

November 19, 2024

**In the Matter of
the Securities Legislation of Ontario
(the Jurisdiction)**

and

**In the Matter of
the Process for Exemptive Relief Applications in Multiple Jurisdictions**

and

**In the Matter of
Brookfield Corporation**

Decision

Background

The principal regulator in the Jurisdiction has received an application from Brookfield Corporation (the **Filer**) for a decision under the securities legislation of the Jurisdiction of the principal regulator (the **Legislation**) exempting the Filer, pursuant to section 9.1 of Multilateral Instrument 61-101 *Protection of Minority Security Holders in Special Transactions (MI 61-101)* from the requirements of sections 5.4 and 5.6 of MI 61-101 to obtain a formal valuation and minority approval in connection with the Transaction (as defined below) (the **Exemption Sought**).

Under the Process for Exemptive Relief Applications in Multiple Jurisdictions (for a passport application):

- (a) the Ontario Securities Commission is the principal regulator for this application; and
- (b) the Filer has provided notice that section 4.7(1) of Multilateral Instrument 11-102 *Passport System (MI 11-102)* is intended to be relied upon in Alberta, Manitoba, New Brunswick, Québec, and Saskatchewan.

Interpretation

Terms defined in National Instrument 14-101 *Definitions*, MI 11-102, and MI 61-101 have the same meaning if used in this decision, unless otherwise defined.

Representations

This decision is based on the following facts represented by the Filer:

The Filer

1. The Filer is a corporation existing and in good standing under the *Business Corporations Act* (Ontario). The Filer's registered and head office is located at Brookfield Place, 181 Bay Street, Suite 100, Toronto, Ontario M5J 2T3.
2. The Filer is a reporting issuer in all of the provinces and territories of Canada and is not in default of any requirement of securities legislation in the jurisdictions in which it is a reporting issuer.
3. The Filer's authorized share capital consists of: (a) an unlimited number of class A limited voting shares (the **BN Class A Shares**); (b) 85,120 class B limited voting shares (the **BN Class B Shares**); (c) an unlimited number of preference shares designated as Class A Preference Shares, issuable in series; and (d) an unlimited number of preference shares designated as Class AA Preference Shares, issuable in series. As of September 30, 2024, there were 1,646,255,499 BN Class A Shares, and 85,120 BN Class B Shares issued and outstanding.
4. The BN Class A Shares are listed on the New York Stock Exchange (**NYSE**) and the Toronto Stock Exchange (**TSX**) under the symbol "BN". The BN Class B Shares are unlisted and are all held by a trust (the **Trust**). The beneficial interests in the Trust, and the voting interests in its trustee, are held one-third by Mr. Bruce Flatt, one-third by Mr. Jack L. Cockwell and one-third jointly by Messrs. Brian W. Kingston, Brian D. Lawson, Cyrus Madon, Samuel J.B. Pollock and Sachin Shah in equal parts.
5. The attributes of the BN Class A Shares and the BN Class B Shares are substantially equivalent except that, in the election of directors, holders of the BN Class A Shares are entitled to elect one-half the board of directors of the Filer (the **BN Board**) and the holder of the BN Class B Shares is entitled to elect the other one-half of the BN Board. On any other matter that requires shareholder approval, approval must be obtained from the holders of the BN Class A Shares and the holder of the BN Class B Shares, in each case, voting separately as a class.
6. On May 12, 2022, the Filer announced that it would separately list and distribute a 25% interest in its asset management business (the **Asset Management Business**) to its shareholders (the **Spin-out**). In connection with the Spin-out, the Filer: (a) transferred the Asset Management Business to Brookfield Asset Management ULC (**BAM ULC**); (b) established Brookfield Asset Management Ltd. (**BAM**) to be the company through which investors can directly access the Asset Management Business; (c) transferred a 25% interest in BAM ULC to BAM; and (d) distributed shares of BAM to its shareholders. The Spin-out was completed on December 9, 2022.

BAM

7. BAM is a corporation existing and in good standing under the *Business Corporations Act* (British Columbia). BAM's head office is located at Brookfield Place, 181 Bay Street, Suite 100, Toronto, Ontario M5J 2T3 and its registered office is located at 1055 West

Georgia Street, 1500 Royal Centre, P.O. Box 11117, Vancouver, British Columbia, V6E 4N7.

