**AMERICAN PUBLIC TRANSPORTATION ASSOCIATION**
**FACT SHEET**
**AMENDMENTS TO THE RRIF AND TIFIA PROGRAM REGULATIONS**
**NOTICE OF PROPOSED RULEMAKING**
*February 15, 2024*

On January 25, 2024, the Department of Transportation (DOT) published a Notice of Proposed Rulemaking (NPRM) to implement provisions of the Infrastructure Investment and Jobs Act (IIJA) that expand or modify the authorities of the Railroad Rehabilitation and Improvement Financing (RRIF) and Transportation Infrastructure Finance and Innovation Act (TIFIA) programs.

## Summary

The IIJA authorizes:

- a longer term for both RRIF and TIFIA obligations than was previously allowed;[1]
- expands the definition of projects eligible for TIFIA funding;[2] and
- adds a requirement that the Secretary of Transportation return credit risk premiums (plus accrued interest) to the source of the payment after all obligations of a loan or loan guarantee are satisfied.[3]

The Build America Bureau (Bureau) proposes to implement these provisions of the IIJA by amending the RRIF and TIFIA program regulations.

Amendments to update the TIFIA and RRIF regulations in other areas not addressed in this rulemaking will be included in a subsequent rulemaking.

[1] Public Law 117–58, § 12001(e)(2), 21301(d)(6).
[2] Public Law 117–58, § 12001(a).
[3] Public Law 117–58, § 21301(d)(5)(B).

### *Interest Rate Setting of Longer-Term Obligations*

The IIJA amends both the RRIF Act and the TIFIA Act to allow direct loans or loan guarantees with longer terms, up to 75 years after the date of substantial completion of the project in certain circumstances.[4] The RRIF Act and the TIFIA Act require that the interest rate on a loan be not less than the yield on United States Treasury securities of a similar maturity.[5] Both RRIF and TIFIA obligations currently bear interest at a fixed rate, calculated by adding one basis point (.01%) to the interest rate of securities of a similar maturity (as published in the U.S. Treasury Bureau of Public Debt's daily rate table for State and Local Government Series (SLGS) securities). However, the SLGS daily rate table does not include rates for maturities for longer than 30 - 40 years.

The Bureau proposes that, for RRIF or TIFIA loans with a final maturity date that is more than 35 years after substantial completion of the project and a loan term that is greater than 40 years, the interest rate for the loan will be equal to not less than the rate on 30-to-40-year SLGS securities plus an annual interest rate adjustment as follows:

- 1.4 basis points for each year of the loan term after year 40 to, but not including, year 51;
- 0.4 basis points for each year of the loan term from year 51 to, but not including, year 71; and
- 0.2 basis points for each year of the loan term from year 71 to year 100.

The conceptual framework and methodology for the interest rate adjustment is based on a working paper from the San Francisco Federal Reserve Bank.[6]

### *Return of Credit Risk Premiums*

Under the RRIF Act, the source of the subsidy cost of a loan or loan guarantee may be either appropriated budget authority or funds from a non-Federal source. In the absence of appropriated budget authority, the subsidy cost associated with any RRIF direct loan or loan guarantee (referred to as the credit risk premium (CRP)) must be provided by the borrower or project infrastructure partner before disbursements of the direct loan.

Section 21301(d)(5)(B) of the IIJA requires the Secretary to "return credit risk premiums paid, and interest accrued on such premium, to the original source when all obligations of a loan or loan guarantee have been satisfied."

However, according to the Bureau, without an appropriation from Congress to cover a loan's subsidy cost, under the Federal Credit Reform Act budgeting requirements, a loan's CRP would be cost prohibitive to return to the original source. To avoid an outcome in which the CRP due to

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[4] Prior to the IIJA, RRIF and TIFIA obligations were authorized up to a 35-year repayment period.
[5] 23 U.S. Code § 603(b)(4). This requirement does not apply to loans for a rural infrastructure project or a rural projects fund.
[6] Jens H. E. Christensen, Jose A. Lopez, Paul L. Mussche, Federal Reserve Bank of San Francisco, International Evidence on Extending Sovereign Debt Maturities, Working Paper 2021-19, July 2021.

a borrower impedes the issuance of new RRIF loans, the Bureau proposes to add a credit spread to the interest rate charged on any RRIF direct loan or loan guarantee that is projected to require the repayment of a CRP. The additional interest would not qualify as a CRP payment and would not be returned to the original source after the obligation is satisfied.

### *Inclusion of Transportation Plans and Programs in TIFIA*

The Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users (SAFETEA-LU) requires TIFIA projects to "satisfy the applicable planning and programming requirements of sections 134 and 135 at such time as an agreement to make available a Federal credit instrument is entered into under the TIFIA program."[7] The TIFIA regulations were published in 1998 and do not reflect the current statutory requirements. The Bureau proposes to amend the TIFIA regulations to reflect the current statutory requirements of 23 U.S.C. § 602(a)(3).

[7] Public Law 109–59.