

November 4, 2024

SUBMITTED ELECTRONICALLY AT WWW.REGULATIONS.GOV

Internal Revenue Service  
CC:PA:01:PR (Notice 2024-65)  
Room 5203, P.O. Box 7604, Ben Franklin Station  
Washington, DC 20044

Re: ACLI and CAI Comments on Notice 2024-65

To Whom it May Concern:

We are writing on behalf of the Committee of Annuity Insurers (CAI) and the American Council of Life Insurers (ACLI) in response to the request for comments in Notice 2024-65 regarding the “Saver’s Match” provisions in section 103 of the SECURE 2.0 Act.<sup>1</sup> The CAI and ACLI both support the Saver’s Match. We also greatly appreciate the Treasury Department and IRS initiating this early dialogue with stakeholders to identify and address the implementation issues that the Saver’s Match presents.

The new Saver’s Match program will be unprecedented in scope and will present substantial challenges in coordinating among the federal government, individual taxpayers, financial institutions, plan sponsors, plan recordkeepers, and other relevant parties. It may not be feasible to overcome these challenges in every case. As a result, we urge Treasury and IRS to re-establish the “MyRA” or a similar type of default IRA account that can accept Saver’s Match contributions for all eligible individuals. Our comments below discuss this MyRA-type approach in a bit more detail, followed by our comments on various issues that would arise if that approach is not adopted.

### **Use a MyRA or Similar Default Account to Accept Saver’s Match Contributions**

As the Treasury Department and IRS have aptly observed, creating an entirely new program by which the federal government can directly deposit Saver’s Match contributions into potentially millions of individuals’ existing retirement plans or IRAs presents substantial logistical challenges, many of which may not be possible to overcome completely. As a workable alternative, we urge Treasury and IRS to utilize a “default account” to accept Saver’s Match contributions for all eligible individuals. Specifically, we encourage Treasury and IRS to re-establish the MyRA program for this purpose.

---

<sup>1</sup> CAI is a coalition of life insurance companies formed in 1981 to participate in the development of federal policy with respect to annuities. The Committee’s 32 member companies represent approximately 80% of the annuity business in the United States. ACLI is the leading trade association driving public policy and advocacy on behalf of the life insurance industry. ACLI’s 280 member companies represent 94 percent of industry assets in the United States.

Funded with Treasury bonds, Treasury could open a traditional IRA for each individual taxpayer to receive and hold their Saver's Match contributions. Taxpayers would be free to maintain the account or transfer the amounts therein to another plan or IRA. However, taxpayers may appreciate the use of the MyRA to accumulate their Saver's Match contributions in one account, as it would simplify taxpayer compliance with the rules under Code section 6433.

More importantly, utilizing the MyRA or a similar default account that the government establishes for each eligible individual to receive Saver's Match contributions would eliminate or significantly reduce many of the logistical challenges that otherwise would arise if taxpayers' existing applicable retirement savings vehicles ("ARSVs") instead were used to accept such contributions. In other words, many of the comments we make below about the use of existing ARSVs would become moot. We nonetheless offer the following comments on those issues in case Treasury and the IRS choose not to adopt an approach that utilizes the MyRA or similar concepts.

### **How to Designate the Destination for Saver's Match Contributions**

- *Individuals should do the designating.* To the extent that the Saver's Match program utilizes individuals' existing ARSVs to accept the match contributions, those individual taxpayers should be solely responsible for designating their ARSV on an IRS form. The information they will need to include on the form will differ depending on the type of ARSV.
- *ACH will not always work.* Requesting Automated Clearing House ("ACH") information on the IRS form will not work for every type of ARSV.
  - For example, life insurance companies do not use ACH when administering individual retirement annuities under section 408(b) ("IRA annuities"). Rather, they typically assign a unique "contract number" to each annuity contract. To the extent that individuals wish to designate an IRA annuity as their ARSV, they will need to reference their unique contract number on the IRS form.
  - Similar issues will exist for employer-sponsored plans, which typically do not use ACH and may not even have a unique "plan number."
  - Individuals will need to get the relevant identifying information about their ARSVs from their plan sponsors or financial institutions to reflect on the IRS form, and the form will need to facilitate different types of identifying information for different types of ARSVs.
- *ARSV eligibility decided by the provider.* Plan sponsors, IRA issuers, and other financial institutions should have complete latitude in deciding whether to accept Saver's Match contributions. Just because a financial institution accepts Saver's Match contributions for some retirement savings vehicles does not mean they will accept them for all types. For example, an insurer will not accept a Saver's Match contribution for a previously-issued "single premium" IRA annuity but may do so for a "flexible premium" IRA annuity. Some

financial institutions may decide never to accept Saver's Match contributions, especially if doing so results in significant administrative burdens and potential liabilities.

