



Ontario
Securities
Commission

Commission des
valeurs mobilières
de l'Ontario

22nd Floor
20 Queen Street West
Toronto ON M5H 3S8

22e étage
20, rue Queen ouest
Toronto ON M5H 3S8

December 24, 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 Infrastructure Corporation and
Brookfield Corporation**

Decision

Background

The principal regulator in the Jurisdiction has received an application from Brookfield Infrastructure Corporation (formerly 1505109 B.C. Ltd.) (**New BIPC**) and Brookfield Corporation (**Brookfield**, and together with New BIPC, the **Filers**) for a decision under the securities legislation of the Jurisdiction of the principal regulator (the **Legislation**) that:

- (a) the requirements contained in the Legislation to file a preliminary prospectus and a final prospectus and receive receipts therefor (the **Prospectus Requirement**) shall not apply to specific trades in non-voting limited partnership units of Brookfield Infrastructure Partners L.P. (**BIP**), to be made in connection with the distribution and exchange of class A exchangeable subordinate voting shares of New BIPC (the **New Exchangeable Shares**) by Brookfield pursuant to the terms of the Rights Agreement (each as defined below);
- (b) New BIPC be exempt from the requirements contained in paragraph 2.2(e) of National Instrument 44-101 *Short Form Prospectus Distributions* (**NI 44-101**) with respect to equity securities (the **Short Form Prospectus Eligibility Requirements**); and
- (c) New BIPC be exempt from requirements contained in section 9.3(1)(b) of National Instrument 44-102 *Shelf Distributions* (**NI 44-102**) that distributions by way of an at-

the-market distribution using the shelf procedures be limited to distributions of equity securities (the **At-the-Market Distribution Eligibility Requirements**);

(collectively, 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 Filers have provided notice that subsection 4.7(1) of Multilateral Instrument 11-102 *Passport System* (**MI 11-102**) is intended to be relied upon in British Columbia, Alberta, Saskatchewan, Manitoba, Quebec, New Brunswick, Nova Scotia, Prince Edward Island, Newfoundland and Labrador, the Northwest Territories, Yukon and Nunavut, as applicable.

Interpretation

Terms defined in National Instrument 14-101 *Definitions*, MI 11-102, NI 44-101 and NI 44-102 have the same meaning if used in this decision, unless otherwise defined.

Representations

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

Relevant Entities

BIP

1. BIP is an exempted limited partnership established, registered and in good standing under the laws of Bermuda. BIP's registered and head office is located at 73 Front Street, 5th Floor, Hamilton HM 12, Bermuda.
2. BIP is a reporting issuer in all of the provinces and territories of Canada and is an SEC foreign issuer within the meaning of section 1.1 of National Instrument 71-102 *Continuous Disclosure and Other Exemptions Relating to Foreign Issuers* (**NI 71-102**) and satisfies its continuous disclosure obligations by complying with U.S. federal securities laws as permitted under NI 71-102. BIP is not in default of any requirement of securities legislation in the jurisdictions in which it is a reporting issuer.
3. The authorized capital of BIP consists of: (a) an unlimited number of non-voting limited partnership units (the **BIP Units**); (b) an unlimited number of class A preferred limited partnership units; and (c) an unlimited number of general partnership units. As of October 15, 2024, there were 461,754,508 BIP Units (784,078,904 BIP Units assuming the exchange of redeemable partnership units of Brookfield Infrastructure L.P. (the **Redeemable Partnership Units**) and Exchangeable Shares (as defined below)), 43,901,312 class A preferred limited partnership units and one (1) general partnership unit issued and outstanding.

