

COMMENT LETTER

August 28, 2023

ICI Comment Letter to IRS and Treasury on EPCRS Program

On August 23, 2023, ICI submitted a comment letter (Letter) to the IRS and Treasury addressing SECURE 2.0 Act section 305, which amends the Employee Plans Compliance Resolution System (EPCRS), and IRS Notice 2023-43, which provides interim guidance under section 305. The Letter, which is attached for your reference, requests clarification of aspects of the interim guidance provided in Notice 2023-43 to implement section 305, poses additional questions regarding section 305 itself, and makes recommendations for future guidance.

ICI's comment letter addresses the following items.

- We requested that IRS and Treasury clarify the applicable time period to self-correct eligible inadvertent failures under section 305. Importantly, we asked that any further guidance make clear that in no event would the available time period to self-correct be reduced from that under EPCRS as it existed prior to the SECURE 2.0 Act.
- We asked that IRS and Treasury confirm that in addition to making self-correction available to IRA custodians, the expanded EPCRS will permit IRA custodians to use the Voluntary Correction Program, or VCP.
- We highlighted a number of common IRA errors that would be appropriate for IRA custodians to self-correct under an amended EPCRS. These include:
 - Failure to satisfy the 60-day rollover requirement;
 - Required minimum distribution failures;
 - Inadvertent or unauthorized distributions from IRAs;
 - Setup of, or transfer to, wrong IRA account type; and
 - Failure to comply with the one-per-year limit on indirect IRA rollovers.

Read more in the [comment letter](#).