- *Clarify what language is needed in IRAs to accept Saver's Match contributions.* The Notice states that "IRAs that accept Saver's Match contributions will need to be amended to provide for those contributions." We note that the current LRMs for IRAs (from 2010) include model language stating that, in addition to other types of contributions, "an individual may make additional contributions specifically authorized by statute." The LRM language goes on to identify several examples of such statutorily-authorized contributions. Guidance should confirm that using this or similar language in an IRA is sufficient to provide for the acceptance of Saver's Match contributions, whether or not such contributions are specifically referenced in the IRA.

### **How the Treasury Department Completes Saver's Match Contributions**

- *Use a screening process if a default account is not used.* If Treasury and IRS do not adopt the MyRA-type approach that we recommended above, and instead IRS/Treasury develop a program by which Saver's Match contributions will be directly deposited into individuals' pre-existing ARSVs, that program should include a process by which the IRS sends information in advance to an ARSV provider about anticipated Saver's Match contributions. IRA issuers currently use a similar process for trustee-to-trustee transfers. The transferring issuer sends the proceeds only after the receiving issuer has confirmed that it will accept the funds for the identified individual's IRA. Under this approach, the IRS would not actually transfer Saver's Match contributions to an IRA issuer unless the IRS first previewed the transfer with the IRA issuer and received confirmation from the issuer that it can and will accept the funds for the identified individual.
- *Procedures to return erroneous contributions.* IRS/Treasury should develop a procedure for ARSV providers to return Saver's Match contributions to the federal government when a provider believes the contribution to have been made in error. This could include, for example, situations where an ARSV provider does not accept Saver's Match contributions (at all or for a particular savings vehicle); the individual has surrendered the annuity, closed the account, or left the plan; or the ARSV provider cannot readily associate a received contribution with a particular individual's ARSV. When returning funds to the federal government, ARSV providers should not be required to include any information beyond the same information they received when the federal government originally transferred the funds to the provider.

### **Saver's Match Recovery Tax on Specified Early Distributions**

- *Clarify rules for individuals who own multiple IRAs.* New Code section 6433(f)(6) will require a "recovery payment" from individuals who receive a "specified early distribution ... from ... the applicable retirement savings vehicle to which a [Saver's Match] contribution has been made." In the case of an employer-sponsored plan, this seems to contemplate the early distribution being made from the same plan to which the Saver's Match was contributed. This may not work for IRAs, however. Under longstanding law, if an

individual owns multiple IRAs, those IRAs generally are aggregated for purposes of the rules governing contributions and distributions. Individuals also can directly transfer funds among their IRAs tax-free, with no reporting on Form 5498 or 1099-R. As a result of these rules, it seems that the “recovery payment” aspect of the Saver’s Match would need to apply to any individual’s IRAs on an aggregated basis. In other words, if an individual owns multiple IRAs and receives a “specified early distribution” from *any* of them, the recovery payment rule could be triggered. If this is correct, guidance will be needed.

- *No changes to Form 1099-R reporting.* The recovery payment rule is triggered by certain distributions that are subject to the 10% additional tax under Code section 72(t). Such distributions already must be reported on Form 1099-R using certain codes specified therein. No changes should be made to these reporting requirements, particularly for IRAs. Due to the aggregation and transferability treatment of IRAs discussed in the bullet above, an IRA issuer may not know whether a particular distribution from the IRA they administer would trigger the recovery payment rules.