4. The BIP Units are listed on the New York Stock Exchange (**NYSE**) and the Toronto Stock Exchange (**TSX**) under the symbols “BIP” and “BIP.UN”, respectively.
5. Brookfield Infrastructure Partners Limited (**BIP GP**), a wholly-owned subsidiary of Brookfield, holds the general partnership unit of BIP.
6. BIP’s sole material asset is its managing general partnership interest and preferred limited partnership interest in Brookfield Infrastructure L.P. (**Holding LP**), a Bermuda exempted limited partnership established, registered and in good standing under the laws of Bermuda. The authorized capital of Holding LP is comprised of: (a) special general partner units held by Brookfield Infrastructure Special L.P. (the **Special General Partner**), an indirect subsidiary of Brookfield; (b) class A preferred units held by BIP; (c) managing general partner units held by BIP; and (d) Redeemable Partnership Units held indirectly by Brookfield. The Special General Partner has, pursuant to the limited partnership agreement of Holding LP, delegated to BIP, as managing general partner of the Holding LP, all of the rights, powers and authority granted to it as a general partner under applicable law. Accordingly, all management powers over the activities and affairs of the Holding LP are exclusively vested in BIP.
7. Pursuant to the terms of the limited partnership agreement of Holding LP, the special general partner of Holding LP receives incentive distributions that are calculated by reference to the distributions that are ultimately paid to holders of BIP Units. Accordingly, the special general partner units of Holding LP effectively represent an economic interest in the collective operations of BIP, rather than Holding LP.
8. The Redeemable Partnership Units are, in all material respects, economically equivalent to the BIP Units and effectively represent an economic interest in the collective operations of BIP, rather than Holding LP.
9. As the class A preferred units and managing general partner units of Holding LP are held by BIP, and the special general partner units of Holding LP and Redeemable Partnership Units effectively represent economic interests in the collective operations of BIP rather than Holding LP, (a) Holding LP is, in effect, a wholly-owned subsidiary of BIP, and (b) direct and indirect wholly-owned subsidiaries of Holding LP are, in effect, wholly-owned subsidiaries of BIP.

BIPC

10. Brookfield Infrastructure Holdings Corporation (formerly Brookfield Infrastructure Corporation) (**BIPC**) is a corporation existing and in good standing under the *Business Corporations Act* (British Columbia). BIPC’s registered office is located at 1500 Royal Centre, 1055 West Georgia Street, P.O. Box 11117, Vancouver, British Columbia, V6E 4N7. BIPC’s head office is located at 250 Vesey Street, 15th Floor, New York, New York, 10281, United States of America.
11. BIPC 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.

12. BIPC was created, in part, to provide investors that would not otherwise invest in BIP with an opportunity to gain access to BIP's portfolio of infrastructure assets, and to provide investors with the flexibility to own, through the ownership of an Exchangeable Share, the economic equivalent of a BIP Unit. The rights, privileges, restrictions and conditions attached to each Exchangeable Share are such that each Exchangeable Share is, as nearly as practicable, functionally and economically, equivalent to a BIP Unit.
13. Prior to completion of the Reorganization (as defined below):
 - (a) the authorized share capital of BIPC consisted of: (i) an unlimited number of class A exchangeable subordinate voting shares (the **Exchangeable Shares**); (ii) an unlimited number of class B multiple voting shares (the **Class B Shares**); (iii) an unlimited number of class C non-voting shares (the **Class C Shares**); (iv) an unlimited number of class A senior preferred shares (issuable in series); and (v) an unlimited number of class B junior preferred shares (issuable in series). As of October 15, 2024, there were 132,024,440 Exchangeable Shares, two (2) Class B Shares, 11,117,660 Class C Shares, zero class A senior preferred shares, and zero class B junior preferred shares issued and outstanding;
 - (b) the only voting securities of BIPC were the Exchangeable Shares and the Class B Shares. Holders of Exchangeable Shares were entitled to one (1) vote per Exchangeable Share held and holders of Class B Shares were entitled to cast, in the aggregate, a number of votes equal to three (3) times the number of votes attached to the Exchangeable Shares. Accordingly, the Exchangeable Shares collectively represented a 25% voting interest in BIPC and the Class B Shares collectively represented a 75% voting interest in BIPC;
 - (c) neither the Exchangeable Shares nor the Class B Shares carried a residual right to participate in the assets of BIPC upon liquidation or winding-up of BIPC, and accordingly, were not equity securities under the Legislation. The Class C Shares were the only equity securities of BIPC;
 - (d) BIP, indirectly through subsidiary entities, owned 100% of the issued and outstanding Class B Shares and 100% of the Class C Shares. Through its ownership of these securities, BIP (i) had a 75% voting interest in BIPC, thereby controlling BIPC and the appointment and removal of directors of BIPC, and (ii) was entitled to all of the residual value in BIPC after payment in full of the amount due to holders of Exchangeable Shares and Class B Shares, and subject to the prior rights of holders of preferred shares;
 - (e) the Class B Shares and the Class C Shares were not transferable except to BIP or persons controlled by BIP; and
 - (f) the board of directors of BIPC consisted of each of the directors of BIP GP and one additional director.
14. The Exchangeable Shares are listed on the NYSE and the TSX under the symbol "BIPC".

