firm Element requirements. NRS recommends that FINRA add a condition that member firms use their CE Needs Analysis to identify those topics as a need and only if the course addresses the registered representative's broker-dealer responsibilities. A fiduciary duty course targeted at financial planners might not, for example, provide the proper specific training that a RR might need.

7. Are there approaches other than the proposed changes that FINRA should consider?

FINRA Centralized Catalogue

The Proposal, if adopted, would allow firms to select Firm Element content from firm-developed content or from content developed by a third-party or a self-regulatory organization (SRO). To assist firms in finding content, FINRA would develop a centralized,

course content catalogue (See discussion below regarding Content Uploaded to FINRA's LMS) with optional resources for Firm Element training.

As an alternative to a centralized content catalogue, NRS recommends a *centralized directory* of approved courses and of approved third-party content providers. We believe that a centralized directory will help firms quickly find courses organized by topic across multiple providers. Ideally, this directory would include course title, course description, intended audience, learning objectives, skill level and length of each course.

FINRA Qualified Content Provider Program

NRS recommends that FINRA adopt a "FINRA Qualified Content Provider" program. Third-party content providers would need to apply for the program and the application process would include a review of the provider and the content offered. If the provider is approved, FINRA can list each Qualified Content Provider's name and course descriptions in the centralized directory. After approval, content providers will be subject to periodic content audits to ensure their materials remain current and fit within FINRA's Qualified Content Provider guidelines.

Content Uploaded to FINRA's Learning Management System (LMS)

NRS believes that having content providers upload content to a centralized content catalogue (FINRA's LMS) may have the unintended consequence of imposing a substantial operational burden on FINRA and would present unsurmountable technology support challenges. More specifically, by offering course content to firms, through their LMS, it will seem as though FINRA endorses the content, itself. Under these circumstances, investor protection would warrant that FINRA inspect and approve each piece of offered content. FINRA could not offer the content without assuming some level of responsibility for it.

A Qualified Content Provider status, however, only means that the content provider and a sampling of their content has gone through FINRA's review and remains up to date with any ongoing program requirements.

If FINRA were to adopt this approach, it would:

- Simplify and standardize the process for FINRA and providers
- Reduce third-party review costs
- Reduce the resources needed to review and approve course submissions for both FINRA and content providers
- Eliminate the requirement for content providers to upload courses to the FINRA's LMS
- Identify content providers who have undergone FINRA's approval process
- Provide members with a centralized location for Firm Element CE topics
- Avoid the unintended consequence of creating regulatory guidance

There is precedent for this approach. In fact, the Certified Financial Planner Board of Standards, Inc. utilizes a similar approach through its [CFP Quality Partner program](#).³

SRO versus Third-party Vendor Content

NRS believes that the two-part continuing education model currently employed is very well designed. SROs are best able to identify systemic, industry-wide issues that are covered in the Regulatory Element and firms are able to identify the specific training needs of their representatives and build a Firm Element program based on the products they sell, their policies and procedures and recurring issues they encounter.

NRS believes that Firm Element course content should be developed and offered by third-party content providers because SROs creating Firm Element training may have the unintended consequence of creating regulatory guidance. It is probable that Firm Element training designed by an SRO would be perceived as authoritative guidance from the SRO on the specified subject matter. To avoid this, it would be preferable to have content generated by third-party content providers, that are subject to quality control measures implemented and executed by FINRA. If SROs do create course content, they should take steps to ensure that the course content will not, inadvertently, become regulatory guidance; or, will not be construed as such by industry participants. In addition, SRO provided training would likely be selected by most broker-dealers who would consider it a riskless choice and would eliminate the commercial providers that deliver diversity and innovation in the Firm Element training market.

Additional Concerns:

If FINRA mandates the use of their LMS to deliver third-party training from their catalog it will present numerous challenges. Some of these concerns are outlined below.

Technology and Support Challenges:

- Courses are built using various authoring platforms and have several options for publishing content. This will lead to inconsistent content rendering and curriculums will lack uniformity. We are concerned that this will result in a disjointed and incohesive user experience.
- Clients use a variety of different workstation configurations. This will require support and technical resources skilled in troubleshooting internet, browser and operating system issues.

³ See information regarding CFP Quality Partner model, available at (insert link to information regarding this program)
<https://www.cfp.net/for-education-partners/continuing-education-providers/ce-sponsors/resources/ce-quality-partners>

- Content providers develop content in various ways and leverage different instructional strategies and methodologies. Even simple navigation functions may differ between courses from multiple vendors. This may present difficulties and feel disjointed to students taking courses from multiple vendors while expecting uniformity across FINRA's platform.
- We update content on a daily basis, so unless third-party content providers are given admin access to FINRA's LMS, it will create unnecessary delays in uploading content updates and keeping content current.
- As multiple vendors continually upload updated content, how will FINRA maintain version control? Most LMS platforms support version control, but third-party vendors handle this process differently and have systems in place to support various client populations.

Content Review and Approval Challenges:

- Multiple providers will likely be interested in posting content to the centralized catalog (FINRA's LMS) and this will present a number of resource challenges for FINRA and third-party content providers.
- We are concerned about the content review process and whether FINRA has the bandwidth to properly review each course being submitted.
- FINRA has struggled with keeping their own catalog current (de-flashing courses), as well as content updates based on Regulation Best Interest and Suitability changes. Recent communications indicated that some of these updates may not be available through 2021 and forced FINRA to add a pop-up disclaimer to courses stating that the course has not been updated.
"Our update efforts will continue throughout 2020 and 2021, but for the time being, there are 36 courses that will include a Reg BI pop-up disclaimer at the 'Welcome' screen to let readers know that the course has not been updated with Reg BI language yet."
- Given the already present resource challenges, we are concerned with the review process and turnaround time to get courses approved for upload to the FINRA LMS.
- Processing royalty payments to third-party content providers will add additional responsibility on FINRA to track and report registrations and completions back to content providers.

Maintaining Qualification While Inactive

- 5. Are the eligibility criteria for participation in the proposed program to maintain a qualification status for a terminated registration category appropriate? Is a participation time period of seven years sufficient? Should FINRA consider other options for eligibility or the length of time an individual can participate in the program?**

6. In light of the proposed program to maintain a qualification status for a terminated registration category through continuing education, should FINRA eliminate the two-year qualification period?

NRS Comments:

NRS supports FINRA's proposal for annual continuing education allowing RRs to maintain their qualification in terminated registration categories up to seven years. The proposal has wide industry support, is uniform with continuing education requirements of other professional programs and provides individual choice to participate in the current two-year qualification period or an extended seven-year period.

Economic Impact to Competitors and Third-Party Content Providers

8. What other economic impacts, including costs and benefits, might be associated with the proposal? Who might be affected and how?

Without knowing the proposed pricing structure or revenue sharing arrangements, NRS is concerned that FINRA could be setting the price for Firm Element courses that all other vendors would have to match to remain competitive. In some instances, this could cause a significant disadvantage and result in third-party vendors exiting the business.

9. Would the proposal impose any other competitive impacts that FINRA has not considered?

A centralized content catalog offered by FINRA would likely be selected by most broker-dealers who would consider it a riskless choice and would eliminate the commercial providers that deliver diversity and innovation in the Firm Element training market.

Firms use third-party vendors for more than just Firm Element. They also use online annual compliance meeting solutions, licensing exam preparation and annual compliance questionnaires. Using FINRA's LMS would eliminate the cohesive experience they receive from working from a single student dashboard.

NRS customers, for example, receive highly individualized support from a dedicated client service representative who helps them with course selection, program setup, student enrollment, and program completion binders/reports. In order to maintain this level of service, FINRA will have to build systems, processes and infrastructure to support these essential services that member firms rely on to develop optimal CE programs and protect their investors.

Conclusion

NRS continually interacts with broker-dealers and investment advisers of all sizes through our client relationships and national conferences. We take great pride in our educational offerings including the Investment Adviser Certified Compliance Professional program and FIRE CE and Exam Prep. NRS applauds FINRA's proposal to create a model rule for the continuing education of registered representatives. We urge FINRA to consider our comments in the spirit in which they were intended – insights and recommendations offered from our unique vantage point that we believe will enhance a thoughtful and well-intentioned continuing education program for registered representatives.

NRS appreciates the opportunity to comment on this proposal. If we may assist further or provide additional information or background on our comments, please let me know.

Respectfully,

A handwritten signature in black ink, reading "John E. Gebauer Jr." with a stylized, cursive script.

John Gebauer

President

June 30, 2020

By email to: pubcom@finra.org

Jennifer Piorko Mitchell
Office of the Corporate Secretary
Financial Industry Regulatory Authority
1735 K Street, NW
Washington, DC 20006-1506

Re: Regulatory Notice 20-05: Continuing Education Program Transformation

Dear Ms. Mitchell:

I am writing on behalf of the North American Securities Administrators Association, Inc. (“NASAA”)¹ in response to the request for comment by the Financial Industry Regulatory Authority (“FINRA”) on *Regulatory Notice 20-05: Continuing Education Program Transformation* (the “Request for Comment”).² The Request for Comment seeks input regarding whether to implement several recommendations of the Securities Industry/Regulatory Council on Continuing Education (the “Council”)³ to the program of continuing education for registered persons of broker-dealers (the “CE program”). NASAA has previously commented on changes to FINRA’s continuing education program,⁴ and we welcome the opportunity to do so again. Generally, NASAA supports the portions of the

¹ Organized in 1919, NASAA is the oldest international organization devoted to investor protection. NASAA’s membership consists of the securities administrators in the 50 states, the District of Columbia, Canada, Mexico, Puerto Rico, and the U.S. Virgin Islands. NASAA is the voice of securities agencies responsible for grass-roots investor protection and efficient capital formation.

² See *Regulatory Notice 20-05: Continuing Education Program Transformation* (Feb. 18, 2020), available at <https://www.finra.org/rules-guidance/notices/20-05>.

³ A NASAA liaison serves on the Council in a non-voting capacity.

⁴ See Letter from Michael Pieciak, NASAA President, to Jennifer Piorko Mitchell, FINRA Office of the Corporate Secretary, *Re: Regulatory Notice 18-26, Continuing Education Program* (Nov. 8, 2018), available at <https://www.nasaa.org/wp-content/uploads/2011/07/CE-Council-Enhancements-Comment-Letter-11-8-18.pdf>; Letter from Mike Rothman, NASAA President, to Brent J. Fields, Securities and Exchange Commission, *Re: Proposed Rule Change to Adopt Consolidated FINRA Registration Rules, Restructure the Representative-Level Qualification Examination Program and Amend the Continuing Education Requirements*, Release No. 34-80371, File Number SR-FINRA-2017-007 (May 1, 2017), available at <https://www.nasaa.org/wp-content/uploads/2011/07/NASAA-Comment-Letter-17-07.pdf>; and Letter from Melanie Senter Lubin, NASAA President, to Marcia Asquith, FINRA Corporate Secretary, *Re: Regulatory Notice 09-70 – Registration and Qualification Requirements* (Mar. 1, 2010), available at <https://www.nasaa.org/wp-content/uploads/2011/07/20-NASAA-Comment-Letter-Regulatory-Notice09-70.pdf>.

Request for Comment that propose enhancements to the Regulatory and Firm Elements of the CE program. As discussed in further detail below, we believe the annual regulatory training element, improved Firm Element guidance and resources, and the establishment of a content catalogue, if implemented correctly, are positive steps in advancing the operations of the CE program. However, NASAA has significant concerns regarding the proposal that would allow individuals with terminated registrations to maintain their qualifications by meeting continuing education requirements. As drafted, the proposed changes do not consider state licensing and registration requirements adequately, and they would disrupt the efficient licensing and registration procedures that exist currently for state regulators and member firms.

Regulatory Element Recommendations

NASAA supports the proposed transition to an annual Regulatory Element requirement. This change capitalizes on technological advancements since the CE program's inception in 1995, and aligns with NASAA's proposed Investment Adviser Representative Continuing Education Model Rule and related proposed annual Ethics and Products & Practices requirements.⁵ Likewise, NASAA continues to support the accelerated CE requirement for registrants subject to a significant disciplinary action, including actions by state and federal securities regulators, currently required under FINRA rules.⁶ We are generally supportive of the proposed change to require assigned continuing education to be completed in a manner specified by FINRA,⁷ as long as that requirement adequately addresses investor protection concerns. Regulatory Element ethics requirements for these individuals should be provided in a live, in-person setting to ensure the representative's participation and engagement with the material.

NASAA also supports updating the content and delivery formats for the Regulatory Element.⁸ Appropriately designed CE tailored to specific registration categories would help alleviate inapplicable trainings and provide relevant, targeted information to participants. We look forward to collaborating with FINRA and the CE Council on new instruction formats and continuing education modules. Finally, NASAA supports the advance publication of specific Regulatory Element learning topics. While we appreciate these training elements and courses take time to develop, the CE program should possess adequate flexibility to respond to sudden and/or sweeping changes in the securities industry.

⁵ NASAA proposed implementing continuing education requirements for investment advisers ("IAR-CE") in early 2020. The anticipated launch date for IAR-CE is the fourth quarter of 2021, with continuing education requirements becoming effective for 2022. *See Notice of Request for Public Comments Regarding a Proposed Investment Adviser Representative Continuing Education Program and an Implementing Model Rule Under the Uniform Securities Acts of 1956 and 2002 ("IAR-CE Model Rule")* (Feb. 1, 2020), available at <https://www.nasaa.org/wp-content/uploads/2020/02/IAR-CE-Public-Notice-and-Request-for-Comment-02-13-20.pdf>.

⁶ FINRA Rule 1240(a)(3)(B)-(C).

⁷ Request for Comment at 8.

⁸ *Id.*

Firm Element Recommendations

NASAA generally supports the expansion of the Firm Element to include other training requirements. Expanding the training requirements to registered persons ensures continuing education and training for individuals not currently covered by FINRA Rule 1240(b). Additionally, the decision to recognize training elements from anti-money laundering (“AML”) compliance programs and annual compliance meetings (“ACM”) provides flexibility and does not make this new requirement overly burdensome. However, NASAA disagrees with that AML and ACM should be allowed to satisfy a registered person’s Firm Element requirement. While AML and ACM may address issues faced by both covered and registered persons, training should not be limited to these two programs especially when the content catalog is developed.

Finally, NASAA supports the development of a content catalog for firms, self-regulatory organizations, and third-party vendors participating in the CE program. We believe that a customizable program with vetted courses could increase the quality and effectiveness of the CE program. Furthermore, as the modules would be selected by the firms, flexibility and individual determinations based on broker size, complexity, and business model would be preserved with this new system.

Maintaining Qualifications Recommendation

The most significant change proposed by FINRA would provide certain individuals, by continuing to complete CE requirements, the ability to maintain their qualifications following the termination of their registrations for up to seven years.⁹ Currently, following termination of registration, an individual’s qualifications remain valid for two years, which allows that individual to reenter the industry without having to retake any previously passed licensing examinations. NASAA’s members commonly apply the same two-year qualification rule for state licensing of broker-dealer agents and investment adviser representatives.¹⁰

Any changes to the two-year post termination qualification framework, especially more than tripling the existing timeframe, would therefore be a significant departure from current practice. Even assuming that some increase to the time frame is beneficial, many considerations should be addressed before making changes to well-established requalification requirements. Currently, industry professionals have the ability to rely on the same validity period for both FINRA and state examinations. The efficiency of registration created by this uniformity is extremely beneficial for the industry. Should FINRA move forward with this proposal as it stands, the obstacles it would create through conflicts with current state rules and regulations would outweigh any benefits gained. Without a uniform approach between FINRA and state requirements, registration and licensing application processing times could increase

⁹ Request for Comment at 14.

¹⁰ See, e.g., Ark. R and Regs. § 302-302.01(c), § 302-302.02(f); Cal. Code Regs. tit. 10, § 260.217, § 260.236; Fla. Admin. Code R. 69W-600.002, 69W-600.024; Ga. Comp. R. & Regs. r. 590-4-5-.02, 590-4-4-.09.

greatly. Currently, under the uniform two-year approach, most states allow broker-dealer agent applicants to be approved automatically if no new or updated disclosure information is contained on an applicant's Form U4s. Since the majority of NASAA's members specifically address a two-year exam validity period in their rules and regulations, this proposal would force applicants to undergo manual state reviews to determine if they meet the states' qualification rules. This would create confusion and delay for registrants who would be in compliance with FINRA rules but out of compliance with state rules.