8. BAM is a reporting issuer in all of the provinces and territories of Canada and is not in default of any requirement of securities legislation in the jurisdictions in which it is a reporting issuer.
9. BAM's authorized share capital consists of: (a) an unlimited number of class A limited voting shares (the **BAM Class A Shares**); (b) 21,280 class B limited voting shares (the **BAM Class B Shares**, and together with the BAM Class A Shares, the **BAM Shares**); and (c) an unlimited number of class A preference shares, issuable in series. As of September 30, 2024, there were 442,933,929 BAM Class A Shares, and 21,280 BAM Class B Shares issued and outstanding.
10. The BAM Class A Shares are listed on the NYSE and the TSX under the symbol "BAM". The BAM Class B Shares are unlisted and are all held by the Trust.
11. The attributes of the BAM Shares are substantially equivalent except that, in the election of directors, holders of the BAM Class A Shares are entitled to elect one-half the board of directors of BAM (the **BAM Board**) and the holder of the BAM Class B Shares is entitled to elect the other one-half of the BAM Board. On any other matter that requires shareholder approval, approval must be obtained from the holders of the BAM Class A Shares and the holder of the BAM Class B Shares, in each case, voting separately as a class.
12. BAM has nominal assets and liabilities other than its interest in BAM ULC and the number of BAM Class B Shares outstanding represent approximately 0.005% of the total issued and outstanding BAM Shares. As a result, the value of the BAM Class A Shares is derived from the value of BAM ULC (and specifically, BAM's approximate 27% interest in BAM ULC) and the BAM Class A Shares are economically equivalent to the BAM ULC Common Shares in all material respects.

BAM ULC

13. BAM ULC is an unlimited liability company existing and in good standing under the *Business Corporations Act* (British Columbia). BAM ULC's registered office is located at 1055 West Georgia Street, 1500 Royal Centre, P.O. Box 11117, Vancouver, British Columbia, V6E 4N7.
14. BAM ULC is not a reporting issuer in any province or territory of Canada, and is not in default of any applicable requirement of securities legislation.
15. BAM ULC's authorized share capital consists of an unlimited number of common shares (the **BAM ULC Common Shares**). As of September 30, 2024, there were 1,635,414,208 BAM ULC Common Shares issued and outstanding of which 1,198,924,445 (or approximately 73%) are beneficially owned by the Filer, and 436,489,763 (or approximately 27%) are beneficially owned by BAM.

16. In connection with the Spin-out, the Filer and BAM entered into a voting agreement (the **Voting Agreement**) pursuant to which the Filer has the right to nominate one-half of the board of directors of BAM ULC (the **BAM ULC Board**) and BAM has the right to nominate the other one-half of the BAM ULC Board, in each case, regardless of the number of BAM ULC Common Shares owned by the Filer and BAM, respectively.
17. For accounting purposes, the Filer consolidates BAM ULC and reflects the approximate 27% interest in BAM ULC owned by BAM as a non-controlling interest.

The Transaction

18. BAM's market capitalization as of September 30, 2024 was approximately \$28.3 billion, based on its interest in 27% of the Asset Management Business. Based on BAM's experience since the Spin-out and market feedback, in order for BAM to be truly comparable to its peers in the alternative asset management industry, BAM's market capitalization needs to reflect ownership of 100% of the Asset Management Business.
19. Accordingly, BAM and the Filer are proposing to enter into a transaction (the **Transaction**) pursuant to which:
 - (a) BAM will amend the terms of the BAM Shares such that at any time that:
 - (i) the Filer (or its successor) and its subsidiaries beneficially own a number of BAM Class A Shares that exceeds 50% of the aggregate number of BAM Shares as of the record date for any meeting of BAM shareholders, the holders of BAM Class A Shares and the holders of BAM Class B Shares will vote together as a single class in the election of the BAM Board at such meeting of shareholders; or
 - (ii) the Filer (or its successor) and its subsidiaries beneficially own a number of BAM Class A Shares that is not less than 20% but does not exceed 50% of the aggregate number of BAM Shares as of the record date for any meeting of BAM shareholders:
 - (A) holders of BAM Class A Shares, including the Filer (or its successor), will be entitled to elect one-half of the BAM Board at such meeting of shareholders, less one director, who will be elected solely by the Filer (or its successor); and
 - (B) the holder of BAM Class B Shares will be entitled to elect the other one-half of the BAM Board at such meeting of shareholders;
 - (b) the Filer will exchange 100% of its BAM ULC Common Shares for an identical number of newly-issued BAM Class A Shares, as a result of which the Filer will own approximately 73% of the BAM Class A Shares and BAM will own, directly and indirectly, 100% of the BAM ULC Common Shares; and
 - (c) the Voting Agreement will be terminated.