15. In connection with the Reorganization:
 - (a) BIPC applied to cease to be a reporting issuer; and
 - (b) the Exchangeable Shares will be delisted from the NYSE and the TSX.

Brookfield

16. Brookfield (formerly Brookfield Asset Management Inc.) is a corporation existing and in good standing under the Business Corporations Act (Ontario). Brookfield's registered and head office is located at Suite 100, Brookfield Place, 181 Bay Street, Toronto, Ontario, M5J 2T3.
17. Brookfield 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.
18. The Class A Limited Voting Shares of Brookfield are listed on the NYSE and the TSX under the symbol "BN".
19. Prior to completion of the Reorganization, Brookfield and Brookfield Wealth Solutions Ltd. and their subsidiaries held an approximate 26.6% economic interest in BIP on a fully-exchanged basis through their indirect ownership of BIP Units, Redeemable Partnership Units, and Exchangeable Shares.
20. Following completion of the Reorganization, Brookfield and Brookfield Wealth Solutions Ltd. and their subsidiaries hold an approximate 26.6% economic interest in BIP on a fully-exchanged basis through their indirect ownership of BIP Units, Redeemable Partnership Units, New Exchangeable Shares, and Class A.2 Shares (as defined below).
21. Brookfield indirectly holds a 100% voting interest in BIP through its ownership of the general partnership unit of BIP.
22. BIP, Holding LP, BIPC, New BIPC and certain of their subsidiaries have retained Brookfield and its related entities to provide management, administrative and advisory services under a master services agreement.

New BIPC

23. New BIPC is a corporation existing and in good standing under the *Business Corporations Act* (British Columbia). New BIPC was incorporated on October 3, 2024. New BIPC's registered office is located at 1500 Royal Centre, 1055 West Georgia Street, P.O. Box 11117, Vancouver, British Columbia, V6E 4N7. New BIPC's head office is located at 250 Vesey Street, 15th Floor, New York, New York, 10281, United States of America.
24. New BIPC 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.

25. The authorized share capital of New BIPC consists of: (a) an unlimited number of New Exchangeable Shares; and (b) an unlimited number of class B multiple voting shares (the **New Class B Shares**). Prior to completion of the Reorganization, there were no New Exchangeable Shares and one (1) New Class B Share issued and outstanding, which is held by Brookfield Infrastructure Holdings (Canada) Inc. (**CanHoldco**), a subsidiary entity of BIP.
26. Except as provided below, holders of New Exchangeable Shares are entitled to one (1) vote per New Exchangeable Share held and holders of New Class B Shares are entitled to cast, in the aggregate, a number of votes equal to three (3) times the number of votes attached to the New Exchangeable Shares. Accordingly, the New Exchangeable Shares collectively represent a 25% voting interest in New BIPC and the New Class B Shares collectively represent a 75% voting interest in New BIPC.
27. At any time that no New Exchangeable Shares are outstanding or for any vote held only in respect of the New Class B Shares, holders of New Class B Shares are entitled to cast one (1) vote per New Class B Share.
28. The New Exchangeable Shares do not carry a residual right to participate in the assets of New BIPC upon liquidation or winding-up of New BIPC, and accordingly, are not equity securities under the Legislation. The New Class B Shares are the only equity securities of New BIPC.
29. BIP, indirectly through its subsidiary entities, owns 100% of the issued and outstanding New Class B Shares. The New Class B Shares are not transferable except to BIP or persons controlled by BIP. Through its ownership of New Class B Shares, BIP (a) has a 75% voting interest in New BIPC, thereby controlling New BIPC and the appointment and removal of directors of New BIPC, and (b) is entitled to all of the residual value in New BIPC after payment in full of the amount due to holders of New Exchangeable Shares.