Similar concerns were raised in both SIFMA's and FSI's comment letters submitted in response to the Request for Comment. SIFMA points out in its comment letter that the proposed CE program does not address state registrations, which are often required.¹¹ FSI similarly requested "*insight into whether, if at all, FINRA has coordinated with state securities regulators that would also allow individuals who were previously registered in a state to maintain their qualification for a terminated registration,*" and it noted that "[w]ithout maintaining registration at the state-level, permitting a previously-registered representative or principal registration category to maintain their qualification for a terminated registration category may be ineffectual."¹² It is clear that without states being in agreement, this portion of the proposal would not be of benefit to industry professionals.

NASAA recognizes that this portion of the recommendation stems from a desire to alleviate burdens on individuals having to requalify after leaving the industry as a result of life events, career changes or business reorganizations.¹³ NASAA believes that the desire to structure a CE program that can help accommodate life's challenges is a laudable goal worthy of serious consideration. But, the proposal should be revised in a way that preserves the efficiency and coordination that already exists in licensing and registration.

NASAA is therefore committed to working with our membership to determine whether a consensus exists or can be reached among the states for an appropriate timeframe for requalification without examination for applicants who meet certain CE requirements. NASAA has concerns that – given the pace of financial product innovations, technology, regulatory changes, and adapting industry practices – anyone who reenters the industry after a long absence is at risk of making unsuitable recommendations and otherwise harming investors. We would accordingly want any agreed upon timeframe to give adequate weight to investor protection concerns.

¹¹ See Letter from Kevin Zambrowicz, SIFMA Managing Director and Associate General Counsel, to Jennifer Piorko Mitchell, FINRA Office of the Corporate Secretary, *RE: Regulatory Notice 20-05, Continuing Education Program Transformation* (Apr. 22, 2020), available at https://www.finra.org/sites/default/files/2020-04/20-05_SIFMA_Comment.pdf.

¹² See Letter from Robin M. Traxler, FSI Senior Vice President, Policy and Deputy General Counsel, to Jennifer Piorko Mitchell, FINRA Office of the Corporate Secretary, *RE: Regulatory Notice 20-05, Continuing Education Program Transformation* (May 21, 2020), available at https://www.finra.org/sites/default/files/2020-05/20-05_FSI_comment.pdf.

¹³ See Request for Comment at 21-22.

Until those determinations are reached, however, NASAA strongly suggests that FINRA not move forward with implementation of this portion of their proposal until a uniform approach is reached for both FINRA and state regulators.

Sincerely,

A handwritten signature in black ink, appearing to read 'CH Gerold', with a stylized, cursive flourish at the end.

Christopher Gerold
NASAA President
Chief, New Jersey Bureau of Securities



*Why Go It
Alone?*

June 16, 2020

Ms. Jennifer Piorko Mitchell
Office of the Corporate Secretary
FINRA
1735 K Street, NW
Washington, DC 20006-1506
Alexandria, VA 22314

Re: FINRA Regulatory Notice 20-05: Request for Comment on a Proposal to
Implement the Recommendations of the CE Council Regarding
Enhancements to the Continuing Education Program for Securities
Industry Professionals

Dear Ms. Mitchell,

The Association of Registration Management, Inc. ("ARM")¹ would like to comment on the proposal to implement the recommendations of the CE Council regarding enhancements to the Continuing Education ("CE") program for securities industry professionals. ARM appreciates the opportunity to submit this letter and present feedback collected from the financial securities industry on this topic and related processes.

Along with our member firms, ARM has reviewed the proposed recommendations. While ARM is fully supportive of the proposed suggestions for Firm Element and applauds the plan to enable individuals who were previously registered to maintain qualifications through Continuing Education, we have concerns about the annual Regulatory Element plans as suggested in Regulatory Notice 20-05.

¹ The Association of Registration Management is an industry association founded in 1975, comprised of registration professionals from broker-dealers and investment advisers who deal with the regulatory community on licensing matters and related issues.

Ms. Jennifer Piorko Mitchell, FINRA
Page 2 of 5

ARM is extremely grateful to FINRA and to the CE Council for their plans to assist our member firms with the planned Firm Element improvements. By recognizing other training requirements for the purposes of satisfying Firm Element, FINRA also acknowledges how training programs at member firms better prepare registered representatives to serve the investing public. This recognition allows firms to better streamline their training programs, and manage their training calendars with more efficiency. This planning will be further enhanced with the guidance and resources discussed in the proposal, including the assistance with the needs analysis.

The establishment of a content catalog is also helpful for our member firms. ARM believes that having a library of FINRA-endorsed material allows firms to build training programs while being confident that they are meeting regulatory expectations.

ARM member firms are celebrating the proposed rule changes to allow previously registered individuals to maintain their qualifications through CE. This ability to preserve licenses independently occurs in other industries, but it has not been available for registered representatives in the securities business until now. ARM agrees with the plan to allow these individuals to keep their qualifications, to allow them to stay prepared for work in the industry, and to have them ready to serve the investing public. Our member firms have long requested this ability, as it allows these individuals to deservingly maintain the registrations that they worked so hard to obtain.

Regarding Regulatory Element content, ARM fully supports the plan to tailor the material to registration categories. More specifically, our member firms have requested education, training programs, and examination content that are all more closely aligned with the specific businesses of our registered representatives. For example, firms with institutional businesses have often expressed frustration with how sales examinations and related CE are more focused on retail business scenarios than the activity performed by their personnel. ARM and our member firms hope that this approach to specialized content continues with further reviews of the Series 7 for an alternate institutional version.

While ARM previously noted our agreement with the plan for an annual Regulatory Element program in our response to Regulatory Notice 18-26 in November 2018, we indicated that support was for "a shorter requirement." While ARM recognizes that Regulatory Notice 20-05 indicates that the annual format of the new Regulatory Element would be one-third of the usual content, the program in this proposal would not be shorter for all registered

Ms. Jennifer Piorko Mitchell, FINRA
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representatives. ARM does not support a plan that requires additional training content for individuals with more registrations.

When providing feedback to Regulatory Notice 18-26, ARM called for the elimination of duplicative CE requirements, indicating the different types of trainings administered to financial service industry personnel. These staff members are required to complete training on multiple topics, including but not limited to information security, compliance policies, business services and products, code of conduct updates, and data protection. Additionally, all registered representatives have the obligations of the Annual Compliance Meeting (in compliance with FINRA Rule 3110(a)), and other registered representatives have the additional requirements of Firm Element, National Futures Association registration training (including Ethics training, and new Swap Dealer Associated Person training requirements), and other training and education obligations. The plan to recognize other training requirements to satisfy Firm Element requirements appears to be an acknowledgement of this point, which is appreciated. However, with a Regulatory Element program that requires additional content for multiple registrations, FINRA is adding significantly to those training obligations. This additional content creates the type of administrative and operational burdens for the registered representatives and the member firms that was mentioned in the feedback to Regulatory Notice 18-26. This aspect of the plan also has an indirect impact on the investing public as FINRA is requiring these representatives to spend more time on CE than the current requirement, and therefore taking more time away from servicing their clients.

This proposed Regulatory Element structure will disproportionately burden registered principals and those more experienced registered representatives who have developed multiple skill sets, who have obtained different types of business knowledge, and who have acquired multiple registrations over their careers. These individuals have worked for years to accumulate these accomplishments, and have worked diligently to complete all training requirements related to these licenses. Now these accomplished professionals will either spend more time away from the investing public to maintain these licenses, or they will be forced to prioritize and terminate some registrations rather than take the time for the additional CE content.

ARM recognizes that this change would not impact the entire registered population, and acknowledges FINRA's indication that only 35% of these individuals have multiple registrations. However, our member firms feel that over one-third of the registered population is a significant impact. ARM also believes that this figure fails to consider the number of representatives who will be discouraged from taking more examinations and collecting more registered

Ms. Jennifer Piorko Mitchell, FINRA
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qualifications because of the continuous requirements. ARM would like to see a Regulatory Element plan that encourages representatives to increase their qualifications and their ability to serve their clients rather than a program that dissuades representatives from further learning.

ARM would also like more information on how FINRA plans to improve systems to address the administrative and operational burden that this process would create. While our member firms look forward to improved notifications and system interfaces, ARM would also like to learn more on the related reporting that would be available to the Registration Departments that will need to track, chase, and notify firm management about the number of individuals in danger of missing their deadlines.

ARM also feels that the fifteen-day window between the deadline and the CE Inactive date adds to this administrative burden. In the current process, most firms take action to eliminate the building and system access of a registered representative who has failed to meet their CE deadline and has inactive registrations. In larger firms, this would be a coordinated effort between Registration, Human Resources, Employment Law, Information Technology, and the Security departments, as well as Compliance coverage teams and managers related to the representative. At smaller firms, all of these same efforts are performed by fewer people. For all firms, potentially performing this process for a number of representatives at once would be more consuming—but having to document the events, actions, and reasons for late CE completion makes this situation significantly worse.

There is no regulatory guidance or precedent for allowing a representative with active registrations to act in a registered capacity when the individual has overdue CE. Member firms will need more information on the controls expected by FINRA and the content expected for any documentation memorializing an individual's failure to meet the deadline and his/her activity during this fifteen-day period. ARM and our member firms are also concerned that the increased Regulatory Element content for individuals with multiple registrations will increase the likelihood of missed deadlines and CE Inactive registrations.

ARM would be supportive of an annual Regulatory Element program that would have the same time requirements for all representatives, and would not increase the obligations for registered principals and representatives with more qualifications. This support does not contradict or conflict with our wish for Regulatory Element content that would be more tailored to registrations. In fact, ARM believes that FINRA should make the additional content available for member firms and registered representatives for optional additional training and supplementary information related to key registration issues.

Ms. Jennifer Piorko Mitchell, FINRA
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ARM truly appreciates the efforts and intentions of both FINRA and the CE Council to improve the Firm Element and the Regulatory Element components of the Continuing Education program. We hope that FINRA considers this feedback, which is supported by our member firms and SIFMA's Licensing and Registration Council.

Thank you for your time and consideration on this matter. Please contact me if you wish to discuss our comments in more detail, if you have any questions, or if I can assist with this initiative any further.

Sincerely,

A handwritten signature in cursive script that reads "Richard Izzo". The signature is written in black ink and is positioned above a horizontal line.

Richard Izzo
President, Association of Registration Management, Inc.
armgmnt@armgmnt.org

On behalf of the Executive Board and members of the
Association of Registration Management, Inc.

CC: Kevin Zambrowicz
Compliance & Regulatory Policy Committee, SIFMA



MML Investors Services, LLC
1295 State Street
Springfield, MA 01111-0001
Toll Free (800)542-6767
Fax (877)665-4749

May 21, 2020

Via ELECTRONIC Mail (pubcom@finra.org)

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

Re: Regulatory Notice 20-05: Continuing Education Program

Dear Ms. Mitchell:

Please accept this submission as MML Investors Services, LLC's ("MMLIS") comments in response to FINRA's Regulatory Notice 20-05: FINRA Requests Comment on a Proposal to Implement the Recommendations of the CE Council Regarding Enhancements to the Continuing Education Program for Securities Industry Professionals ("RN 20-05" or the "Notice").

MMLIS is MassMutual's retail broker-dealer and is headquartered in Springfield, Massachusetts. The firm's approximately 7,000 registered representatives offer a wide variety of investment products and services to retail clients, including mutual funds and variable products.

Comment from the Firm

In RN 20-05 FINRA requests comment on a proposal to implement the recommendations of the Securities Industry/Regulatory Council on Continuing Education ("CE Council") regarding enhancements to the Securities Industry Continuing Education Program ("CE Program").

MMLIS supports FINRA and the CE Council in their efforts to enhance the CE Program. MMLIS believes most of the enhancements under consideration are responsive to the needs of member firms. Please see MMLIS's responses to the nine (9) specific questions that were included at the end of the Notice and some additional comments.

Responses to Nine Specific Question

Question 1: Does focusing the Regulatory Element on rule changes and significant regulatory issues relevant to each registration category seem appropriate? Would this help distinguish the Regulatory Element from the Firm Element? Are there other topics that should be included within the Regulatory Element?

Response to Question 1: Yes, MMLIS believes that focusing the Regulatory Element on rule changes and significant regulatory issues relevant to each registration category seems appropriate and would help to distinguish the Regulatory Element from the Firm Element. Other topics that should be included, to a lesser extent, are those relating to (i) basic core industry knowledge, and (ii) ethics and professional responsibility.

Jennifer Piorko Mitchell

May 21, 2020

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Question 2: Would the transition to an annual Regulatory Element requirement or the focus on rule changes and significant regulatory issues relevant to each registration category disparately impact specific populations? If so, would the introduction of greater diversity in instructional formats and delivery modes alleviate any such potential impacts? Are there any other mitigations that FINRA should consider to address any such potential impacts?

Response to Question 2: MMLIS does not believe the transition to an annual Regulatory Element requirement or the focus on rule changes and significant issues relevant to each registration category would disparately impact specific populations. However, FINRA should consider any increased cost to associated persons who pay out of pocket to attend the required courses.

Question 3: FINRA is proposing possible enhancements to the CRD system and FinPro system to facilitate the transition to an annual Regulatory Element requirement. Would enhanced reporting and automated notification functions help mitigate the additional efforts required to monitor participation in, and completion of, an annual requirement? What other system enhancements would firms find helpful?

Response to Question 3: Yes, enhanced reporting and automated notification functions help mitigate the additional efforts required to monitor participation in, and completion of, an annual requirement. FINRA should ensure that the Firms can run reports at will that show the status of each of their associated persons. With respect to the notifications sent directly to associated persons, how often will these communications be sent? We will coordinate our communications to associates with these notifications. We note that FinPro sends communications to associated persons' personal email. This seems inconsistent with the general requirement to utilize firm supervised email addresses for business-related communications.

Question 4: Are member firms currently requiring all registered persons to complete Firm Element training? Does the express recognition of other training requirements, including the annual compliance meeting, towards satisfying the Firm Element training mitigate the potential burdens associated with extending the Firm Element to all registered persons?

Response to Question 4: We are not currently requiring all registered persons to complete Firm Element training. We do not believe extending the Firm Element requirement to all registered persons would benefit clients or the general investing public. The express recognition of other training requirements, including the annual compliance meeting, would help to mitigate the burden associated with extending the Firm Element requirement to all registered persons. Allowing firms to create a different curriculum for registered persons who work in the home office and do not interact with customers would help to mitigate this burden.

Question 5: Are the eligibility criteria for participation in the proposed program to maintain a qualification status for a terminated registration category appropriate? Is a participation time period of seven years sufficient? Should FINRA consider other options for eligibility or the length of time an individual can participate in the program?

Response to Question 5: We believe the eligibility criteria for participation in the proposed program to maintain a qualification status for a terminated registration category is appropriate and the participation time period of seven years is sufficient. We request clarification on what happens if a participant misses a cycle. What opportunities are there for a participant to avoid losing eligibility for the program and are there any exigent circumstances? We also request clarification on whether the proposed program to maintain a qualification status for a terminated

Jennifer Piorko Mitchell
 May 21, 2020
 Page 3

registration category will also apply to state requirements. We encourage FINRA to work with the states to achieve this result.

Question 6: In light of the proposed program to maintain a qualification status for a terminated registration category through continuing education, should FINRA eliminate the two-year qualification period?

Response to Question 6: We believe retaining the current two-year qualification period provides registered persons with appropriate flexibility. Registered persons may be uncertain of their future plans during the two-year period.

Question 7: Are there approaches other than the proposed changes that FINRA should consider?

Response to Question 7: At this time, MMLIS does not have feedback on alternative approaches.

Question 8: What other economic impacts, including costs and benefits, might be associated with the proposal? Who might be affected and how? Please provide estimates or estimated ranges for costs and benefits wherever possible.

Response to Question 8: FINRA should consider the cost (both monetary and time) to individual registered persons of complying with an annual Regulatory Element requirement. FINRA should also consider that the application of the Firm Element requirement to all registered persons will have a disparate impact on firms with large home office populations if home office registered persons are required to complete the same Firm Element curriculum as other registered persons. In addition, for firms that utilize third party systems to administer Firm Element, the extension of the requirement to all registered persons could lead to higher licensing fees.

Question 9: Would the proposal impose any other competitive impacts that FINRA has not considered.

Response to Question 9: Please see our response to Question 8.

Additional Comments

Publication Date of Regulatory Element Learning Topics. MMLIS requests that FINRA work with the CE Council to identify and publish the Regulatory Element learning topics for each coming year earlier than October 1. MMLIS begins its planning process for Firm Element training in late August and it would be helpful if these learning topics could be published before September 1.

Retroactive Application. When implemented, this rule should apply retroactively to anyone who became CE inactive less than three years ago. Alternatively, this rule should apply retroactively to anyone who is still within their 2 year exam expiration at the date of implementation.