### **Reporting and Disclosure**

- *Require reporting of contributions on Form 8606, not Form 5498.* Section 103(c)(2)(B) of SECURE 2.0 requires reporting of Saver’s Match contributions to IRAs, but it does not specify a particular IRS form or otherwise dictate how such information must be reported or who must report it. The Notice suggests that Form 5498 would be used, but we question why that is necessary or appropriate, considering that the government will already have information about the Saver’s Match contributions it makes to any individual’s IRA and such contributions do not count towards any contribution limits, are freely transferrable among IRAs with no reporting, and will ultimately be reflected in the fair market value reported on at least one Form 5498 the individual receives. We would prefer that any required reporting of Saver’s Match contributions be implemented through changes to the Form 8606, which individuals already must use to self-report certain information about their IRA contributions. This also would be similar to individuals using Form 5329 to self-report certain additional taxes relating to retirement arrangements. Finally, we note that if IRS/Treasury were to adopt our recommendation to use MyRAs or similar accounts to receive Saver’s Match contributions, the government would seem to have all the information it needs regarding such contributions, without a need to modify Form 5498.
- *No new notice requirements.* Plan administrators and IRA issuers should not be required to provide any new written notifications or notices to individuals regarding the Saver’s Match program. If such notices are mandated, it may discourage providers from participating.

### **Additional Comments Specific to Employer Plans**

For employer-sponsored plans, the costs and risks of accepting a Saver’s Match contribution may weigh against acceptance. At this point, it is difficult to gauge interest in participating in such a program. How well the infrastructure works, how much it costs to implement, and how much risk it presents will almost certainly influence plan sponsor interest in

accepting Saver's Match contributions. Thus, it will be necessary for Treasury and IRS to determine for each Saver's Match payment which plan sponsors are in a position to and are willing to accept the Saver's Match.

While many recordkeepers may build in functionality, not every plan will be utilizing such recordkeepers. There are insurers that provide recordkeeping services on their own platforms or a customized version of a vendor's platform. In addition to a process for the receipt and allocation of Saver's Match contributions, to assist with a taxpayer's compliance with the rules under Code section 6433 a Saver's Match would need to be accounted for separately from other contribution sources. These issues would require significant system changes and attendant costs. As potential utilization, costs, and risks are not currently known (or knowable), it will be a challenge for plan sponsors and service providers to determine whether an expenditure here is prudent, especially as the cost of these programs are supported by plan sponsors and plan participants.

As discussed above, there also are multiple administrative issues that must be addressed for employer-sponsored plans. An ACH transaction will not provide data that is sufficient to identify to which plan and then to which participant the Saver's Match is due without an accompanying electronic report set in a format that aligns with the recordkeeping system. An electronic approach is preferred from a timing and efficiency perspective. Most recordkeepers find it difficult to deal with checks received in the mail. Another administrative challenge is the possibility that a Saver's Match may be directed to a participant account that has been closed and distributed due to a severance of employment. No matter how efficient and effective the system is, there will remain the risk of inadvertent recordkeeping errors. Finally, there will likely be submissions in which the records are not in good order. IRS/Treasury will need a process to receive a return of such amounts.

For these reasons and for the reasons discussed earlier, we urge Treasury and IRS to carefully consider adopting the MyRA-type approach we have recommended. Doing so would eliminate or reduce many of the logistical and other challenges that otherwise would arise.

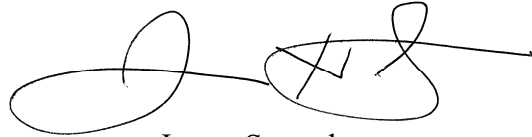
Finally, we anticipate that many taxpayers who will be eligible for the Saver's Match will be saving in a Roth IRA via state-run "Secure Choice" programs. While there may be a need to change the law, it may be particularly beneficial for many low-paid taxpayers to have the ability to deposit the Saver's Match in these Roth IRA based programs.

\* \* \* \* \*

The CAI and ACLI greatly appreciate this opportunity to comment, and we look forward to further dialogue with Treasury and IRS on these important issues. In that regard, we are still considering many of the questions you raised in the Notice and may follow up with additional thoughts. In the meantime, if you have any questions about our comments our otherwise would find additional input helpful, please do not hesitate to contact either of the undersigned.



Bryan W. Keene  
Partner, Davis & Harman LLP  
Counsel to The Committee of Annuity Insurers  
[bwkeene@davis-harman.com](mailto:bwkeene@davis-harman.com)  
202-662-2273



James Szostek  
VP and Deputy, Retirement Security  
ACLI  
[jimszostek@acli.com](mailto:jimszostek@acli.com)  
202-624-2378