The Reorganization

30. BIPC currently qualifies as a “mutual fund corporation” as defined in the *Income Tax Act* (Canada) (the **Tax Act**).
31. The 2024 Canadian federal budget included proposed amendments to the tax rules relating to mutual fund corporations which, if enacted as proposed, were expected to result in additional costs to BIPC.
32. On October 9, 2024, BIP, BIPC, New BIPC and Brookfield entered into an arrangement agreement in respect of a reorganization (the **Reorganization**) designed to preserve the current benefits received by holders of Exchangeable Shares from holding their investments in the business of BIP and its subsidiary entities through a corporation that is intended to qualify as a “mutual fund corporation” (as defined in the Tax Act).
33. On December 3, 2024, the Reorganization was approved at a special meeting of holders of Exchangeable Shares and Class B Shares (the **Meeting**) by: (a) not less than 66²/₃% of the votes cast at the Meeting by holders of Exchangeable Shares and holders of Class B Shares, voting together; (b) not less than 66²/₃% of the votes cast at the Meeting by holders of

Exchangeable Shares, voting separately as a class; and (c) not less than 66²/₃% of the votes cast at the Meeting by holders of Class B Shares, voting separately as a class.

34. On December 9, 2024, the Supreme Court of British Columbia approved the Reorganization.
35. As part of the Reorganization:
 - (a) BIPC amended its articles to create two (2) new classes of securities: class A.1 exchangeable subordinate voting shares (the **Class A.1 Shares**) and class A.2 non-voting shares (the **Class A.2 Shares**);
 - (b) holders of Exchangeable Shares (other than Brookfield and its subsidiaries) received one (1) New Exchangeable Share from New BIPC for each Exchangeable Share held;
 - (c) New BIPC transferred the Exchangeable Shares received from holders of Exchangeable Shares (other than Brookfield and its subsidiaries) to BIPC in exchange for Class A.1 Shares on a one-for-one basis, and the Exchangeable Shares were cancelled by BIPC;
 - (d) Brookfield and its subsidiaries transferred the Exchangeable Shares held by them to BIPC in exchange for Class A.2 Shares on a one-for-one basis, and the Exchangeable Shares were cancelled by BIPC;
 - (e) CanHoldco transferred one (1) Class B Share to New BIPC in exchange for one (1) New Class B Share;
 - (f) BIPC amended its articles to, among other things, rename BIPC to “Brookfield Infrastructure Holdings Corporation” and remove the Exchangeable Shares from its authorized share capital;
 - (g) BIPC applied to cease to be a reporting issuer;
 - (h) the Exchangeable Shares will be delisted from the NYSE and the TSX;
 - (i) New BIPC was renamed “Brookfield Infrastructure Corporation” and the New Exchangeable Shares will be listed on the NYSE and the TSX under the symbol “BIPC”;
 - (j) New BIPC, BIPC and BIP entered into a pairing agreement pursuant to which the parties have agreed that New BIPC will, at all times, hold such number of Class A.1 Shares equal to the number of New Exchangeable Shares that are outstanding to support the duties and obligations of New BIPC to holders of New Exchangeable Shares (the **Pairing Agreement**); and
 - (k) New BIPC entered into an option agreement with CanHoldco that provides New BIPC with the right to acquire any or all of the Class B Shares and/or Class C Shares held by CanHoldco in exchange for newly issued New Class B Shares.
36. Following completion of the Reorganization, New BIPC:

- (a) became a reporting issuer in each of the provinces and territories of Canada;
 - (b) qualifies as a “mutual fund corporation” as defined in the Tax Act;
 - (c) has taken the place of BIPC and serves as the entity through which investors who do not wish to hold BIP Units directly may hold their interests in BIP through the ownership of a New Exchangeable Share, which is economically equivalent to a BIP Unit; and
 - (d) carries on its business through BIPC, whose Class A.1 Shares and one (1) Class B Share are New BIPC’s sole material assets.
37. BIP consolidates New BIPC and BIPC and their businesses in BIP’s financial statements, and the collective operations of BIP and its subsidiaries (including New BIPC, BIPC and their subsidiary entities) are the same as they were prior to the creation of New BIPC and occurrence of the transactions conducted in connection with, and to facilitate, the Reorganization.
38. The board of directors of New BIPC consists of the directors that were on the board of directors of BIPC immediately prior to completion of the Reorganization.
39. New BIPC is not a wholly-owned subsidiary entity of BIP; BIP does not own, directly or indirectly, all of the voting securities of New BIPC because members of the public hold New Exchangeable Shares and Brookfield and its subsidiaries hold Class A.2 Shares, which are exchangeable for New Exchangeable Shares (subject to the Ownership Cap (as defined below)). However, by virtue of the terms of the New Class B Shares, BIP holds a 75% voting interest in New BIPC thereby controlling New BIPC and the appointment and removal of directors of New BIPC. The voting rights attached to the New Exchangeable Shares do not allow holders of New Exchangeable Shares to affect the control of New BIPC. The voting right attached to each New Exchangeable Share is expected to assist with index inclusion.