Requirement to Document Basis for Failure to Complete Regulatory Element. For individuals who fail to complete the Regulatory Element by the end of the calendar year but subsequently complete it prior to being designated as CE inactive (that is, prior to January 15 of the next calendar year), the firm with which the individual is associated is required to document the basis for the individual's failure to complete the Regulatory Element by the end of the calendar year and retain such documentation. In addition to those for which firms typically request relief, are there acceptable and unacceptable bases? If there are, what are they? If not, what is the reason for this requirement?

Jennifer Piorko Mitchell

May 21, 2020

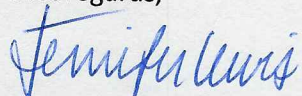
Page 4

Lead Time and Communication. In deciding upon an implementation date of changes to the CE Program, FINRA should be mindful that firms should be provided with as much lead time as possible. In addition, careful thought should be given to the ongoing communication plan, including how to reach individuals who are not associated with a firm.

Conclusion

MMLIS appreciates the opportunity to comment on the proposed changes. If you should have any questions regarding these comments, please do not hesitate to contact me.

Best regards,



Jennifer Lewis

Lead Counsel, Broker-Dealer and Investment Advisor Practice Group

jenniferlewis3@massmutual.com

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June 30, 2020

Sent via Electronic Mail to pubcom@finra.org

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

Re: File Number SR-FINRA-2020-007

Dear Ms. Mitchell:

On behalf of the Insured Retirement Instituted (IRI), we thank you for the opportunity to comment on FINRA's Proposal to implement the recommendations of the Securities Industry/Regulatory Council on Continuing Education (CE Council) Regarding Enhancements to the Continuing Education Program for Securities Industry Professionals (SR-FINRA-2020-007).

IRI has received and reviewed the comments by the Securities Industry and Financial Markets Association (SIFMA), as submitted on April 22, 2020. With SIFMA's permission, IRI shared this letter with our members.

Following discussion with our members, IRI strongly supports FINRA's proposal to implement the CE Council's recommendations, in accordance with SIFMA's comments and with its recommended minor adjustments, as detailed in its April 22nd comment letter.

Thank you again for the opportunity to share IRI's comments with respect to this important matter.

Respectfully submitted,

Emily Micale

Regulatory Notice 20-05

FINRA Requests Comment on a Proposal to Implement the Recommendations of the CE Council
Regarding Enhancements to the Continuing Education Program for Securities Industry Professionals

I am a public arbitrator and law professor.

I support the rules changes but want to be sure that changes are consistent with the larger educational goals and that the entire program holds together, as consistently headed in a stated direction.

In general, professional education is headed in the direction of more hours, and more ethics and elimination of bias.

So, when proposing changes, as here, perhaps this is an opportunity to begin to re-shape the overall educational thrust, to focus on professional skills development, ethics, and elimination of bias.

Just my thoughts! Please let me know if I can contribute in other ways.

Best, Prof. Lisa Miller, Esq. (818) 802-1709

VIA ELECTRONIC MAIL: pubcom@finra.org

June 30, 2020

Ms. Jennifer Piorko Mitchell
Office of the Corporate Secretary
The Financial Industry Regulatory Authority, Inc.
1735 K Street, NW
Washington, DC 20006-1506

Re: Regulatory Notice 20-05: Request for Comment on a Proposal to Implement the Recommendations of the CE Council Regarding Enhancements to the Continuing Education Program for Securities Industry Professionals

Dear Ms. Mitchell,

Please accept this letter by Cambridge Investment Research, Inc. (“Cambridge”) in response to the proposals contained in Regulatory Notice 20-05 noted above (the “Request”).

FINRA recently proposed changes to the Registration and Qualification Rule series, particularly Rules 1210 and 1240 pertaining to Registration Requirements and Continuing Education. With these proposed rule changes, FINRA seeks to ensure that registered persons receive relevant and sufficient Regulatory Element training on an annual basis. The proposed rule changes align with FINRA’s ongoing mission of protecting investors and fostering stability in the industry. Cambridge has always supported these goals and welcomes the opportunity to provide its view on FINRA’s proposed changes to the Regulatory Element Program and Firm Element requirements. Cambridge supports FINRA’s goal to deliver relevant content to registered persons in a timely fashion and by means reflective of advances in technology and learning theory. Further, Cambridge strongly supports the proposed new rule 1240(c) which will provide a path for previously registered persons to maintain their qualification through fulfillment of post termination continuing education requirements.

Cambridge believes certain amendments to the proposed rule changes would help streamline the requirements placed on member firms and associated persons, and requests FINRA further amend the proposed rule in consideration of the following points:

- Cambridge recommends FINRA include ethics and professional responsibility requirements in the proposed annual Regulatory Element modules administered by

FINRA and remove this requirement from the Firm Element content to ensure consistency and quality training across the industry.

- Cambridge recommends FINRA further amend, as outlined below, proposed Rule 1240(b)(2)(A), regarding the Standards for the Firm Element, and remove the requirement that member firms cover “regulatory developments” and “the performance of registered persons in the Regulatory Element” to relieve firms of administrative and operational burdens. This can more effectively be accomplished through the proposed annual Regulatory Element modules administered by FINRA.
- Cambridge recommends FINRA apply Firm Element credit to the additional hours required by those who must complete greater than one Regulatory Element module.
- Cambridge recommends FINRA maintain consistency in terms of content, subject matter and volume of training requirements placed on persons maintaining their qualification following the termination of a registration category with those placed on registered persons.

Cambridge believes the objectives of the proposed rule changes would be better met if FINRA incorporated ethics and professional responsibility trainings into the proposed annual Regulatory Element component delivered by FINRA. This would foster consistency of training in ethics and professional responsibility, and ensure that the appropriate content is uniformly delivered to all registered persons as well as those persons participating in the continued qualification program.

FINRA states that a member firm’s annual implementation plan must take into consideration “regulatory developments and the performance of registered persons in the Regulatory Element” as well as topics relevant to the member firm’s size, organizational structure, and business activities. By moving from a 3-year Regulatory Element cycle to an annual cycle, Cambridge believes FINRA will have essentially closed the gap for which this provision in the current rule is relevant. Within the proposed annual structure, FINRA will be better situated to address regulatory developments in a more timely fashion and can address such issues well within the Regulatory Element framework. Thus, Cambridge recommends FINRA further amend Rule 1240(b)(2)(A), regarding the Standards for the Firm Element, by eliminating the requirements that Firm Element programs incorporate training on regulatory developments and tracking Regulatory Element performance. This change would alleviate the anticipated administrative and operational burdens member firms and registered persons will likely experience as a result of the proposed changes and will allow Firm Element training to be more narrowly focused on those topics relevant to the member firm and the member firm’s business.

FINRA states that individuals who currently hold multiple registrations (for example, a Series 7 license and a Series 24 license) and who today complete one module only, will likely be required to complete two or more modules to meet their Regulatory Element requirement. Cambridge requests FINRA consider the impact of this additional module requirement and allow for completion of those additional modules of Regulatory Element to offset Firm Element requirements. By allowing those additional modules to count against the Firm Element

requirement, FINRA would alleviate the negative impact of the cumulative burden this proposed rule change would place on those registered persons who hold multiple qualifications.

Lastly, Cambridge strongly supports adoption of proposed Rule 1240(c) in so far as it reflects an effort to accommodate those who, for a variety of reasons, may need to step away from the industry for a time. Cambridge believes this flexibility benefits member firms, the industry, and the investing public by potentially allowing for the retention of established professionals and supports implementation of the proposed program. However, Cambridge hopes implementation of this potentially beneficial rule change will not result in a lesser requirement for those unregistered persons participating in the program versus those registered persons affiliated with a member firm. Cambridge recommends FINRA consider the content, subject matter, and volume of training which it will require from those in the program and not subject those registered persons who remain with member firms to a higher or more rigorous standard. Further, Cambridge asks that FINRA provide guidance to member firms regarding those topics FINRA will prescribe within the program in the following year and allow member firms to elect to participate in the same content for their registered persons.

Cambridge recognizes the beneficial effect of FINRA continuing education and that completion of the Regulatory Element requirement annually could ensure those subject to these proposed rule changes are well informed of regulatory changes, industry updates, and other matters FINRA considers important. The increased frequency with which this important information is provided to these persons may reduce knowledge gaps, increase awareness of new products and the risks attendant to such, and increase uniformity of training. While these considerations are all beneficial, Cambridge believes that simply increasing the frequency of the Regulatory Element requirement without the changes recommended herein would result in more onerous burdens on member firms and registered persons resulting in additional administrative and operational burdens. Cambridge hopes FINRA will consider the points made in this response and amend these rule change proposals accordingly.

Cambridge would be happy to further discuss any of the comments or recommendations in this letter with FINRA.

Respectfully submitted,

// Seth A. Miller

Seth A. Miller
General Counsel
Senior Vice President, Chief Risk Officer

May 29, 2020

Submitted electronically to pubcom@finra.org
 Jennifer Piorko Mitchell
 Office of the Corporate Secretary
 FINRA
 1735 K Street, NW
 Washington, DC 20006-1506

Re: FINRA Regulatory Notice 20-05, FINRA Requests Comment on Proposal to Implement the Recommendations of the CE Council Regarding to the Continuing Education Program for Securities Industry Professionals

Dear Ms. Mitchell:

LPL Financial LLC ("LPL") appreciates the opportunity to provide comments in response to the Financial Industry Regulatory Authority's ("FINRA") Regulatory Notice 20-05¹. LPL commends FINRA and the Securities Industry/Regulatory Council on Continuing Education ("CE Council") for their ongoing efforts to enhance and improve the Continuing Education Program ("CE Program").

I. Overview of LPL

LPL is a diversified financial services company and is dually registered with the SEC as a broker-dealer and investment advisor. We serve more than 16,000 independent financial professionals and over 800 financial institutions by providing them with the technology, research, clearing and compliance services, and practice management programs they need to create and grow thriving practices. LPL enables them to provide objective guidance to millions of American families seeking wealth management, retirement planning, financial planning and asset management solutions.

We believe that objective financial guidance is a fundamental need for everyone. We enable our financial professionals to focus on what they do best, which is to create the personal, long-term relationships that are the foundation for turning life's aspirations into financial realities. We do that through a singular focus on providing our advisors with the front-, middle-, and back-office support they need to serve their clients. LPL and its affiliates have more than 4,300 full-time employees supporting our associated financial professionals.

II. Support for the comments submitted on RN 20-05 by the Securities Industry and Financial Markets Association's ("SIFMA") letter dated April 22, 2020

LPL would like to express support for the comments written by SIFMA in their letter submitted on April 22, 2020. SIFMA is the leading trade association for broker-dealers, investment banks and asset managers operating in the U.S. and global capital markets.

Specifically, LPL supports SIFMA's recommendations on the Regulatory Element and the Firm Element of the CE Program. By creating tailored content for each registration category, FINRA is recognizing that individuals can participate in the Regulatory Element of the CE Program in a way that maximizes learning content while recognizing different styles of learning. We further support SIFMA's belief that there should be a cap on the number of modules taken per year and a consideration of the time needed to complete different modules.

¹ See Regulatory Notice 20-50, *FINRA Requests Comment on Proposed to Implement the Recommendations of the CE Council Regarding to the Continuing Education Program for Securities Industry Professionals*.

Recognizing that other training requirements, including those related to AML compliance and an annual compliance meeting would serve towards satisfying an individual's Firm Element requirement is a laudable tenet of the proposal. We would like to reiterate SIFMA's concerns with the expansion of the Firm Element from Registered Persons to "covered persons". This expansion will lead to unnecessary costs for firms with little benefit to the overall job responsibilities of the expanded employee pool. LPL supports the additional Firm Element proposals, including the development of a continuing education content catalog and improving guidance and resources.

III. Proposed amendments to FINRA Rule 1240

LPL would like to state our support for proposed amendments to FINRA Rule 1240, which would allow previously registered individuals to maintain qualification through continuing education. We believe that the proposed amendments would provide many individuals with the opportunity to continue their career in the securities industry without presenting risk to established investor protections. Currently, individuals who are forced to stop working because of life and economic circumstances lose the ability to maintain their qualifications and must retake the appropriate examination to reenter the workforce when they are ready to do so.

The proposed amendments would greatly reduce the unnecessary barriers to reentry for previously registered persons. The existing requirement that persons who have not been registered for two years need to requalify for registration by taking and passing the appropriate qualification examination can prove to be a significant challenge for those who have been away from the industry for an extended period of time. This requirement can unfairly affect women and others with childcare responsibilities, who may need to take time off to care for children if they do not have access to childcare. If their circumstances force them to be out of the workforce for more than two years, these individuals might be less likely to reenter the financial services sector and seek employment in a different field. LPL believes that the financial services industry is stronger when there is a wider universe of participants and that the proposed program levels the playing field for all to have a career in financial services while maintaining a meaningful family life.

FINRA's proposal to establish a new continuing education program for these individuals, with the stipulation that they were registered for at least one year, displays FINRA's commitment to fostering diversity and inclusion in the securities industry. Allowing individuals to maintain their CE status enables them to continue to expand their knowledge base and remain engaged, encouraging them to return work to work when they are able. For these reasons, LPL strongly supports the amendments to Rule 1240.

IV. Conclusion

LPL very much appreciates the opportunity to comment on RN 20-05 and FINRA's consideration of our views. We are strongly in favor of the updates to the CE program and believe they will create an enhanced program for all participants. If you have any questions regarding this letter, please do not hesitate to contact me.

Sincerely,



Michelle Oroschakoff
Chief Legal Officer



James Rabenstine
Vice President & Chief Compliance Officer
Nationwide Financial Services, Inc.
Office of the Chief Legal Officer

VIA ELECTRONIC MAIL

June 30, 2020

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

**Re: FINRA Regulatory Notice ("RN") 20-05
Continuing Education Program Transition**

Dear Mr./Ms. Secretary:

Nationwide Financial Services, Inc. ("we" or "NFS")¹ appreciates the opportunity to submit comments regarding FINRA's proposal to implement recommendations of the Continuing Education Council ("CE Council") regarding enhancements for the Regulatory Element Continuing Education program ("Regulatory Element") and Firm Element Continuing Education program ("Firm Element").

Comments on RN 20-05 Proposals

Since FINRA created the Regulatory Element and Firm Element Continuing programs, the Company has placed a strong emphasis on creating its own comprehensive and customized programs. Although it takes a great deal of time to plan, write and execute on the distribution of our Firm Element programs, it has been our experience that it is more effective and efficient to have training tailored to our unique business model, than standard "off-the-shelf" training modules. More often than not, we receive feedback from our associates that the Regulatory Element is not effective and often, many learning concepts are not relevant to their role and activities. Our registered representatives and registered principals (collectively "Registered Associates") appreciate how Compliance's ability to select topics that is relevant to the regulations and policies that govern their roles and responsibilities. This includes how our Firm Element content is delivered to them. Our technology platform capabilities ensures that they understand and can demonstrate competence by testing them on the subject matter they are presented with. In addition, the Company has been able to incorporate Regulatory Element time periods and completion dates into our internal systems. As a result of our efforts, we rarely have individuals who cannot complete their Regulatory/Firm Element requirements within the time periods specified.

It is with this background that I would like to address the various changes proposed to the Regulatory Element and Firm Element programs. While I appreciate FINRA's attempt to modernize these programs, I would like to share our thoughts on the topics presented in Regulatory Notice 20-05.

¹ This comment letter is written on behalf of four Nationwide affiliated broker/dealers that are FINRA member firms - Nationwide Securities LLC (NSLLC), Nationwide Investment Services Corporation (NISC), Nationwide Fund Distributors, LLC (NFD) and Jefferson National Securities Corporation (JNSC), respectively.

1. **Enabling previously Registered Associates to opt in to maintaining their qualifications through the Annual Regulatory Element Continuing Education Program ("ARE")** - based on our understanding, RN 20-05 would permit Registered Associates for up to 7 years who have terminated their registration to apply for the Financial Services Affiliation Waiver Program ("FSAWP"). At the time that their Form U5 is filed, subject to FINRA approval, they are able to re-register in their applicable Registered Associate category without having to retake a qualification exam provided that they complete the required ARE. This would certainly help Reps/RPs who terminated their registrations that hope to quickly re-enter the securities industry. NFS supports this proposal.
2. **Requiring all Registered Associates to complete Regulatory Element courses on an annual basis even if their registrations are currently active** – while in theory, an annual Regulatory Element for all Registered Associates is forward-thinking, NFS does not see the value in requiring all Registered Associates to meet such an obligation. We believe that the training content of our annual Firm Element is more than adequate and is much more relevant and effective than the CE Council's Regulatory Element program. Having all Registered Associates complete such an additional requirement on an annual basis places a significant demand on our business operations and registered personnel while they are already subject to a comprehensive, tailored annual training program provided by the firm. As a matter of fact, we cannot recall when FINRA disciplined a Firm for having an inadequate Firm Element continuing education program.