20. The goal of the Transaction is to have the market capitalization of BAM accurately reflect the true size of the Asset Management Business and to simplify the overall ownership structure of the Asset Management Business. The Filer expects that undertaking the Transaction will have significant long-term benefits for BAM, not limited to potential future inclusion in U.S. stock indices, access to larger pools of capital, a wider shareholder base and increased liquidity of the BAM Class A Shares, all of which would indirectly benefit the Filer, as a significant shareholder of BAM.
21. The Filer considers the Transaction to be akin to an internal reorganization through which the Filer and BAM will, in effect, combine their interests in BAM ULC such that BAM ULC is indirectly wholly-owned by BAM, which in turn will be owned approximately 27% by its current shareholders and approximately 73% by the Filer. Following the Transaction, the Filer will own indirectly what it currently holds directly.
22. As a result of the Transaction:
 - (a) the Filer will no longer be exposed to unlimited liability as a shareholder of BAM ULC for the payment of BAM ULC's debts and liabilities in the event of its liquidation or dissolution;
 - (b) the Filer will own a direct interest in a reporting issuer (being, the BAM Class A Shares) rather than an illiquid interest in a private company (being, the BAM ULC Common Shares);
 - (c) the Filer will have the right to cast a majority of the votes in the election of directors of BAM for so long as the Filer owns a majority of the aggregate outstanding BAM Shares, and will have meaningful voting rights at any time that the Filer's ownership of BAM Class A Shares represents between 20% and 50% of the aggregate outstanding BAM Shares; and
 - (d) BAM will be a subsidiary of the Filer and the Filer will consolidate BAM (and therefore BAM ULC) and show the approximate 27% interest held by BAM's other shareholders as a non-controlling interest.
23. On completion of the Transaction, including the termination of the Voting Agreement, the Filer will no longer have the right to nominate one-half of the BAM ULC Board. However, following completion of the Transaction, the Filer will be able to exert significant influence over BAM (and indirectly, BAM ULC) even if its ownership interest in BAM falls below 50%.
24. As a shareholder of BAM, the Filer will indirectly bear its proportionate share of certain expenses of BAM not arising from BAM ULC, including with respect to executive compensation, financial reporting and other costs associated with maintaining BAM's existence as a public company. However, these expenses are immaterial in the context of the Filer's business and the Filer has determined that the overall benefits of the Transaction far outweigh these additional costs.

25. The Filer does not expect any material adverse Canadian or U.S. federal income tax impacts on the Filer or its shareholders as a result of the Transaction.
26. The Chief Financial Officer of the Filer (the **CFO**) was responsible for negotiating and structuring the Transaction on behalf of the Filer. The CFO is one of the Filer's representatives on the BAM ULC Board and is not a member of management of BAM. The BN Board mandated the Filer's governance and nominating committee (the **GNC**) with overseeing the negotiation of the Transaction and, if appropriate, recommending it to the BN Board for approval. The members of the GNC are Frank J. McKenna, Diana L. Taylor and Hutham S. Olayan, each of whom is "independent" within the meaning of National Instrument 52-110 *Audit Committees* and independent of BAM within the meaning of MI 61-101.
27. The GNC has unanimously recommended the Transaction to the BN Board for approval, and the BN Board has unanimously (with any directors that are also directors and/or officers of BAM abstaining):
 - (a) determined that the Transaction is in the best interests of the Filer;
 - (b) determined that the Transaction will not adversely affect the Filer or its shareholders; and
 - (c) approved the Transaction.
28. The Transaction does not constitute a sale of "all or substantially all" of the Filer's assets within the meaning of applicable corporate laws. Absent the requirement for minority shareholder approval under section 5.6 of MI 61-101, shareholders of the Filer would not be entitled to vote on the Transaction.
29. The Filer and BAM are related parties and the Transaction is a related party transaction for each of them.
30. In connection with the Transaction, BAM (a) has obtained a formal valuation in respect of the BAM ULC Common Shares and the BAM Class A Shares (the **BAM Formal Valuation**), and (b) will be seeking minority approval for the Transaction in accordance with MI 61-101.
31. The structuring of the Transaction was selected because of its simplicity from the perspective of BAM shareholders. However, the Transaction could have alternatively been structured such that the Filer contributed its BAM ULC Common Shares to a wholly-owned subsidiary which is then amalgamated with BAM (the **Alternate Structure**).
32. If the Transaction was implemented pursuant to the Alternate Structure, the Filer would have been able to rely on the exemptions from the formal valuation and minority approval requirements set out in sections 5.5(a) and 5.7(1)(a) of MI 61-101.
33. Subparagraph 5.5(a)(ii) of MI 61-101 provides that if the transaction is one in which the issuer or a wholly-owned subsidiary entity of the issuer combines with a related party,