The New Exchangeable Shares

40. The New Exchangeable Shares have substantially the same terms as the Exchangeable Shares. Each New Exchangeable Share has been structured with the intention of providing an economic return equivalent to a BIP Unit, and the rights, privileges, restrictions and conditions attached to each New Exchangeable Share (the **New Exchangeable Share Provisions**) are such that each New Exchangeable Share is, as nearly as practicable, functionally and economically, equivalent to a BIP Unit. In particular:
- (a) each New Exchangeable Share is exchangeable at the option of a holder for one (1) BIP Unit (subject to adjustment to reflect certain capital events) or its cash equivalent (the form of payment to be determined at the election of New BIPC) (an **Exchange**);
 - (b) the New Exchangeable Shares are redeemable by New BIPC at any time (including following a notice requiring redemption having been given by BIP) for BIP Units (or their cash equivalent, at New BIPC’s election) on a one-for-one basis (subject to adjustment to reflect certain capital events) (a **Redemption**);

- (c) upon a liquidation, dissolution or winding up of New BIPC, holders of New Exchangeable Shares are entitled to receive BIP Units (or their cash equivalent, at New BIPC's election) on a one-for-one basis (subject to adjustment to reflect certain capital events) and not any remaining property or assets of New BIPC following such payment (a **New BIPC Liquidation**);
 - (d) upon a liquidation, dissolution or winding up of BIP (a **BIP Liquidation**), including where substantially concurrent with a New BIPC Liquidation, all of the New Exchangeable Shares will be automatically redeemed for BIP Units (or their cash equivalent, at New BIPC's election) on a one-for-one basis (subject to adjustment to reflect certain capital events); and
 - (e) subject to applicable law and in accordance with the New Exchangeable Share Provisions, each New Exchangeable Share entitles the holder to dividends from New BIPC payable at the same time as, and equivalent to, each distribution on a BIP Unit. The New Exchangeable Share Provisions also provide that if a distribution is declared on the BIP Units and an equivalent dividend is not declared and paid concurrently on the New Exchangeable Shares, then the undeclared or unpaid amount of such dividend accrues and accumulates and is to be paid upon the first to occur of any of the circumstances contemplated by paragraphs (a) to (d) above, if not yet paid.
41. Upon being notified by New BIPC that New BIPC has received a request for an Exchange, BIP has an overriding call right to purchase (or have one of its affiliates purchase) all of the New Exchangeable Shares that are the subject of the Exchange notice from the holder of New Exchangeable Shares for BIP Units (or their cash equivalent, at BIP's election) on a one-for-one basis (subject to adjustment to reflect certain capital events).
 42. Upon being notified by New BIPC that it intends to conduct a Redemption, BIP has an overriding call right to purchase (or have one of its affiliates purchase) all but not less than all of the then outstanding New Exchangeable Shares for BIP Units (or their cash equivalent, at BIP's election) on a one-for-one basis (subject to adjustment to reflect certain capital events).
 43. Upon the occurrence of a BIP Liquidation or a New BIPC Liquidation, BIP has an overriding liquidation call right to purchase (or have one of its affiliates purchase) all but not less than all of the then outstanding New Exchangeable Shares on the day prior to the effective date of such BIP Liquidation or New BIPC Liquidation for BIP Units on a one-for-one basis (subject to adjustment to reflect certain capital events).
 44. In connection with the Reorganization, Brookfield entered into a rights agreement (the **Rights Agreement**) pursuant to which it agreed that, until March 31, 2025, Brookfield will guarantee New BIPC's obligation to deliver BIP Units or their cash equivalent in connection with an Exchange. The Rights Agreement replaced the rights agreement in respect of exchanges of Exchangeable Shares.
 45. Investments in New Exchangeable Shares are, as nearly as practicable, functionally and economically, equivalent to an investment in BIP Units. BIP expects that:

- (a) investors of New Exchangeable Shares will purchase New Exchangeable Shares as an alternative way of owning BIP Units rather than a separate and distinct investment; and
 - (b) the market price of the New Exchangeable Shares will be significantly impacted by (i) the combined business performance of New BIPC and BIP as a single economic unit, and (ii) the market price of the BIP Units, in a manner that results in the market price of the New Exchangeable Shares closely tracking the market price of the BIP Units.
46. A holder of New Exchangeable Shares will be able to terminate its investment by either (a) selling the New Exchangeable Shares on the NYSE or the TSX, or (b) selling the BIP Units received by operation of the New Exchangeable Share Provisions on the NYSE or the TSX.

Share Capital of BIPC after the Reorganization

47. Following completion of the Reorganization:
- (a) the authorized share capital of BIPC consists of: (i) an unlimited number Class A.1 Shares; (ii) an unlimited number of Class A.2 Shares; (iii) an unlimited number of Class B Shares; (iv) an unlimited number of Class C Shares; (v) an unlimited number of class A senior preferred shares (issuable in series); and (vi) an unlimited number of class B junior preferred shares (issuable in series); and
 - (b) there are (based on the issued and outstanding share capital of BIPC as of October 15, 2024):
 - (i) 119,011,651 Class A.1 Shares issued and outstanding, all of which are held by New BIPC;
 - (ii) 13,012,789 Class A.2 Shares issued and outstanding, all of which are held by Brookfield and its subsidiaries;
 - (iii) three (3) Class B Shares issued and outstanding, two (2) of which are held by CanHoldco, and one (1) of which is held by New BIPC;
 - (iv) 11,117,660 Class C Shares issued and outstanding, all of which are held by CanHoldco;
 - (v) zero class A senior preferred shares issued and outstanding; and
 - (vi) zero class B junior preferred shares issued and outstanding.
48. Other than the ability to receive additional dividends at such time as there are no unpaid dividends in respect of the Class A.1 Shares or the Class A.2 Shares, and if, as and when declared by the board of directors of BIPC (the **Additional Dividends**), the Class A.1 Shares have terms that are substantially the same as the New Exchangeable Shares, including with respect to the exchange mechanics, dividend rights, voting rights and rights on liquidation. It

is expected that Additional Dividends may be declared from time to time in order to fund expenses of New BIPC.

49. The Class A.1 Shares carry one (1) vote per share, and the holders of the Class A.1 Shares are entitled to an aggregate 25% voting interest in BIPC. Each Class A.1 Share has been structured with the intention of providing an economic return equivalent to a BIP Unit and the rights, privileges, restrictions and conditions attached to each Class A.1 Share (the **A.1 Exchangeable Share Provisions**) are such that each Class A.1 Share is, as nearly as practicable, functionally and economically, equivalent to a New Exchangeable Share and a BIP Unit. In particular:
- (a) each Class A.1 Share is exchangeable at the option of a holder for one (1) BIP Unit (subject to adjustment to reflect certain capital events) or its cash equivalent (the form of payment to be determined at the election of BIPC);
 - (b) the Class A.1 Shares are redeemable by BIPC at any time (including following a notice requiring redemption having been given by BIP) for BIP Units (or their cash equivalent, at BIPC's election) on a one-for-one basis (subject to adjustment to reflect certain capital events);
 - (c) upon a liquidation, dissolution or winding up of BIPC (a **BIPC Liquidation**), holders of Class A.1 Shares are entitled to receive BIP Units (or their cash equivalent, at BIPC's election) on a one-for-one basis (subject to adjustment to reflect certain capital events) and not any remaining property or assets of BIPC following such payment;
 - (d) upon a BIP Liquidation, including where substantially concurrent with a BIPC Liquidation, all of the Class A.1 Shares will be automatically redeemed for BIP Units (or their cash equivalent, at BIPC's election) on a one-for-one basis (subject to adjustment to reflect certain capital events); and
 - (e) subject to applicable law and in accordance with the A.1 Exchangeable Share Provisions, each Class A.1 Share entitles the holder to dividends from BIPC payable at the same time as, and equivalent to, each distribution on a BIP Unit. The A.1 Exchangeable Share Provisions also provide that if a distribution is declared on the BIP Units and an equivalent dividend is not declared and paid concurrently on the Class A.1 Shares, then the undeclared or unpaid amount of such dividend accrues and accumulates and is to be paid upon the first to occur of any of the circumstances contemplated by paragraphs (a) to (d) above, if not yet paid.
50. As required pursuant to the terms of the Pairing Agreement, any and all Class A.1 Shares will be held by New BIPC. New BIPC may use the exchange right pursuant to the A.1 Exchangeable Share Provisions to obtain BIP Units necessary, from time to time, to satisfy exchanges of the New Exchangeable Shares.
51. Each Class A.2 Share is non-voting and structured with the intention of providing an economic return equivalent to a BIP Unit, and the rights, privileges, restrictions and conditions attached to each Class A.2 Share (the **A.2 Exchangeable Share Provisions**) are