Rather, NFS would support separate Regulatory Element requirements for active Registered Associates (i.e., those who are continuously registered) ("Active") and a separate Regulatory Element requirement for those who terminated their registrations or who have fallen into regulatory difficulties ("Terminated/Disciplined Associates"):

- Active Registered Associates – since Firm Element is already an annual requirement they must complete, we believe that the current 3-year requirement is more than sufficient training and education for them in addition to other training they have to complete due to licensures (ex. state insurance licenses) and/or certifications.
- Terminated/Disciplined Associates – for this category, NFS supports an annual Regulatory Element requirement only for Registered Associates:
 - whose registrations are terminated; or
 - for those Registered Associates who:
 - enter into an offer of settlement with FINRA;
 - enter into a Letter of Acceptance, Waiver and Consent ("AWC") with FINRA; or
 - who become subject to any (rather than RN 20-05 proposed wording "significant") disciplinary action taken by FINRA or the SEC.

Clearly, Term-DI Rep/RPs require additional training and education regarding sales conduct rules and their compliance responsibilities. In addition, new Regulatory Element requirements for such individuals would reinforce the importance on the group of individuals who really need it the most. FINRA should not place such a burdensome requirement on all Registered Associates when FINRA's focus on training and education should be centered on those who need it the most (i.e., Disciplined Associates or those who terminated from the firm but want to keep their registrations intact.)

3. **Replacing broad Regulatory Element course content with courses tailored to registrations held by Reps/RPs** – RN 20-05 proposes that instead of the two current sub-programs (S101 and S201), that they be replaced with training unique to the Registered Associates' registrations they hold. Adding separate, mandatory training for each exam for an individual may add repetitive topics to their training. While we agree that they are broad in nature, we support keeping the Regulatory Element training in its current

format (S101 and S201) with an emphasis on current, relevant broad-based compliance topics, ethical conduct and understanding of identification of industry or individual conflicts

If NFS's suggestion to keep Regulatory Element in its current format is not considered, please consider retitling the future sub-programs by exams (i.e., RE6, RE7, RE26, etc.). Additionally, the Regulatory Element training should be tailored to the business of the registrant first, and the role of the individual, second.

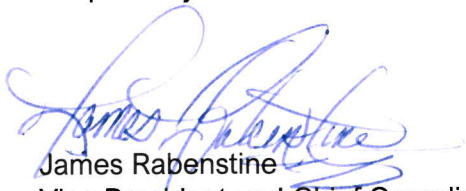
4. **Publishing learning topics in advance** – we appreciate FINRA's willingness to share suggested topics with firms for the coming year; it provides valuable insight as to what regulators deem important for the industry and what trends they may be seeing. We would ask that:
- Comprehensive information on learning topics be provided so that firms can have an opportunity to focus on particular areas of concern;
 - Share Regulatory Element training with identified Compliance leaders through Firm Gateway so that the Firm Element training does not have repetitive topics already discussed in Regulatory Element; and
 - Many firms work months (if not a year) in advance to develop Firm Element training. In order to timely consider FINRA's learning topics, and so that we do not duplicate similar training modules, it is asked that this information be shared with firms no later than October 1st prior to the upcoming year. The submission of this information to firms by such dates would give firms enough time to change and finalize their training for the upcoming year so that it does not overlap with FINRA's modules.
5. **Current Access to Regulatory Element** – one final comment for FINRA's consideration is how Registered Associates currently access Regulatory Element.

The internet medium that FINRA uses to administer this program, is at times, challenging for our Reps/RPs, especially for those who are in the field in remote locations or for those who do not have high speed internet connection or the right/updated software that firms can use to launch the program. For example, FINRA's Regulatory Element program is currently supported through Adobe Flash² which NFS no longer supports. A suggestion is to also offer the option for Reps/RPs to take Regulatory Element online with technology that firms like NFS can support or go to allow Reps/RPs to go to a testing facility that would have the appropriate technology support.

As Chief Compliance Officer, I am always concerned about how to implement such significant changes within our organization. Continuing education is a valuable tool that we use to reinforce regulatory requirements, best practices, rules, policies and internal procedures. However, we would rather have customized training to those who need it versus a "one size fits all" approach.

Thank you for giving us an opportunity to share our feedback on RN-20-05.

Respectfully submitted,



James Rabenstine
Vice President and Chief Compliance Officer
Nationwide Financial Services, Inc.

² Please note, FINRA does not plan use Adobe Flash to support its platform, effective 12/31/20.



► May 29, 2020

pubcom@finra.org

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

Lisa Roth
630 First Avenue
San Diego, CA 92101
619-283-3500

Re: Regulatory Notice 20-05

Proposal to Implement the Recommendations of the CE Council Regarding Enhancements to the CE Program for Securities Industry Professionals

Dear Ms. Mitchell,

Thank you for the opportunity to comment on the proposal to adopt the CE Council Recommendations.

As a whole, I believe the recommendations are sound. It is apparent, and appreciated, that the CE Council applied real-world experience in crafting their proposal.

I strongly support implementing the proposed mechanism for allowing previously registered individuals to maintain their qualification after the termination of their registrations for longer than the current two-year period. The CE Council's proposal to leverage the annual training requirement is an appropriate means of ensuring continuity and should be adopted as proposed.

I believe there is great value in moving to an annual Regulatory Element requirement, which would provide an opportunity for extending more relevant and timely material to registered persons. Notwithstanding that there are components of the training that would be mandatory for all registered persons, FINRA should consider offering variety within the registration categories, especially in the broadest categories, so that registered persons could select, or broker-dealers could dictate, training courses that are most applicable to their business lines and training needs. The benefit of more flexibility in the selection of materials supports an objective of providing more relevant training to registered persons. This is a winning combination for the industry and for investors.

In particular regard to the frequency of Regulatory Element training, FINRA should take into consideration the potential for increased costs to firms, and ensure that costs are proportionately less for the annual sessions.

The proposal to leverage FinPro for purposes of communications and monitoring is a practical means of assisting compliance personnel with additional management functions, however in my communications with BDs, I find that many are unfamiliar with FinPro. Therefore, I recommend that FINRA undertake outreach to continue to familiarize BDs with its evolving technologies.

I support the proposed broad approach to Firm Element training that formally acknowledges AML training and the annual compliance meeting. Please also consider formal acknowledgement of the many ongoing training initiatives that firms implement throughout the calendar year to achieve compliance. For instance, under the most recent circumstances of the pandemic, many firms have delivered cyber security training and updates relative to business continuity planning. Other firms have developed and are actively administering Reg BI and Form CRS training. These are relevant and meaningful steps that directly benefit the investing public and which should be “counted” for purposes of Firm Element training.

When Firm Element training opportunities arising from incidents like those mentioned above it is important that firms have the ability and motivation to implement ad hoc programs. Flexibility and responsiveness of this nature is a reflection of a healthy and viable compliance program. In this context the value of a written annual Firm Element Compliance Program is substantially diminished. While I recognize that the rule does not specifically require a separate document, the rule is generally interpreted as such, and the annual exercise of creating a plan has become the least impactful component of the actual training initiatives. The plan requirements and standards of 1240 (b)(2) are overly prescriptive, less meaningful in a fast-changing and vibrant marketplace and therefore unnecessarily burdensome. While 1240 is on the agenda, I encourage the CE Council and FINRA to consider amendment to 1240(b)(2) to permit firms to develop a training program that is principle’s based, tailored to the firm’s needs, and incorporated into the firm’s WSP, allowing the content, scope and participation records to serve as evidence of an effective training program. These records would adequately suffice as evidence of the annual cycle of delivery of a program without the need for an accompanying plan.

In summary, I believe the CE Council’s proposed initiatives should be adopted, that they will enhance and improve FINRA’s continuing education programs and that they could lead to further amendments that are consistent with the overall goal of investor protection.

Best regards,

//Lisa Roth//

Lisa Roth
President

June 30, 2020

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

Via email to: pubcom@finra.org

RE: Regulatory Notice 20-05
Continuing Education Program Transformation

A bit over ten years ago, on February 5, 2010, one of the authors of today's letter, wrote a response to a FINRA comment request related to Regulatory Notice 09 – 70 regarding proposed consolidation of rules governing registration and qualification requirements. See <https://www.finra.org/sites/default/files/NoticeComment/p121059.pdf>

Five years ago, on July 20, 2015, our firm again wrote a comment response to Regulatory Notice 15–20 with regard to restructuring qualification exams. See what we wrote then by accessing https://www.finra.org/sites/default/files/notice_comment_file_ref/15-20_IMS_comment.pdf

Today, we write to applaud and thank FINRA for finally apparently taking our comments and suggestions (and perhaps those of others also) seriously and, in its current request for comment in Regulatory Notice 20-05, proposing to effect many of those comments and suggestions.

For those FINRA members reading our response today, we also wish to add that our firm believes that it is never a waste of time nor useless to send comment responses, or otherwise make one's voice heard with FINRA. It may take a decade or two, but eventually and encouragingly, the ability for common sense to prevail remains possible.

As encouraged as we are however, unfortunately, some of our key suggestions have not been contemplated in FINRA's current proposals, which could go further. See the "FINRA Licenses Should Be Permanent" section of our 2015 letter to FINRA.

Background

integrated Solutions is one of the largest providers of financial accounting and compliance consulting services to the financial services industry, providing such services to about 100 FINRA members, among other types of financial services firms. We counsel clients daily on which examination their Associated Persons will need to take to engage in the business lines for which they are approved or are seeking approval. Many of the key people employed by our clients were FINRA exam qualified at one point, but for a variety of reasons their exam qualification lapsed two years after leaving a FINRA firm.

Without repeating all of the salient points raised in the two letters that we had previously written to FINRA, referenced and linked above, both in 2010, and in 2015, utilizing Continuing Education as a means to retaining exam qualifications beyond the two year time frame has long been an enduring desire for us. Additionally, as highlighted in our 2015 response, expanding FINRA's Regulatory CE Element to cover relevant topics to each registrant's proposed or current duties has also been a long-held position. Similarly, we favor FINRA providing additional resources and support related to Firm Element CE.

Regulatory Element CE

We support FINRA's recommendation to transition Regulatory Element CE to an annual requirement to be completed by registered persons by the end of each calendar year. This would be good so long as the Regulatory Element CE is relevant and can be administered, as it is currently, on personal computers.

Furthermore, generally we agree that individuals with multiple registrations be subject to more content than individuals with a single registration, requiring the completion of Regulatory Elements specific to each registration category that they hold. This should be so for persons who have held such registrations for less than a few years. We believe that a person who has held and utilized continuously a registration for more than a decade, should be presumed to not necessarily need a refresher session in that subject matter. We have long held that the current system of two subprograms, the S101 and the S201 were far too general in terms of training modules, given the wide range of specific qualifying FINRA exams. We are pleased that FINRA has finally recognized why these were not necessarily appropriate.

One of the authors of this letter has been a CPA and is not only a financial and operations principal for about four decades but also holds many other licenses. He should be able to choose whether he needs to update his knowledge in specific areas annually. Wasting precious time solely for the purpose of an arbitrary regulatory element requirement seems a bit overdone. Perhaps, once a person holds and uses a license for more than a decade or so, the annual requirement for

updating certain licenses should be extended to be triennially. We especially welcome FINRA's proposal to work with the CE Council to identify and publish the Regulatory Element learning topics for each coming year in advance. This would go a long way in allowing firms to appropriately plan the Firm Element that they deliver to their associated persons without duplication.

Finally, naturally and without question, we support enhancements to CRD to allow the Regulatory Element CE to be completed more efficiently online. The fact that the FinPro system would finally send automated email notifications regarding the Regulatory Element requirement directly to registered persons is a feature that we have supported vigorously for years. Especially for small firms that do not have a formal compliance department, this would be a welcome timesaver.

Firm Element CE

The irony of the Firm Element CE is that although, from the FINRA perspective, it is meant to apply only to certain "covered registered persons" (those with direct customer contact in the conduct of a firm's specific activities – FINRA Rule 1240(b)(1)), in practice, it is typically delivered during the Annual Compliance Meeting and therefore conveyed to the full roster of attendees anyway.

Therefore, we support FINRA's proposal to amend Rule 1240(b) to extend Firm Element training to all registered persons, as well as inherently recognizing other training requirements such as AML training, as fulfilling the Firm Element requirement.

Additionally, we welcome the ready availability of a FINRA content catalog for this purpose.

Maintaining Qualification

In short, although we are grateful that FINRA has finally moved away from the two-year termination concept¹ and moved towards a proposal to uphold a registered person's qualification for as long as seven years, we believe that much like CPAs and attorneys, a qualification should be for life, and can be supported via annual CE.

In this letter we have abstained from quoting from the prior two letters that we had written to FINRA, but in this particular case, the "FINRA Licenses Should Be Permanent" section of our letter dated July 27, 2015, so aptly describes our stance on this, that we have included some salient paragraphs, in italics, below:

¹ We have traditionally called it Use it or Lose it

“FINRA should treat the license earned for any series as permanent. That should be so no matter whether a license was earned by examination, waiver or grandfathering. No broker-dealer affiliation should ever be required to maintain a license. No license should ever lapse due to an artificial, mechanical time limit. Examinations should be available to anyone (even someone who has no involvement in the financial services industry)². Continuing education should be available to anyone to ensure continued expertise.”

“Permanent licenses would make FINRA’s licensing rules comparable to those of other professional licenses that currently do not expire, such as CPAs, lawyers, doctors, engineers, etc. All of these other professional licenses are currently maintained by mandated CE requirements, without impairing professional competence and/or standards.”

“This would also eliminate the extant hypocrisy under current FINRA rules. FINRA tolls license expirations for various individuals. For example, members of the United States Armed Forces on active duty are not required to take CE. Maintenance of military proficiency is obviously more important when serving in the armed forces than maintaining financial services proficiency; this reinforces our conclusion that not being active as an Associated Person or the mere lapse of time does not diminish someone’s substantive knowledge. Another telling example is of individuals who associate with foreign securities affiliates or subsidiaries. Yet another is individuals who remain nominally as licensed Associated Persons of a broker-dealer even though they hardly ever use the substantive knowledge their licenses indicate when providing services to their employers, such as legal, compliance, internal audit, back-office operations, [which are not necessarily covered by the licenses they hold], etc.”

“Permanent licenses would have an additional benefit to the industry. New and Continuing Member Applications will not be stymied by the wait for individuals to attain required licenses while employed currently at a different member or not employed by any member. Our experience indicates this is a major cause of bottlenecks in the application process.”

And from the same letter, from our section entitled “Permanent Licenses for Regulators and Others”:

“All persons who regulate FINRA members on a daily basis should be required to take and pass industry examinations, no later than within a short period of time of hire. Licenses previously acquired by examination whether while at a FINRA member or otherwise should never expire. In fact, we believe this requirement should apply to all regulators and auditors in contact with FINRA members, including those from FINRA, the SEC, NFA and senior outside auditor staff. Holding industry licenses would certainly enhance their credibility when conducting examinations and audits.”

² This has since been somewhat remedied by the offering of the SIE exam

We now have some experience with the reorganization of FINRA staff and their interface with the members. In our opinion, we see that a preponderance of the staff persons would benefit greatly were they compelled to be examination qualified for much of the same subjects that they review. The collateral benefit to FINRA and its members would be significant.

In closing

We thank FINRA for the progress that it has made regarding its positions on Continuing Education as well as the maintenance of industry Qualifications.

Thank you as well for the opportunity to comment on RN20-05. Please feel free to contact us via email at hspindel@integrated.solutions or rconnell@integrated.solutions or by calling Howard Spindel at 212-897-1688 or Rosemarie Connell at 212-897-1691.

Very truly yours,

A handwritten signature in black ink, consisting of a stylized 'H' followed by a horizontal line.

Howard Spindel
Senior Managing Director

A handwritten signature in blue ink, consisting of a stylized 'R' followed by a horizontal line.

Rosemarie Connell
Managing Director

VIA ELECTRONIC MAIL

May 21, 2020

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

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

Dear Ms. Mitchell:

On February 18, 2020, the Financial Industry Regulatory Authority, Inc. (FINRA) published Regulatory Notice 20-05 *Continuing Education Program Transformation* (the “Notice”).¹ The Notice requests comment on proposed amendments to FINRA Rules 1210 and 1240 in response to recommendations from the Securities Industry/Regulatory Council on Continuing Education (CE Council), which would change the: (1) “regulatory element” to provide annual training, make the content more relevant, incorporate diverse instructional formats, publicize the learning topics in advance and enhance the related management systems; (2) “firm element” to expressly recognize other training requirements, improve the guidance and resources available to firms and establish a content catalog; and (3) continuing education program to enable individuals who terminate their registrations the option of maintaining their qualification by completing continuing education (the “Proposed Rules”).