through an amalgamation, arrangement or otherwise, the subject matter of the transaction shall be deemed to be the securities of the related party held, at the time the transaction is agreed to, by persons other than the issuer or a wholly-owned subsidiary entity of the issuer, and the consideration for the transaction shall be deemed to be the consideration received by those persons. Accordingly, the subject matter of the transaction would be deemed to be the securities of BAM held by persons other than the Filer or its wholly-owned subsidiary entity, namely, the issued and outstanding BAM Shares, which are equivalent to the value of BAM's approximate 27% interest in BAM ULC, and the consideration that BAM shareholders would receive would be deemed to be the shares of the amalgamated entity, which would be equivalent to an approximate 27% interest in BAM ULC.

34. The effect of the Transaction on the Filer and the Filer's shareholders is the same as if the Transaction had been structured using the Alternate Structure.
35. In the absence of the Exemption Sought, the Filer would be required to obtain a formal valuation in respect of BAM ULC Common Shares (which are the subject of the BAM Formal Valuation). The Filer would rely on subsection 6.3(2) of MI 61-101 in respect of the BAM Class A Shares.
36. The GNC and the BN Board are of the view that, in all material respects, each BAM ULC Common Share is economically equivalent to a BAM Class A Share. In 2024, prior to the closing of the acquisition by Brookfield Wealth Solutions Ltd. (**BWS**) of American Equity Investment Life Holding Company (**AEL**), the Filer exchanged 28,803,599 BAM ULC Common Shares with BAM for 28,803,599 BAM Class A Shares (the **AEL Exchange**). The Filer then delivered the 28,803,599 BAM Class A Shares to BWS for delivery to shareholders of AEL. The AEL Exchange was not subject to approval by the Filer's shareholders.
37. Prior to approving the Transaction, the GNC and the BN Board were advised of the conclusions reached in the BAM Formal Valuation. Taking into account its own view of the value of BAM ULC and the conclusions of the GNC, the BN Board concluded that the terms of the Transaction, including the one-for-one exchange effected by the Transaction were in the best interests of the Filer.
38. Upon entering into the Transaction, the Filer issued and filed a press release announcing same (the **Press Release**) on the System for Electronic Document Analysis and Retrieval+ (**SEDAR+**). The Filer also filed a material change report pertaining to the Transaction (the **Material Change Report**) on SEDAR+ whose contents satisfy and comply with the disclosure requirements set out in subsection 5.2(1) of MI 61-101.
39. Both the Press Release and the Material Change Report disclose that the Filer has applied for the Exemption Sought, describes the nature of the Exemption Sought and the fact that if granted, the Exemption Sought will result in the Filer not holding a shareholder meeting to approve the Transaction.

40. The Material Change Report also includes a summary of the BAM Formal Valuation, and references the fact that a copy of the BAM Formal Valuation can be found on the Filer's SEDAR+ profile.
41. A minimum of 14 days have passed from the date the Material Change Report and the BAM Formal Valuation were filed on the Filer's SEDAR+ profile.

Decision

The principal regulator is satisfied that the decision meets the test set out in the Legislation for the principal regulator to make the decision.

The decision of the principal regulator under the Legislation is that the Exemption Sought is granted provided that:

- (a) the Material Change Report and the BAM Formal Valuation are filed on the Filer's SEDAR+ profile;
- (b) the Material Change Report contains the information required pursuant to subsection 5.2(1) of MI 61-101 and discloses that the Filer has applied for the Exemption Sought, describes the nature of the Exemption Sought and the fact that if granted, the Exemption Sought will result in the Filer not holding a shareholder meeting to approve the Transaction;
- (c) the Filer issues and files a press release announcing receipt of the Exemption Sought, which also includes a statement that a copy of the Material Change Report and/or BAM Formal Valuation will be sent free of charge to any shareholder of the Filer who requests a copy;
- (d) any shareholder of the Filer that requests a copy of the Material Change Report and/or BAM Formal Valuation is sent a copy, free of charge; and
- (e) there are no other approvals required in respect of the Transaction that must be obtained at a meeting of shareholders of the Filer.

"David Mendicino"

David Mendicino
Manager, Corporate Finance Division
Ontario Securities Commission