such that each Class A.2 Share is, as nearly as practicable, functionally and economically, equivalent to a New Exchangeable Share and a BIP Unit. In particular:

- (a) each Class A.2 Share is exchangeable at the option of a holder for (i) one (1) New Exchangeable Share (subject to adjustment to reflect certain capital events) or its cash equivalent (the form of payment to be determined at the election of BIPC), or (ii) one (1) BIP Unit (subject to adjustment to reflect certain capital events) or its cash equivalent (the form of payment to be determined at the election of BIPC), provided that, after giving effect to any such exchange, Brookfield and its subsidiaries are not permitted to receive a number of New Exchangeable Shares that would result in Brookfield and its subsidiaries owning 9.5% or more of the aggregate fair market value of all issued and outstanding shares of New BIPC (the **Ownership Cap**);
 - (b) the Class A.2 Shares are redeemable by BIPC at any time (including following a notice requiring redemption having been given by BIP) for (i) one (1) New Exchangeable Share (subject to adjustment to reflect certain capital events) or its cash equivalent (the form of payment to be determined at the election of BIPC), or (ii) one (1) BIP Unit (subject to adjustment to reflect certain capital events) or its cash equivalent (the form of payment to be determined at the election of BIPC);
 - (c) upon a BIPC Liquidation, holders of Class A.2 Shares are entitled to receive one (1) BIP Unit (subject to adjustment to reflect certain capital events) or its cash equivalent (the form of payment to be determined at the election of BIPC) and not any remaining property or assets of BIPC following such payment;
 - (d) upon a BIP Liquidation, including where substantially concurrent with a BIPC Liquidation, all of the Class A.2 Shares will be automatically redeemed for BIP Units (or their cash equivalent, at BIPC's election) on a one-for-one basis (subject to adjustment to reflect certain capital events); and
 - (e) subject to applicable law and in accordance with the A.2 Exchangeable Share Provisions, each Class A.2 Share entitles the holder to dividends from BIPC payable at the same time as, and equivalent to, each distribution on a BIP Unit. The A.2 Exchangeable Share Provisions also provide that if a distribution is declared on the BIP Units and an equivalent dividend is not declared and paid concurrently on the Class A.2 Shares, then the undeclared or unpaid amount of such dividend accrues and accumulates and is to be paid upon the first to occur of any of the circumstances contemplated by paragraphs (a) to (d) above, if not yet paid.
52. The Ownership Cap is designed to preserve New BIPC's status as a "mutual fund corporation" under the Tax Act.
53. The Class B Shares continue to be structured to provide the holders with control of BIPC. In particular:
- (a) holders of Class B Shares are entitled to, in the aggregate, a number of votes equal to three (3) times the number of votes attached to the Class A.1 Shares. As a result,

holders of Class B Shares have a 75% voting interest in BIPC and holders of Class A.1 Shares have a 25% voting interest in BIPC; and