The Financial Services Institute (FSI) appreciates the opportunity to comment on this important proposal as well as FINRA’s flexibility in the timing of submitting comments. FSI applauds FINRA and the CE Council for taking this careful and thoughtful approach to reviewing the CE Program prior to adopting the CE Council’s recommendations. FSI believes the goals of the Proposed Rules serve additional benefits of being responsive to changing demographics and needs of those entering the industry as well as evolving investor demands and goals. For these reasons, FSI is largely supportive of the Proposed Rules and takes this opportunity to provide additional suggestions in detailed comments below.

Background on FSI Members

The independent financial services community has been an important and active part of the lives of American investors for more than 40 years. In the US, there are more than 160,000 independent financial advisors, which account for approximately 52.7 percent of all producing

¹ FINRA, Regulatory Notice 20-05 (Feb. 18, 2020), <https://www.finra.org/sites/default/files/2020-02/Regulatory-Notice-20-05.pdf>.

registered representatives.² These financial advisors are self-employed independent contractors, rather than employees of the Independent Broker-Dealers (IBD).³

FSI's IBD member firms provide business support to independent financial advisors in addition to supervising their business practices and arranging for the execution and clearing of customer transactions. Independent financial advisors are small-business owners and job creators with strong ties to their communities. These financial advisors provide comprehensive and affordable financial services that help millions of individuals, families, small businesses, associations, organizations, and retirement plans. Their services include financial education, planning, implementation, and investment monitoring. Due to their unique business model, FSI member firms and their affiliated financial advisors are especially well positioned to provide Main Street Americans with the affordable financial advice, products, and services necessary to achieve their investment goals.

FSI members make substantial contributions to our nation's economy. According to Oxford Economics, FSI members nationwide generate \$48.3 billion of economic activity. This activity, in turn, supports 482,100 jobs including direct employees, those employed in the FSI supply chain, and those supported in the broader economy. In addition, FSI members contribute nearly \$6.8 billion annually to federal, state, and local government taxes. FSI members account for approximately 8.4% of the total financial services industry contribution to U.S. economic activity.⁴

Discussion

FSI appreciates the opportunity to comment on the Proposed Rules. FSI finds the Proposed Rules to be a common-sense approach to the recommendations provided by the CE Council. Below, we provide general comments on all aspects of the Proposed Rules, and also respond to the requests for comment included in the Notice.

I. Regulatory Element

1. *CE Council Recommendation: FINRA should require the Regulatory Element to be administered annually.*

FINRA is proposing to amend Rule 1240 to require registered persons to complete the Regulatory Element annually by the end of each calendar year. FINRA is proposing that firms have the flexibility to require their registered persons to complete the Regulatory Element at any time during the calendar year. Individuals who fail to complete their Regulatory Element by the end of each calendar year would be automatically designated as CE inactive in the CRD system on January 15 of the next calendar year. If an individual fails to complete the Regulatory Element by the end of the calendar year but subsequently completes it prior to January 15 of the next calendar year, the firm with which the individual is associated must document the basis for the

² Cerulli Associates, Advisor Headcount 2016, on file with author.

³ The use of the term "financial advisor" or "advisor" in this letter is a reference to an individual who is a dually registered representative of a broker-dealer and an investment adviser representative of a registered investment adviser firm. The use of the term "investment adviser" or "adviser" in this letter is a reference to a firm or individual registered with the SEC or state securities division as an investment adviser.

⁴ Oxford Economics for the Financial Services Institute, The Economic Impact of FSI's Members (2016).

individual's failure to complete the Regulatory Element by the end of the calendar year and retain such documentation.

Under the Proposed Rule, registered persons would be required on an annual basis to complete approximately one-third of the content that they currently complete. However, individuals with multiple registrations may be subject to more content than individuals with a single registration because they would be required to complete content specific to each registration category that they hold. The Notice notes that the session fee for the annual Regulatory Element will be addressed as part of a separate proposal.

FINRA requests comment on whether the transition to an annual Regulatory Element requirement or the focus on rule changes and significant regulatory issues relevant to each registration category disparately impact specific populations, and whether the introduction of greater diversity in instructional formats and delivery modes alleviate any such potential impacts. FSI believes that transitioning from a three-year cycle to an annual cycle for completion of the Regulatory Element will add to member firms' workloads, including administrative processes, and follow-up notifications to ensure that each registered person's Regulatory Element is completed each year. An increase in workload would require firms to increase available resources, and possibly necessitate additional hiring. This is especially problematic for smaller firms with licensing and registration teams that efficiently manage their current workloads but do not have the capacity to assume additional responsibilities or the budget to hire additional employees. At the same time, FSI acknowledges that greater diversity in instructional formats and delivery modes may alleviate some potential costs related to creating and delivering content, but we are concerned that it will do little to minimize workloads.

FSI believes that transitioning from a three-year cycle to an annual cycle for completion of the Regulatory Element will result in an increase in costs to firms or their associated persons. Currently, the Regulatory Element costs \$55 every three years for registered persons. The transition to an annual Regulatory Element will likely increase these fees. For FSI's members, these costs are typically borne by their financial professionals who are self-employed independent contractors. FSI urges FINRA to consider these costs when determining whether to transition to an annual Regulatory Element requirement.

The Proposed Rules would require individuals with multiple registrations to complete more content than individuals with a single registration because they would be required to complete content specific to each registration category that they hold. While FSI acknowledges that persons holding representative and principal registrations should complete Regulatory Element content for their representative and principal registration categories, a registered person holding more than one representative registration (e.g., an individual holding both a Series 6 and Series 7 registration) would be required to complete Regulatory Element content that is unnecessarily duplicative. FSI requests that FINRA remove Regulatory Element content to the extent that the content would be duplicative for a particular registered person.

Under the Proposed Rules, individuals who fail to complete their Regulatory Element by the end of each calendar year would be automatically designated as CE inactive in the CRD system on January 15 of the next calendar year. The Notice does not provide any insight into the impact that the CE inactive status will have on an individual's state registration. FSI requests clarification on how states will view a CE inactive status, including but not limited to the impact to any investment adviser representative registrations held by the individual. For example, if the CE inactive status results in a state canceling an individual's registration, or alternatively designating

the registration as inactive, member firms may be required to request reinstatement of the individual's registration. This would result in additional costs and an increase in workloads, as firms could be required to provide new registration forms and supporting documentation. The same would result for state securities regulators, which would be on the receiving end of new registration forms and supporting documentation. FSI requests that FINRA consider the impact of the proposed changes.

If FINRA decides to move forward with this proposed change, FSI requests that FINRA ensure adequate time for member firms to implement these changes. In particular, firms and their vendors will need to make enhancements to key systems to support the proposed change of transitioning from a three-year cycle to an annual cycle for the Regulatory Element.

2. *CE Council Recommendation: FINRA should redesign the Regulatory Element content to become more tailored and relevant to the registration categories an individual holds and to incorporate diverse instructional formats.*

FINRA will work with the CE Council to: (1) replace the S101 and S201 subprograms with a consolidated Regulatory Element program; (2) identify significant rule changes and other regulatory developments relevant to each registration category; and (3) determine the overall amount of learning content needed. FINRA would then work with the CE Council and the CE Content Committee, composed of industry experts, to create tailored content for each registration category.

FINRA is also proposing to amend Rule 1240(a) to require registered persons to complete Regulatory Element content relevant to each registration category that they hold.

FINRA will also work with the CE Council to incorporate a variety of instructional formats. Registered persons would continue to be subject to some form of educational assessment to evaluate their understanding of the materials presented.

FSI supports this aspect of the proposal. However, while FSI acknowledges that persons holding representative and principal registrations should complete Regulatory Element content for their representative and principal registration categories, FSI does not believe that a registered person holding more than one representative registration should not be required to complete Regulatory Element content that is unnecessarily duplicative.

3. *CE Council Recommendation: FINRA should publish, in advance of each coming year, specific learning topics for the annual Regulatory Element.*

FINRA will work with the CE Council to identify and publish the Regulatory Element learning topics by October 1 of each year. Firms and individuals will be able to access the learning topics through the CE Council website or FINRA.org, and the learning topics will be listed with the registration category to which they relate.

FSI supports FINRA's proposal to identify and publish the Regulatory Element learning topics by October 1 of each year. In addition, FSI believes that FINRA should provide firms with access to view and assess the training and learning objectives for each topic. This would permit firms to determine if a particular topic meets the needs of the firm, or whether the firm would require additional training on a topic. For example, if FINRA decides that a Regulatory Element learning topic for the next year will be social media, it would be helpful for firms to know the depth of

content that will be covered. In particular, the ability to view and assess learning objectives for a particular learning topic would allow firms to (1) further develop content, as appropriate, to provide additional content that is tailored to the firm, and (2) tailor content to remove duplicative content covered by the Regulatory Element.

FSI also believes that firms would benefit from additional time to develop and tailor content following FINRA's publication of the Regulatory Element learning topics. In particular, firms will need additional time to identify gaps based on FINRA's learning topics and existing training programs and coordinate training resources. FSI respectfully requests that FINRA publish its Regulatory Element learning topics in advance of October 1 of each year to permit firms the time to develop adequate training programs.

4. *CE Council Recommendation: FINRA should enhance the functionality of the CRD system and other systems to facilitate compliance with the proposed changes to the Regulatory Element, including the proposed transition to an annual requirement.*

FINRA plans to enhance the CRD system to provide firms with additional management and tracking functionality. FINRA also plans to enhance the FINRA Financial Professional Gateway (FinPro) system to enable registered persons to launch and track completion of the program through that system, rather than through CE Online. The FinPro system would send automated email notifications regarding the Regulatory Element requirement directly to registered persons, and firms could elect to be copied on all notifications sent to a registered person.

FSI supports this proposed change.

II. Firm Element

1. *CE Council Recommendation: FINRA should expressly recognize other training requirements, including those relating to the anti-money laundering (AML) compliance program and annual compliance meeting, in determining whether individuals have satisfied the Firm Element requirement.*

The Proposed Rules would amend Rule 1240(b) to provide that member firms may consider training relating to the AML compliance program and annual compliance meeting towards satisfying an individual's annual Firm Element requirement.

FINRA is also proposing to amend Rule 1240(b) to extend Firm Element training to all registered persons, including individuals who maintain solely a permissive registration consistent with FINRA Rule 1210.02 (Permissive Registrations).

FSI 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, in determining whether individuals have satisfied the Firm Element requirement. FSI agrees that the express recognition of other training requirements, including the annual compliance meeting, towards satisfying the Firm Element training mitigate the potential burdens associated with extending the Firm Element to all registered persons.

FSI does not oppose extending the Firm Element training to all registered persons, but urges that FINRA make this proposed change optional instead of mandatory. FSI believes that this extension

will improve training development efforts, because training can be designed to be applicable to all registered persons. This extension will also require firms to expand tracking and reporting for the Firm Element. Firms would likely need to create additional learning paths to assess training needs and create training programs for each group. As an example, an individual who has responsibilities for a firm's AML compliance program could possibly satisfy the Firm Element by completing AML training and attending the annual compliance meeting. This particular learning track would be very different from the learning track for an individual who has customer-facing responsibilities. Based on the number of registered persons at larger firms that Firm Element training would apply to under the Proposed Rules, FSI requests that FINRA make this proposed change optional instead of mandatory.

2. *CE Council Recommendation: FINRA should improve the Firm Element guidance and resources provided to firms, including the material provided through the Firm Element Advisory, to better assist firms in planning their respective programs.*

FINRA and the CE Council plan to work towards improving the guidance and resources available to firms to develop effective Firm Element training programs, such as updated templates for documenting training plans and specific principles for conducting the required annual needs analysis. In addition, as discussed below, FINRA and the CE Council will work on developing a content catalog to provide firms additional optional sources from which to select or supplement their Firm Element content. FSI agrees with this proposed change.

3. *CE Council Recommendation: FINRA should develop a content catalog that would serve as an optional resource from which firms could select or supplement their Firm Element content.*

FINRA and the CE Council plan to work to develop a catalog of continuing education content that would serve as an optional resource for firms to select relevant Firm Element content and create learning plans for their registered persons. Firms would have the option of using the content in the catalog for purposes of their Firm Element training, and would continue to have the option of developing their own content for use in their Firm Element training or working directly with third-party training providers to develop content. FSI agrees with this proposed change.

III. Maintaining Qualification

1. *CE Council Recommendation: FINRA and the other SROs participating in the CE program should consider rule changes that would enable previously registered individuals to maintain their qualification for their terminated registration categories by participating in an annual continuing education program.*

The Proposed Rules would amend Rule 1240 to establish a continuing education program that would allow individuals who were previously registered in a representative or principal registration category to maintain their qualification for a terminated registration category. The proposed program would be available to eligible individuals who terminate any of their representative or principal registration categories and wish to maintain their qualification for any of the terminated categories.

Time Limit. 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 FSAWP. FSAWP Participants

would be eligible to participate in the program for up to seven years following the termination of their registrations as part of FSAWP.

Resuming Registration. Participants would be able to re-register in the applicable representative or principal registration category at any point during their participation time period without having to retake a qualification examination or obtain an examination waiver, provided that they complete the required annual content while in the program.

Timing and Frequency. Participants who decide to join the program would be required to complete their annual content for a terminated registration category by the end of the calendar year in which they terminate that category, unless they already completed their annual Regulatory Element content for that year. Participants who decide to join the program on a later date following their Form U5 submission would be required to complete any annual content that they missed in the interim period between the date of their Form U5 submission and the later date on which they joined the program. Such individuals would have to complete any missed annual content within two years of the termination of their registration categories.

FSI supports these proposed changes. FSI requests that FINRA ensures that Regulatory Element content is current and not outdated when New Participants who decide to join the program on a later date following their Form U5 submission are required to complete any annual content that they missed. Because the Proposed Rules would provide a two-year window for such individuals to complete any missed annual content, the missed content could be outdated by the time it is completed. FSI recommends FINRA create a process for monitoring missed content that is outdated, and developing new materials to replace the outdated content for New Participants.

FSI requests insight into whether, if at all, FINRA has coordinated with state securities regulators that would also allow individuals who were previously registered in a state to maintain their qualification for a terminated registration. Without maintaining registration at the state-level, permitting a previously-registered representative or principal registration category to maintain their qualification for a terminated registration category may be ineffectual.

Conclusion

We are committed to constructive engagement in the regulatory process and welcome the opportunity to work with FINRA on this and other important regulatory efforts. Thank you for considering FSI's comments. Should you have any questions, please contact me at (202) 393-0022.

Respectfully submitted,



Robin M. Traxler
Senior Vice President, Policy & Deputy General Counsel



Kimberly Unger
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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 script is cursive and fluid, with the first letters of each word being capitalized and prominent.

Kimberly Unger
CEO & Executive Director

Summary

FINRA seeks comment on a 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.¹ The proposal would change the: (1) Regulatory Element to provide annual training, make the content more relevant, incorporate diverse instructional formats, publicize the learning topics in advance and enhance the related management systems; (2) Firm Element to expressly recognize other training requirements, improve the guidance and resources available to firms and establish a content catalog; and (3) Continuing Education Program to enable individuals who terminate their registrations the option of maintaining their qualification by completing continuing education.

I agree with these proposed changes 100%!

KRISTEN WAGNER
CHIEF OPERATING OFFICER





June 26, 2020

Jennifer Piorko Mitchell
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Re: FINRA Regulatory Notice 20-05 Continuing Education Program Transformation (“RN 20-05”)

Dear Ms. Mitchell:

PFS Investments, Inc. (“PFSI”), a registered broker-dealer and investment adviser, appreciates the opportunity to comment on the proposed enhancements to the securities industry continuing education program (“CE Program”) as set forth in the above notice.¹ Although PFSI fully supports a robust continuing education requirement for securities industry professionals, we strongly oppose the proposal to increase the frequency of the Regulatory Element and limit our comments to that issue. For the reasons discussed below, we are concerned that the burden of switching to an annual Regulatory Element will largely fall on the most economically vulnerable in our society.

PFSI is a wholly-owned subsidiary of Primerica, Inc. (NYSE: PRI). As a registered broker-dealer, we primarily serve the middle-income market by offering high quality mutual funds and variable annuities to our clients in all fifty states and Puerto Rico. We have over 18,500 independent contractor representatives with Series 6 and 63 FINRA registrations, and over 3,700 branch office supervisors who also hold the Series 26 principal’s registration. Our representatives serve the communities where they live and work, and, in normal times, meet with clients in their homes, face-to-face “across the kitchen table.” We educate our customers about the long-term benefits of dollar-cost averaging through systematic investing into a diversified investment portfolio, and the need to save for retirement.

In September 2018, the Securities Industry / Regulatory Council on Continuing Education (“CE Council”) published a document explaining its plan to enhance the current CE Program.² With respect to the Regulatory Element, the CE Council stated that it seeks to increase the relevance of content that most individuals receive and expressed concern that the current frequency of the program, essentially once every three years, was an obstacle to providing timely regulatory training on rule changes and industry regulatory issues. The CE Council recommended that the

¹ See “FINRA Regulatory Notice 20-05 Continuing Education Program Transformation” (February 18, 2020); available at www.finra.org/industry/notices/20-05.

² See “Enhancements Under Consideration for the Securities Industry Continuing Education Program”, Securities Industry / Regulatory Council on Continuing Education (September 6, 2018), available at www.cecouncil.org.

frequency of the Regulatory Element be increased to an every year program, and that the scope of the material covered in the program be narrowed from “regulatory requirements and industry standards” to “*impactful* rule changes and *significant* industry regulatory issues (emphasis added).”³ With respect to determining content from year-to-year, the CE Council explained that it would, in consultation with FINRA, analyze the scope of recent rule changes and regulatory issues to determine which topics to address in each Regulatory Element program.⁴ A year later, in September 2019, the CE Council published its final recommendations to the securities industry for the enhancement of the CE Program. The CE Council maintained its recommendations to narrow the scope of the material covered in the program and to make the Regulatory Element an annual program.⁵

In RN 20-05, FINRA has requested comments on the CE Council’s final recommendations. The notice lists nine questions on which FINRA specifically requests comment. We limit our comments to question number 2, which reads as follows:

2. Would the transition to an annual Regulatory Element requirement or the focus on rule changes and significant regulatory issues relevant to each registration category disparately impact specific populations? If so, would the introduction of greater diversity in instructional formats and delivery modes alleviate any such potential impacts?

Based on the research that follows we believe it is clear that the transition to an annual Regulatory Element will have a disparate impact on certain populations. Also, we question whether there will be enough content under the new narrower focus to justify an annual Regulatory Element for Series 6 representatives.

Transition to An Annual Regulatory Element

As you know, the on-line Regulatory Element requires a high-speed internet connection and is not available to smartphones.⁶ Those populations that demonstrate below average occurrences of broadband internet connections at home will shoulder a much greater portion of the burden imposed by increasing the frequency of the Regulatory Element. Instead of having to seek out an acceptable place outside the home to complete the program once every three years, those without broadband at home would have to do so on an annual basis, making it much harder for them to maintain a FINRA registration. Moreover, during state-wide “stay-at-home” orders instituted to slow the spread of disease during a pandemic, as have been in effect across the country recently, those industry participants without broadband at home would be completely cut-off from fulfilling their regulatory requirements. Despite the obvious progress the U.S. has made in building out its internet infrastructure, as recently as November 2019, Microsoft estimated there

³ *Id.* at pg. 4

⁴ *Id.* at pg. 4

⁵ The final recommendations of the CE Council are available on its website at www.cecouncil.org (click on “The Council”).

⁶ See www.finra.org (click on “Continuing Education”, then “LEARN MORE ABOUT CE ONLINE”, and then “Technical Support and Troubleshooting”); RN 20-05 at pg. 3.

were still 157.3 million people in the U.S. that don't use the internet at broadband speeds.⁷ The Pew Research Center has studied in detail the U.S. population that doesn't have access to broadband.

According to its website, the Pew Research Center ("Center") is a nonpartisan fact tank that informs the public about the issues, attitudes and trends shaping the world." It "conducts public opinion polling, demographic research, content analysis, and other data-driven social science research."⁸ The Center is well-known and often cited for its work on the *digital divide* that still exists in the U.S., where minorities and low-income Americans are beset by lower than average rates of broadband internet access that threaten their economic opportunities.⁹ In June 2019, the Center published a study on U.S. broadband usage titled "Mobile Technology and Home Broadband 2019" ("Pew Report").¹⁰ The study was based on telephone interviews conducted from January 8th to February 7th, 2019, among a national sample of 1,502 adults, 18 years of age or older, living in all 50 states and the District of Columbia. The Center's findings are particularly relevant to the CE Council's recommendation to increase the frequency of the Regulatory Element from every three years to annually. The Pew Report shows that increasing the frequency of the Regulatory Element from every three years to every year will have a disparate impact on African Americans and Hispanics, those that live in rural areas, and others, making it much harder for these persons to access the economic opportunities afforded by a FINRA registration.

The Pew Report found that only 73% of U.S. adults have broadband at home, which means that more than 1 out of every 4 U.S. adults would *not* be able to access the Regulatory Element from the comfort of their home.¹¹ Who are the 27% of U.S. adults that don't have broadband at home? The report indicates that there are four groups of adults that comprise most of this 27%, which are the following:

- African Americans and Hispanics: African Americans and Hispanics have significantly fewer broadband connections at home than Whites, as 79% of Whites have a broadband

⁷ See "Microsoft Airband: An annual update on connecting rural America", McKinley (March 5, 2020), available at www.blogs.microsoft.com (click on "Microsoft On the Issues"). The report acknowledges the substantial differences in estimates of those without access to broadband, noting the FCC's estimate of 21 million in its 2019 Broadband Deployment Report, available at www.fcc.gov ("Reports"), and BroadbandNow's February 2020 estimate of 42 million, at www.BroadbandNow.com, and reiterates Microsoft's prior appeal for greater clarity in estimating the number of people in the U.S. without access to broadband. See "It's time for a new approach to mapping broadband data to better serve Americans", Kahan (April 8, 2019) available at www.blogs.microsoft.com. (Note that Kahan and BroadbandNow are highly critical of the FCC's methodology, as is the GAO. See "FCC's Data Overstate Access, and Tribes Face Barriers Accessing Funding", Statement of Mark Goldstein, Director, Physical Infrastructure Issues, U.S. Government Accountability Office, Before the Committee on Indian Affairs, U.S. Senate (October 3, 2018) at www.gao.gov/products/GAO-19-134T).

⁸ www.pewresearch.org/about

⁹ See e.g. "Fact Tank: Digital divide persists even as lower-income Americans make gains in tech adoption", Anderson and Kumar (May 7, 2019); "Fact Tank: Digital gap between rural and nonrural America persists", Perrin (May 31, 2019); "Fact Tank: Smartphones help Blacks, Hispanics bridge some – but not all – digital gaps with Whites, Perrin and Turner" (August 20, 2019), all three available at www.pewresearch.org/fact-tank.

¹⁰ Pew Research Center, June 2019, "Mobile Technology and Home Broadband 2019", at www.pewresearch.org (Internet & Tech).

¹¹ Pew Report at pg. 4

connection at home, while only 66% of African Americans and 61% of Hispanics do.¹² These findings indicate that there are almost twice as many African Americans and Hispanics, that don't have a broadband connection at home, as there are Whites.¹³

- Rural Adults: Adults living in rural areas have significantly fewer broadband connections at home than adults living in urban and suburban areas, as only 63% of rural adults have a broadband connection at home, compared to 75% of urban adults and 79% of suburban adults.¹⁴ Here again the Pew Report indicates that there are almost twice as many adults living in rural areas that don't have a broadband connection at home, as those living in urban and suburban areas.
- Adults Age 65 and Older: Adults age 65 and older have substantially fewer broadband connections at home, as only 53% of them have home broadband, compared to 79% of those age 50 to 64, and 77% of those age 18 to 49.¹⁵ These numbers mean that only slightly more than half of adults age 65 would be able to access the Regulatory Element from home.
- Adults With Annual Household Income < \$30,000: Only 56% of adults with annual household incomes less than \$30,000 have a broadband connection at home, compared to 78% of adults with incomes from \$30,000 to \$74,999, and 92% of adults with annual household incomes of \$75,000 or more.¹⁶ Unfortunately, having a broadband connection at home seems closely tied to income, as less than 6 out of 10 adults with annual household incomes of less than \$30,000 per year have broadband at home.

The Pew Report shows that if the frequency of the Regulatory Element is changed from every three years to annually, this change will have a disparate impact on African Americans and Hispanics, those living in rural areas, those age 65 and older, and those with annual household incomes less than \$30,000, due to their reduced instances of broadband connections at home. Furthermore, the Pew Report indicates that there is not likely to be any significant improvement in these numbers anytime soon as fully 80% of these non-broadband users say they are not interested in getting high-speed internet at home.¹⁷ Unless FINRA reconsiders its current course, it is about to make it much harder for the above populations to have a career in the securities industry.

The Pew Report also looked at smartphone ownership and confirms what is evident to all of us in our daily lives, which is that there is an on-going shift to smartphones and mobile technology to access the internet. Acknowledging this shift, and making the Regulatory Element

¹² Pew Report at pg. 4 (chart)

¹³ As concerning as these numbers are, those regarding ownership of a desktop or laptop computer are even more so. According to another Pew publication that analyzed information from the same survey, 82% of Whites say they have a desktop or laptop computer at home, while only 58% of African Americans and 57% of Hispanics do. See *"Fact Tank: Smartphones help Blacks, Hispanics bridge some – but not all – digital gaps with Whites,"* Perrin and Turner (August 20, 2019). Because these numbers are lower than the number of African Americans and Hispanics that have home broadband, it suggests that some African Americans and Hispanics are obtaining broadband connections at home to use with tablet computers, smartphones or other devices. Note that the Regulatory Element is accessible by tablets. *Infra* at fn. 6.

¹⁴ Pew Report at pg. 4 (chart)

¹⁵ *Id.* at pg. 4 (chart)

¹⁶ *Id.* at pg. 4 (chart)

¹⁷ *Id.* at pg. 3

also accessible by smartphones, would alleviate much of the burden placed on the four groups identified above, as three of the four have higher incidences of smartphone ownership than broadband at home. According to the Pew Report, 81% of U.S. adults now have a smartphone, which is eight percentage points higher than the 73% that have broadband at home.¹⁸ And smartphone ownership is more prevalent than broadband at home in each ethnic class. The Center found that 82% of Whites have smartphones, as well as 80% of African Americans and 79% of Hispanics, which are much higher occurrences than the 66% and 61% of those groups that have broadband at home.¹⁹ With respect to geographical location, 71% of rural adults have a smartphone, as do 83% of urban and suburban adults.²⁰ That 71% of smartphone ownership by rural adults, is eight points higher than the 63% of them that have broadband at home. Also, Pew found that smartphone ownership is more prevalent than broadband at home in every economic class. According to the report, in households earning \$75,000 or more per year, 95% of adults have a smartphone, while only 92% of adults say they have broadband at home. For households earning \$30,000 to \$74,999, 83% of adults have a smartphone, while only 79% have broadband at home, and for households earning less than \$30,000, 71% of adults have a smartphone, but only 56% have broadband at home.²¹ Adults 65 and older is the only one of the four groups identified above where the addition of smartphone accessibility would not result in a gain in coverage. Only 53% of adults 65 and older currently have a smartphone, compared to the 59% that have broadband at home. But the addition of smartphone accessibility would achieve much greater coverage in two of the other age groups. Pew found that 79% of adults ages 50 – 64 have a smartphone, which is equal to the percent that have broadband at home, but 92% of adults ages 30 – 49, and 96% of adults ages 18 – 29, have smartphones, compared to only 77% of adults in both groups that have broadband at home.²² That's a 15 point gain in coverage for adults ages 30 – 49, and a 19 point gain for adults ages 18 – 29, for a total 34 point gain in total population coverage just by making the Regulatory Element accessible by smartphones.

In light of the ongoing shift to smartphone technology to access the internet, it would be irresponsible for FINRA to impose on the industry an annual Regulatory Element that was not accessible by smartphones. Doing so would have a disparate impact on African American and Hispanic adults, adults that live in rural areas, adults age 65 and older and those that make less than \$30,000 in annual household income. Much of that hardship can be avoided, and greater overall coverage gained, by making the Regulatory Element accessible by smartphones before any change to the frequency of the program occurs.

***Focus on Impactful Rule Changes and Significant Regulatory
Issues Relevant to Each Registration Category***

In addition, we think that simultaneously narrowing the focus of the Regulatory Element while increasing its frequency, will make it much harder to maintain the relevancy of the content for Series 6 representatives. We question whether there will be sufficient “impactful rule changes

¹⁸ *Id.* at pg. 3 (chart)

¹⁹ *Id.* at pg. 3 (chart)

²⁰ *Id.* at pg. 3 (chart)

²¹ *Id.* at pg. 3 (chart)

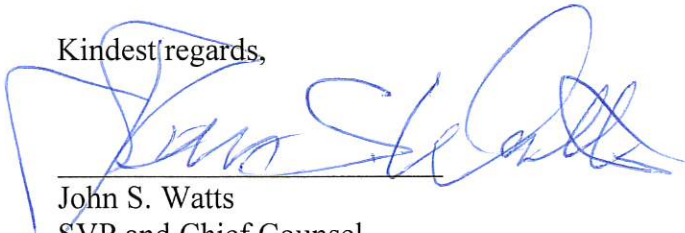
²² *Id.* at pg. 3 (chart)

and significant regulatory issues” relevant to a mutual funds and variable contracts business occurring on an annual basis to justify the CE Council’s recommendation to switch to an annual Regulatory Element for Series 6 representatives. For example, based on the time allotted to take the Series 6 and 7 exams, and the number of questions on each, we estimate that the material covered on the Series 6 exam is just about 40% of that covered on the Series 7 general securities exam.²³ It follows then that a reasonable estimate of the number of “impactful rule changes and significant regulatory issues” that will affect a mutual fund and variable contracts business is also 40% or only 4 out of every 10. If less than half of the “impactful rule changes and significant regulatory issues” will be relevant to a Series 6 business, then it seems to be an unnecessary overreach to make a Series 6 representative take the Regulatory Element as often as a Series 7 general securities representative. If our estimate is reasonably accurate, then making Series 6 representatives take the Regulatory Element every year will turn out to be counterproductive, as representatives realize they often repeat content from prior years due to the lack of new material. In order to not inflict an unnecessary burden on Series 6 representatives, we submit that the Regulatory Element for Series 6 representatives should be administered no more frequently than every other year, but only after the program has been made accessible by smartphones.

We greatly appreciate the opportunity to comment on the proposed enhancements to the securities industry continuing education program. We urge you to reconsider the CE Council’s recommendation to make the Regulatory Element an annual program in light of the information set forth above. Implementing that recommendation with a program that is not accessible by smartphones will have a disparate impact on African American and Hispanic adults, adults that live in rural areas, adults age 65 and older, and those that make less than \$30,000 in annual household income. Finally, Series 6 representatives, that are authorized to recommend only mutual funds and variable products, and therefore, are only concerned with rule changes and regulatory issues that affect that limited line of business, should not be required to take the Regulatory Element as often as a Series 7 general securities representative.

We hope you find these comments helpful. Please don’t hesitate to contact the undersigned if you would like to discuss the contents of this letter.

Kindest regards,



John S. Watts
SVP and Chief Counsel
PFS Investments Inc.

²³ Based on the time allotted to take each exam (90 minutes compared to 225), and the number of questions on each (50 compared to 125), it would appear that the Series 6 exam covers just 40% of the material covered on the Series 7 exam.

“With respect to increased flexibility, extending the current two-year period to seven years would allow individuals to manage significant life events, including professional changes and development (such as pursuing educational goals, a career change to a role in the firm that is not part of the broker-dealer, working overseas for an extended period due to a career change or an attempt at a different career path) or personal life events (such as birth or adoption of a child, unexpected loss in the family or relocation due to family needs). Through discussions with industry representatives, FINRA staff has learned that this proposal could potentially lower the barrier to re-entry to the industry. Some firms indicated that a significant benefit can arise in cases where an individual leaves the broker-dealer to gain experience in an affiliate of a parent company, for instance in an affiliated commercial bank, investment adviser or foreign affiliate. Others indicated that the proposal could potentially be relevant for under-represented populations in the securities industry, such as, for example, female registrants.”

As a female OSJ, I have lost women of child bearing age to the two year hang rule who either left to raise children or take care of elderly parents. I feel that this would be very beneficial for men and women in our industry who may need to take a leave of absence for whatever reason, but particularly those women who want to raise a family and who have to make the difficult choice of keeping her license in tact and career on hold versus staying at home with her infant/toddler long enough to give them a head start on life.

I Sincerely Thank you for your continued business.

Kelly Welker, MBA, CRPC®, CRCP™
LPL Financial Registered Principal



April 22, 2020

By Electronic Mail to pubcom@finra.org

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

Re: FINRA Regulatory Notice 20-05: SIFMA Comments on Proposal to Implement the Recommendations of the CE Council Regarding Enhancements to the Continuing Education Program for Securities Industry Professionals

Dear Ms. Mitchell:

The Securities Industry and Financial Markets Association (SIFMA)¹ appreciates the opportunity to comment on FINRA Regulatory Notice 20-05 (RN 20-05),² discussing recommendations of the Securities Industry/Regulatory Council on Continuing Education (CE Council)³ to enhance the program for continuing education requirements for securities industry professionals (CE Program). Overall, SIFMA strongly supports FINRA's proposal to implement the CE Council's recommendations and suggests various minor adjustments as discussed below.

I. EXECUTIVE SUMMARY

SIFMA supports the efforts of the CE Council to enhance the CE Program and is submitting this comment letter to inform the CE Council's ongoing work. As set forth below, SIFMA believes that the CE Council can best further its efforts with respect to enhancing the CE Program by:

¹ SIFMA is the leading trade association for broker-dealers, investment banks and asset managers operating in the U.S. and global capital markets. On behalf of our industry, nearly 1 million employees, we advocate for legislation, regulation and business policy, affecting retail and institutional investors, equity and fixed income markets and related products and services. We serve as an industry-coordinating body to promote fair and orderly markets, informed regulatory compliance, and efficient market operations and resiliency. We also provide a forum for industry policy and professional development. SIFMA, with offices in New York and Washington, D.C., is the U.S. regional member of the Global Financial Markets Association (GFMA).

² See FINRA RN 20-05 (Feb. 18, 2020), available at <https://www.finra.org/sites/default/files/2020-02/Regulatory-Notice-20-05.pdf>.

³ <http://www.cecouncil.com/>.

- SIFMA fully supports the proposal to create tailored content for each registration category.
- SIFMA supports the idea of publishing Regulatory Element topics in the prior year. However, FINRA should consider providing more advanced notice and specifying which topics are important each year so that members could prioritize the learning topics.
- SIFMA supports the proposed crediting of Anti-Money Laundering (AML) and Annual Compliance Meeting (ACM) Training towards satisfying an individual's annual Firm Element requirement, but firms should be provided the flexibility to go beyond just AML and ACM Training and be permitted to align their training to their specific needs.
- The proposal to extend Firm Element training to persons with Permissive Registration may be overly burdensome.
- While SIFMA fully supports the proposed improvements to guidance and resources, SIFMA requests clarity on whether the resources would conform to a broker's specific product line.
- Any catalog of continuing education content should not be a one-size fits all but should enable firms to customize the modules for different registration types and the nature of their securities business.
- SIFMA supports the proposed amendment to Rule 1240 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 through CE training.
- The proposal does not address the ability to maintain state registrations, which often are required with FINRA registrations to perform registered activity in the industry.
- The proposal is unclear regarding what information will be available to a hiring firm regarding CE completion and outstanding CE requirements.

II. SUMMARY OF RN 20-05

On February 18, 2020, FINRA published RN 20-05 to request comment on a proposal to implement the recommendations of the CE Council enhancing the continuing education requirements for securities industry professionals. The program enhancements recommended by the CE Council were published on the CE Council's website.⁴

⁴ See *Recommended Enhancements for the Securities Industry Continuing Education Program Securities Industry/Regulatory Council on Continuing Education* (Sept. 12, 2019), available at <http://cecouncil.org/media/266634/council-recommendations-final-.pdf>.

As discussed in RN 20-05, the CE Program was established by the CE Council nearly 25 years ago. Registered persons of broker-dealers are required to participate in continuing education consisting of a Regulatory Element and a Firm Element. The Regulatory Element is generally delivered every three years and focuses on regulatory requirements and industry standards, while the Firm Element is an annual requirement and focuses on securities products, services and strategies firms offer, firm policies and industry trends. The 2015 transition of the delivery of the Regulatory Element to an online platform (CE Online) allowed for increased efficiency, eliminating geographic constraints and presenting material in an optimal learning format. Similarly, the Firm Element exists in an evolving environment where there are multiple other training programs that could serve as a valuable component of the Firm Element and ensure delivery of an appropriate level of training for registered persons participating in such other training programs.

In September 2018, the CE Council published a document outlining several potential enhancements to the CE program. These enhancements were designed to: (1) ensure that registered persons receive relevant and sufficient Regulatory Element training on an annual basis; (2) provide firms with the guidance and resources necessary to design effective and efficient Firm Element training programs; and (3) provide a path for previously registered individuals to maintain their qualification through continuing education. In support of the CE Council, FINRA published Regulatory Notice 18-26 requesting feedback on the CE Council's suggested enhancements. After reviewing the public comments and further discussions, on September 12, 2019, the CE Council published the following recommendations regarding the CE program:

- Transition to an annual Regulatory Element;
- Design Regulatory Element content that is more tailored and relevant to each registration category with diverse instructional formats;
- Publish the Regulatory Element learning topics for each coming year in advance;
- Enhance the functionality of the FINRA systems to facilitate compliance with the Regulatory Element;
- Recognize other training requirements for purposes of satisfying the Firm Element;
- Improve the guidance and resources provided to firms for conducting the Firm Element annual needs analysis and for planning their respective training;
- Develop a content catalog that firms may optionally use for selecting or supplementing; and
- Firm Element content; and consider rule changes that would enable individuals who were previously registered to maintain their qualification by participating in an annual continuing education program.

FINRA published RN 20-05 to solicit comment on proposal to implement the CE Council's recommendations.

III. SIFMA COMMENTS ON RN 20-05

A. Regulatory Element

1. Recommendation: Design More Relevant Content with Diverse Instructional Formats

FINRA proposed to redesign the Regulatory Element to become more tailored and relevant to an individual's registration categories. FINRA also proposed to incorporate a variety of instructional formats and not just rely on the current case format. However, regardless of the format, registered persons would continue to be subject to some form of educational assessment to evaluate their understanding of the materials presented.

SIFMA fully supports the proposal to create tailored content for each registration category. However, FINRA should also consider designing CE modules that take into account the business of the registrant.⁵ In addition, a diverse instructional format would be a welcome addition if FINRA is able to effectively design formats that provide straightforward learning and that offer guidance.

In supporting the proposal for tailored content modules for each registration category, SIFMA respectfully requests that FINRA consider the time a registered individual who holds multiple licenses may need to complete their requirements. We suggest creating a "cap" on the number of modules taken per year, and a rotation of modules taken on a year-by-year basis, when a registered individual reaches that cap.

2. Recommendation: Publish Learning Topics

FINRA proposed to identify and publish the Regulatory Element learning topics for each coming year in advance. Specifically, by October 1 of each year, FINRA and the CE Council would publish the learning topics for the next year. The learning topics will consist of significant rule changes and other regulatory developments relevant to each registration category. Firms and individuals will be able to access the learning topics through the CE Council website or FINRA.org. In addition, if there are any other critical rule changes or other regulatory developments that arise during the course of a given year, FINRA and the CE Council would work to provide registered persons timely and sufficient training on such rule changes and developments.

⁵ For example, the limited securities business of mutual fund underwriters does not warrant a focus on margin, trading, or operations.

SIFMA again fully supports the idea of publishing Regulatory Element topics in advance as this will help avoid duplication in the Firm Element program.⁶ However, it would be even more helpful if FINRA could specify which topics are important each year so that members could prioritize the learning topics. In addition, announcement of the learning topics in October of the prior year may not give firms enough time to make changes in the Firm Element CE. Time is needed in developing the needs analysis and to review Firm Element Advisory, the firm's Regulatory Element performance, training resources available as well as various internal data reports. SIFMA suggests announcing the learning topics in June of the prior year.

B. Firm Element

1. Recommendation: Recognize Other Training Requirements

FINRA proposed to amend Rule 1240(b) to provide that member firms may consider training relating to the AML compliance program and annual compliance meeting ("AML and ACM Training") towards satisfying an individual's annual Firm Element requirement. FINRA also proposed to amend Rule 1240(b) to extend Firm Element training to all registered persons, including individuals who maintain solely a permissive registration consistent with FINRA Rule 1210.02 (Permissive Registrations), which is intended to align the Firm Element requirement with other broadly-based training requirements, such as the annual compliance meeting requirement. However, given the proposed recognition of other training requirements towards satisfying the Firm Element requirement, FINRA believes that registered persons may find that they do not have to complete any additional training beyond what they are required to complete today.

SIFMA fully supports the proposed crediting of AML and ACM Training towards satisfying an individual's annual Firm Element requirement. However, firms would like the flexibility to go beyond just AML and ACM Training to leverage training provided across the firm on topics that align to its specific needs. FINRA should also recognize the unique CE needs of limited purpose broker-dealers, whose specific institutional interactions are different from traditional retail brokerage, consequently many CE topics may not be applicable to their business.

The proposal to extend Firm Element training to all registered persons, including those with Permissive Registration may be overly burdensome. Specifically, for firms with large numbers of registered support staff (e.g., Legal, Compliance, Human Resources, etc.) and others holding permissive registrations held across the world for those working for subsidiaries who currently are not "covered" persons under the Firm Element, an expansion of the Firm Element requirement to such individuals could significantly increase the audience size. Although the proposal would provide credit for AML training and the annual compliance meeting under the Firm Element, these are required by separate rules anyway. Broadening the populations from

⁶ Firms should continue to be afforded the flexibility to train on the same or similar topics in both the Regulatory Element and the Firm Element, in a given year regardless the Regulatory Element topics published in the prior year. Firms may deem it necessary to cover in Firm Element training their policies and procedures related to a specific regulation, for example, whereas the Regulatory Element would only cover the specific regulation without touching on a firm's policies and procedures.

“covered persons” to “registered persons” requires additional resources to deliver content to include permissive licenses. Permissive license, by definition, allows registered representatives to maintain their registration though they do not use it for their day-to-day. Additional resources will be needed to track and document that permissive employees have adequate content to satisfy the Firm Element. SIFMA suggests that FINRA continue to allow firms the flexibility in training permissive license and not have them subject to the Firm Element requirement.

In addition, for many designations, such as the Insurance license (vary state-by-state), CME, and CFP, may require firms to register as an approved vendor which means that the training would have to be applicable industry-wide and not proprietary to a firm. Alternatively, a firm would have to purchase the training through an approved vendor to satisfy the requirement. Members firms should continue to have the flexibility to determine if training reciprocity makes sense given their business model.

2. Recommendation: Improve Guidance and Resources

FINRA proposed to work with the CE Council towards improving the guidance and resources available to firms to develop effective Firm Element training programs, such as updated templates for documenting training plans and specific principles for conducting the required annual needs analysis.

While SIFMA fully supports the proposed improvements to guidance and resources, SIFMA requests clarity on whether the resources would conform to a broker’s specific product line.

3. Recommendation: Develop Content Catalog

FINRA proposed to work with the CE Council to develop a catalog of continuing education content that would serve as an optional resource for firms to select relevant Firm Element content and create learning plans for their registered persons. The catalog would include content developed by third-party training providers, FINRA and the other SROs participating in the CE program. Firms would have the option of using the content in the catalog for purposes of their Firm Element training—they would not be obligated to select content from the catalog. Therefore, firms would continue to have the option of developing their own content for use in their Firm Element training or working directly with third-party training providers to develop content. The catalog would also serve other purposes. Individuals who opt into the proposed program to maintain their qualification following the termination of a registration category would be subject to annual continuing education, a portion of which would include content selected by FINRA and the CE Council from the content catalog.

The proposed development of a catalog of continuing education content as an optional resource would be very helpful for firms. However, any such catalog of content should not be a one-size fits all but should enable firms to customize the modules for different registration types and based on the nature of their securities business. In addition, SIFMA believes FINRA’s content catalogue should be provided to firms as an optional resource not as mandatory

guidance. For example, there will be instances where a topic covered in the Regulatory Element, may need to be covered in the ACM in order to address the member firm's training needs.

C. Maintaining Qualification

1. Recommendation: Consider Rule Changes Enabling Previously Registered Individuals to Maintain Qualification Through Continuing Education

FINRA proposed 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. As discussed more fully below, subject to specified eligibility criteria, the proposal would provide such individuals the option of maintaining their qualification beyond the current two-year limitation by satisfying an annual continuing education requirement. The proposed program would be available to eligible individuals who terminate any of their representative or principal registration categories and wish to maintain their qualification for any of the terminated categories. FINRA is proposing to make conforming changes to Rule 1210.08 to reflect the proposed program.

New Participants and Transition 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). The proposed program is intended to complement an individual's experience in a particular registration category and to address life events and economic downturns that may necessitate a period of absence from registered functions. The participation time period for FSAWP Participants who decide to join the proposed program would be up to seven years following the termination of their registrations as part of FSAWP. The two-year qualification period is still applicable such that individuals who have been CE inactive for two or more years, could still re-register following the termination of any of their registration categories without having to requalify by examination or having to obtain an unconditional examination waiver if they re-register within two years of the termination of the registration category.

SIFMA strongly supports this proposal.

D. Other Considerations

1. Communications of CE Deadlines

FINRA should consider clarifying whether a firm-imposed deadline (prior to year-end) will be communicated directly to registered individuals via FinPro/Email or through the firm. In addition, FINRA should consider permitting firms to set when and how often notifications would go to registered individuals in their firms.⁷ However, in order to reduce the administrative

⁷ Currently, many large firms have implemented procedures to send notifications at various intervals as the CE due date approaches. Firms should be able to choose how when such notices are sent.

burden of receiving, tracking and retaining CE reminder emails, FINRA should consider providing firms the means to “audit” CE reminders sent to a registered individual via FinPro.

2. Availability of CE Completion Information

The proposed CE Program is unclear regarding the information that will be available to a hiring firm regarding a registered individual’s CE completion and outstanding CE requirements. Such information, obtained with the applicant’s consent, would enhance a hiring firm’s ability to assess the applicant’s compliance with CE requirements. FINRA should consider displaying CE completion information in BrokerCheck.

3. Technological Challenges of Learning Formats

As FINRA and the CE Council contemplate offering diverse instructional formats, consideration should be given to the potential technological challenges for individuals who use FINPro and have aged technology or limited technologies (e.g., older browser versions or necessary “plug ins”).

4. State Registration

The proposed CE Program does not address the ability to maintain state registrations, which often are required with FINRA registrations to perform registered activity in the industry. The current presumption is that state qualifications will lapse after two years, regardless of FINRA extensions.

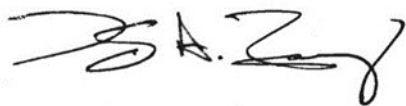
IV. CONCLUSION

SIFMA appreciates the opportunity to comment on RN 20-05 and FINRA's consideration of our views. We reiterate our strong support for modernizing the CE requirement.

* * *

SIFMA looks forward to a continuing dialogue with FINRA on RN 20-05. If you have any questions or would like additional information, please contact Kevin Zambrowicz, Managing Director & Associate General Counsel, SIFMA, at (202) 962-7386 (kzambrowicz@sifma.org), or our counsel, Lawrence Stadulis and Peter Hong from Stradley Ronon.

Very truly yours,

A handwritten signature in black ink, appearing to read "K. Zambrowicz", is centered below the "Very truly yours," text. The signature is fluid and cursive.

Kevin Zambrowicz
*Managing Director &
Associate General Counsel*

cc: Mary Beth Findlay, Co-Chair, SIFMA Compliance & Regulatory Policy Committee
Ann McCague, Co-Chair, SIFMA Compliance & Regulatory Policy Committee

Lawrence Stadulis, Stradley Ronon
Peter Hong, Stradley Ronon

EXHIBIT 5

Exhibit 5 shows the text of the proposed rule change. Proposed new language is underlined; proposed deletions are in brackets.

* * * * *

1200. REGISTRATION AND QUALIFICATION

1210. Registration Requirements

Each person engaged in the investment banking or securities business of a member shall be registered with FINRA as a representative or principal in each category of registration appropriate to his or her functions and responsibilities as specified in Rule 1220, unless exempt from registration pursuant to Rule 1230. Such person shall not be qualified to function in any registered capacity other than that for which the person is registered, unless otherwise stated in the rules.

• • • Supplementary Material: -----

.01 through .06 No Change.

.07 All Registered [Persons] Representatives and Principals Must Satisfy the Regulatory Element of Continuing Education. All registered [persons] representatives and principals, including those individuals who solely maintain permissive registrations pursuant to Rule 1210.02, shall satisfy the Regulatory Element of continuing education for each representative or principal registration category that they hold as specified in Rule 1240(a).

If a person registered with a member has a continuing education deficiency with respect to that registration as provided under Rule 1240(a), such person shall not be permitted to be registered in another registration category under Rule 1220 with that

member or to be registered in any registration category under Rule 1220 with another member, until the person has satisfied the deficiency.

.08 Lapse of Registration and Expiration of SIE. Any person who was last registered [as] in a representative registration category two or more years immediately preceding the date of receipt by FINRA of a new application for registration in that registration category [as a representative] shall be required to pass a representative qualification examination appropriate to that registration [his or her] category [of registration] as specified in Rule 1220(b), unless the person has maintained his or her qualification status for that registration category in accordance with Rule 1240(c) or as otherwise permitted by FINRA. Any person who last passed the SIE or who was last registered as a representative, whichever occurred last, four or more years immediately preceding the date of receipt by FINRA of a new application for registration as a representative shall be required to pass the SIE in addition to a representative qualification examination appropriate to his or her category of registration as specified in Rule 1220(b).

Any person who was last registered [as] in a principal registration category two or more years immediately preceding the date of receipt by FINRA of a new application for registration in that registration category [as a principal] shall be required to pass a principal qualification examination appropriate to that registration [his or her] category [of registration] as specified in Rule 1220(a), unless the person has maintained his or her qualification status for that registration category in accordance with Rule 1240(c) or as otherwise permitted by FINRA.

Any person whose registration has been revoked pursuant to Rule 8310 and any person who has a continuing education deficiency for a period of two years as provided

under Rule 1240(a) shall be required to pass a representative or principal [or representative] qualification examination appropriate to his or her category of registration as specified in Rule 1220(a) or Rule 1220(b), respectively, to be eligible for registration with FINRA.

For purposes of Supplementary Material .08 of this Rule, an application shall not be considered to have been received by FINRA if that application does not result in a registration.

.09 Waiver of Examinations for Individuals Working for a Financial Services

Industry Affiliate of a Member. Upon request by a member, FINRA shall waive the applicable qualification examination(s) for an individual designated with FINRA as working for a financial services industry affiliate of a member if the following conditions are met:

(a) Prior to the individual's initial designation, the individual was registered as a representative or principal with FINRA for a total of five years within the most recent 10-year period, including for the most recent year with the member that initially designated the individual;

(b) The waiver request is made within seven years of the individual's initial designation;

(c) The initial designation and any subsequent designation(s) were made concurrently with the filing of the individual's related Form U5;

(d) The individual continuously worked for the financial services industry affiliate(s) of a member since the individual's last Form U5 filing;

(e) The individual has complied with the Regulatory Element of continuing education as specified in Rule 1240(a); and

(f) The individual does not have any pending or adverse regulatory matters, or terminations, that are reportable on the Form U4, and has not otherwise been subject to a statutory disqualification as defined in Section 3(a)(39) of the Exchange Act while the individual was designated as eligible for a waiver.

As used in Supplementary Material .09 of this Rule, a “financial services industry affiliate of a member” is a legal entity that controls, is controlled by or is under common control with a member and is regulated by the SEC, CFTC, state securities authorities, federal or state banking authorities, state insurance authorities, or substantially equivalent foreign regulatory authorities.

Effective [insert effective date of the proposed rule change], FINRA will not accept any new initial designations for individuals under the waiver program set forth in Supplementary Material .09 of this Rule.

.10 through .11 No Change.

* * * * *

1240. Continuing Education [Requirements]

This Rule prescribes requirements regarding the continuing education of [specified] registered persons [subsequent to their initial registration with FINRA]. The requirements shall consist of a Regulatory Element and a Firm Element as set forth below. This Rule also sets forth continuing education programs through which specified persons may maintain their qualification in a representative or principal registration category following the termination of that registration category.

(a) Regulatory Element

(1) Requirements

All covered persons shall comply with the requirement to complete the Regulatory Element.

Each covered person registered with FINRA in a representative or principal registration category immediately preceding [the effective date of the proposed rule change] shall complete the Regulatory Element for the registration category annually by December 31 of [the calendar year in which the proposed rule change becomes effective] [on the occurrence of their second registration anniversary date] and by December 31 of every [three] year[s] thereafter in which the person remains registered, or as otherwise prescribed by FINRA. Each covered person registering with FINRA in a representative or principal registration category for the first time on or after [the effective date of the proposed rule change] shall complete the Regulatory Element for the registration category annually by December 31 of the subsequent calendar year following the calendar year in which the person becomes registered and by December 31 of

every year thereafter in which the person remains registered, or as otherwise prescribed by FINRA. Nothing in this paragraph (a)(1) shall prohibit a member from requiring its covered persons to complete their Regulatory Element for their registration categories at any time during the calendar year. [On each occasion, the Regulatory Element must be completed within 120 days after the person's registration anniversary date. A person's initial registration date, also known as the "base date," shall establish the cycle of anniversary dates for purposes of this Rule.] The content of the Regulatory Element shall be appropriate to [either the registered] each representative or principal [status of persons subject to the Rule] registration category. A covered person shall complete Regulatory Element content for each registration category that he or she holds. The content of the Regulatory Element for a covered person designated as eligible for a waiver pursuant to Rule 1210.09 shall be determined based on the person's most recent registration(s) [status], and the Regulatory Element shall be completed based on the same annual cycle had the person remained registered.

(2) Failure to Complete

Unless otherwise determined by FINRA, as provided in this paragraph (a)(2), any covered person[s], other than a covered person designated as eligible for a waiver pursuant to Rule 1210.09, who [have] has not completed the Regulatory Element within the prescribed calendar year in which the Regulatory Element is due [time frames] will have [their] his or her registration(s) deemed inactive until such time as [the requirements of the program have been satisfied] he or she completes all required Regulatory Element, including any Regulatory

Element that becomes due while his or her registration(s) is deemed inactive.

Any covered person, other than a covered person designated as eligible for a waiver pursuant to Rule 1210.09, whose registration(s) has been deemed inactive under this [Rule] paragraph (a)(2) shall cease all activities as a registered person and is prohibited from performing any duties and functioning in any capacity requiring registration. Further, such covered person may not accept or solicit business or receive any compensation for the purchase or sale of securities.

However, such covered person may receive trail or residual commissions resulting from transactions completed before the inactive status, unless the member with which such covered person is associated has a policy prohibiting such trail or residual commissions. A registration that [is] remains inactive for a period of two consecutive years will be administratively terminated by FINRA. A person whose registration(s) is so terminated or who otherwise fails to complete required Regulatory Element for two consecutive years may reactivate the registration(s) only by reapplying for registration and meeting the qualification requirements of the applicable provisions of Rules 1210 and 1220. The two-year period under this paragraph (a)(2) is calculated from the date a person's registration(s) is deemed inactive. [FINRA may, upon application and a showing of good cause, allow for additional time for a covered person to satisfy the program requirements.] If a covered person designated as eligible for a waiver pursuant to Rule 1210.09 fails to complete the Regulatory Element within the prescribed time frames, the person shall no longer be eligible for such a waiver. FINRA may, upon written application, with supporting documentation, and a

showing of good cause, allow for additional time for a covered person to satisfy the Regulatory Element requirements.

(3) Disciplinary Actions

[Unless otherwise determined] A covered person, other than a covered person designated as eligible for a waiver pursuant to Rule 1210.09, may be required to complete assigned continuing education as prescribed by FINRA [, a covered person, other than a person designated as eligible for a waiver pursuant to Rule 1210.09, will be required to retake the Regulatory Element and satisfy all of its requirements] in the event such person:

(A) is subject to any statutory disqualification as defined in Section 3(a)(39) of the Exchange Act;

(B) is subject to suspension or to the imposition of a fine of \$5,000 or more for violation of any provision of any securities law or regulation, or any agreement with or rule or standard of conduct of any securities governmental agency, securities self-regulatory organization, or as imposed by any such regulatory or self-regulatory organization in connection with a disciplinary proceeding; or

(C) is ordered as a sanction in a disciplinary action to [retake the Regulatory Element] complete continuing education by any securities governmental agency or self-regulatory organization.

[The retaking of the Regulatory Element shall commence with participation] Such covered person must complete any continuing education required under this paragraph (a)(3) within 120 days of the covered person

becoming subject to the statutory disqualification, in the case of (A) above, or the disciplinary action becoming final, in the case of (B) and (C) above. [The date of the disciplinary action shall be treated as such person's new base date with FINRA.]

(4) Reregistration [association in a Registered Capacity]

Any covered person who reregisters [has terminated association] with FINRA in a representative or principal registration category [with a member and who has, within two years of the date of termination, become reassociated in a registered capacity with a member] shall [participate in] complete the Regulatory Element content for the registration category [at such intervals that may apply (second anniversary and every three years thereafter) based on the initial registration anniversary date rather than based on the date of reassociation in a registered capacity] annually by December 31 of the subsequent calendar year following the calendar year in which the person becomes reregistered and by December 31 of every year thereafter in which the person remains registered, or as otherwise prescribed by FINRA, provided that he or she has already completed Regulatory Element content for that registration category for the calendar year in which he or she is reregistering, he or she is reregistering by having passed an examination for that registration category or he or she is reregistering by having obtained an unconditional examination waiver for that registration category.

Any covered person who is reregistering with FINRA in a representative or principal registration category without having completed any Regulatory Element content for that registration category for the calendar year in which he or

she is reregistering or without having passed an examination for that registration category or without having obtained an unconditional examination waiver for that registration category shall complete the Regulatory Element content for that registration category annually by December 31 of the calendar year in which he or she reregisters and by December 31 of every year thereafter in which he or she remains registered, or as otherwise prescribed by FINRA.

If a covered person has not completed any Regulatory Element content for a registration category in the calendar year(s) prior to reregistering, FINRA would not approve a registration request for that category until he or she completes that Regulatory Element content or he or she passes an examination for that registration category or he or she obtains an unconditional examination waiver for that registration category, whichever is applicable.

Nothing in this paragraph (a)(4) shall prohibit a member from requiring covered persons, other than a covered person designated as eligible for a waiver pursuant to Rule 1210.09, to complete their Regulatory Element for their registration categories at any time during the calendar year.

(5) Definition of Covered Person

For purposes of this Rule, the term “covered person” means any person[, other than a Foreign Associate,] registered, or registering, with FINRA as a representative or principal [pursuant to] as specified in Rule [1210] 1220, including any person who is permissively registered as such pursuant to Rule 1210.02, and any person who is designated as eligible for a waiver pursuant to Rule 1210.09.

(6) Delivery of the Regulatory Element

The [continuing education] Regulatory Element [program will] shall be administered through Web-based delivery or such other technological manner and format as specified by FINRA.

(7) Regulatory Element Contact Person

Each member shall designate and identify to FINRA (by name and e-mail address) an individual or individuals responsible for receiving e-mail notifications [provided via the Central Registration Depository] regarding [when] a covered person's completion of [is approaching the end of] his or her Regulatory Element [time frame and when a covered person is deemed inactive due to failure to complete the requirements of the Regulatory Element program]. Each member shall identify, review, and, if necessary, update the information regarding its Regulatory Element contact person(s) in the manner prescribed by Rule 4517.

(b) Firm Element

(1) Persons Subject to the Firm Element

The requirements of this [sub]paragraph (b) shall apply to any person registered with a member, including any person who is permissively registered as a representative or principal pursuant to Rule 1210.02 [who has direct contact with customers in the conduct of the member's securities sales, trading and investment banking activities, any person registered as an operations professional pursuant to Rule 1220(b)(3) or a research analyst pursuant to Rule 1220(b)(6), and to the immediate supervisors of such persons (collectively, "covered registered persons"). "Customer" shall mean any natural person and any

organization, other than another broker or dealer, executing securities transactions with or through or receiving investment banking services from a member].

(2) Standards for the Firm Element

(A) Each member must maintain a continuing and current education program for its [covered] registered persons to enhance their securities knowledge, skill, and professionalism. At a minimum, each member shall at least annually evaluate and prioritize its training needs and develop a written training plan. The plan must take into consideration the member's size, organizational structure, and scope of business activities, as well as regulatory developments and the performance of [covered] registered persons in the Regulatory Element. If a member's analysis establishes the need for supervisory training for persons with supervisory responsibilities, such training must be included in the member's training plan.

(B) Minimum Standards for Training Programs — Programs used to implement a member's training plan must be appropriate for the business of the member and, at a minimum must cover training topics related to the role, activities or responsibilities of the registered person [in ethics] and to professional responsibility [and the following matters concerning securities products, services, and strategies offered by the member:]

[(i) General investment features and associated risk factors;]

[(ii) Suitability and sales practice considerations; and]

[(iii) Applicable regulatory requirements].

(C) Administration of Continuing Education Program — A member must administer its continuing education programs under this paragraph (b) in accordance with its annual evaluation and written plan and must maintain records documenting the content of the programs and completion of the programs by [covered] registered persons.

(D) Participation in Other Required Training — A member may consider a registered person's participation in the member's anti-money laundering compliance training under Rule 3310(e) and a registered person's participation in the member's annual compliance training under Rule 3110(a)(7) toward satisfying the registered person's continuing education requirement under this paragraph (b).

(3) Participation in the Firm Element

[Covered] [r]Registered persons [included in a member's plan] of a member must take all appropriate and reasonable steps to participate in continuing education programs under this paragraph (b) as required by the member.

(4) Specific Training Requirements

FINRA may require a member, individually or as part of a larger group, to provide specific training to its [covered] registered persons in such areas as FINRA deems appropriate. Such a requirement may stipulate the class of [covered] registered persons for which it is applicable, the time period in which

the requirement must be satisfied and, where appropriate, the actual training content.

(c) Continuing Education Program for Persons Maintaining Their Qualification Following the Termination of a Registration Category

A person who terminates any of his or her representative or principal registration categories with FINRA may maintain his or her qualification for any of the terminated registration categories for a period of five years following the termination of the registration category, subject to the following conditions:

(1) The person was registered in the registration category for at least one year immediately preceding the termination of the registration category and the person was not subject to a statutory disqualification as defined in Section 3(a)(39) of the Exchange Act during the registration period;

(2) The person elects to participate in the continuing education program under this paragraph (c) at the time of his or her Form U5 submission or at a later date within two years from the termination of his or her registration category, provided that if the person commences at the later date the person completes within two years from the termination of his or her registration category any continuing education that was due under the program between the time of his or her Form U5 submission and the later date he or she commences participating in the program;

(3) The person completes annually by December 31 of the calendar year in a manner specified by FINRA all prescribed continuing education during his or her participation in the program under this paragraph (c), provided that FINRA

may, upon written application by the person, with supporting documentation, and a showing of good cause, allow for additional time for the person to complete the prescribed continuing education;

(4) The person does not have a continuing education deficiency with respect to his or her Regulatory Element for two consecutive years as provided in paragraph (a)(2) of this Rule;

(5) The person does not become subject to a continuing education deficiency with respect to his or her Regulatory Element for two consecutive years as provided in paragraph (a)(2) of this Rule while participating in the program under this paragraph (c); and

(6) The person does not become subject to a statutory disqualification as defined in Section 3(a)(39) of the Exchange Act following the termination of his or her registration category or while participating in the program under this paragraph (c).

• • • Supplementary Material: -----

.01 Eligibility of Other Persons to Participate in the Continuing Education Program

Specified in Paragraph (c) of this Rule. A person registered in a representative or principal registration category with FINRA within two years immediately preceding [the effective date of the proposed rule change] shall be eligible to participate in the continuing education program under paragraph (c) of this Rule, provided that he or she satisfies the conditions set forth in paragraphs (c)(1) and (c)(3) through (c)(6) of this Rule. In addition, a person participating in the Financial Services Affiliate Waiver Program under Rule 1210.09 immediately preceding [the effective date of the proposed

rule change] shall be eligible to participate in the continuing education program under paragraph (c) of this Rule, provided that he or she satisfies the conditions set forth in paragraphs (c)(3), (c)(5) and (c)(6) of this Rule. Persons eligible under this Supplementary Material .01 shall make their election to participate in the continuing education program under paragraph (c) of this Rule by [the effective date of the proposed rule change]. If such persons elect to participate in the continuing education program, FINRA shall adjust their participation period by deducting from that period the amount of time that has lapsed between the date that such persons terminated their registration categories and [the effective date of the proposed rule change].

.02 Re-Eligibility to Participate in the Continuing Education Program Specified in Paragraph (c) of this Rule. A person who previously participated in the continuing education program under paragraph (c) of this Rule may become re-eligible to participate in the program if he or she reregisters with a member firm and subsequently satisfies the conditions set forth in paragraphs (c)(1) and (c)(4) of this Rule. In such an event, the person may elect to again participate in the program subject to satisfying the remaining conditions set forth in paragraph (c) of this Rule.

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