- (b) in the event that a share/stock dividend is declared and paid on the Class A.1 Shares, a share/stock dividend will be paid to holders of Class B Shares in an equal number of Class B Shares as Class A.1 Shares are paid to holders of Class A.1 Shares.
54. The only voting securities of BIPC are the Class A.1 Shares and the Class B Shares.
55. The Class C Shares were unaffected by the Reorganization and continue to be structured to provide the holders thereof with all of the residual value in BIPC. In particular:
- (a) subject to applicable law and in accordance with the terms of the Class C Shares, only holders of Class C Shares are entitled to a residual right to participate, on a BIPC Liquidation, in its assets;
 - (b) subject to applicable law and in accordance with the term of the Class C Shares, subject to the prior rights of the holders of the Class A.1 Shares and Class A.2 Shares and of any preferred shares then outstanding, the holders of Class C Shares are entitled to receive dividends if, as, and when declared by the board of directors of BIPC; and
 - (c) share/stock dividends, if any, will be paid to holders of Class C Shares in an equal number of Class C Shares as Class A.1 Shares are paid to holders of Class A.1 Shares and Class A.2 Shares are paid to holders of Class A.2 Shares.
56. The Class B Shares and Class C Shares continue to be subject to restrictions on transfer, other than to BIP or persons controlled by BIP.

Issuance of BIP Units Under the Rights Agreement

57. The attributes of the New Exchangeable Shares, as set out in the New Exchangeable Share Provisions, and the trades contemplated by the Rights Agreement involve or may involve:
- (a) the delivery by Brookfield of BIP Units to a holder of New Exchangeable Shares; and
 - (b) the first trade of BIP Units received by a holder of New Exchangeable Shares in connection with the Rights Agreement.
58. Under section 2.42 of National Instrument 45-106 *Prospectus Exemptions* and in connection with the conversion, exchange, or exercise of a security, the Prospectus Requirement does not apply to a distribution by an issuer if (a) the issuer distributes a security of its own issue to a security holder of the issuer in accordance with the terms and conditions of a security previously issued by that issuer, or (b) subject to certain notification requirements, the issuer distributes a security of a reporting issuer held by it to a security holder of the issuer in accordance with the terms and conditions of a security previously issued by that issuer.
59. If New BIPC were to issue New Exchangeable Shares pursuant to a future prospectus offering and Brookfield were required to deliver the BIP Units pursuant to the Rights Agreement with respect to those New Exchangeable Shares, it could not rely on paragraph 2.42(1)(b) of NI 45-

106, because Brookfield would be delivering BIP Units to a security holder of New BIPC, not of Brookfield.

60. In absence of an exemption, the delivery by Brookfield of BIP Units to a holder of New Exchangeable Shares, must comply with the Prospectus Requirement under the Legislation in each jurisdiction of Canada where the delivery occurs.
61. The New Exchangeable Shares represent part of the equity value of BIP and are functionally and economically equivalent to the BIP Units. As a result of the New Exchangeable Share Provisions, holders of New Exchangeable Shares have the ability to receive a BIP Unit or its cash equivalent (the form of payment to be determined at the election of New BIPC) and will receive identical distributions to the BIP Units, as and when declared by the board of directors of New BIPC. Moreover, the economic interests that underlie the New Exchangeable Shares are identical to those underlying the BIP Units; namely, the assets and operations held directly or indirectly by BIP.
62. A key factor in ensuring that an investment in New Exchangeable Shares is as nearly as practicable, functionally and economically equivalent to an investment in BIP Units is the ability of holders of New Exchangeable Shares to (a) exchange their New Exchangeable Shares, (b) receive BIP Units on the exchange, and (c) sell the BIP Units on the NYSE or the TSX.
63. Relief from the Prospectus Requirement for the delivery by Brookfield of BIP Units to holders of New Exchangeable Shares issued pursuant to a future prospectus offering is necessary for the operation of the backstop provided by Brookfield to holders of New Exchangeable Shares. As such, the Filers submit that granting relief from the Prospectus Requirement is not contrary to the public interest.

Qualification to File Short Form Prospectus

64. New BIPC wishes to be eligible to file short form prospectuses under NI 44-101. New BIPC's eligibility to file short form and shelf prospectuses is critical to its viability as an issuer of a security offering an alternative way of owning BIP Units. In addition, there are short time frames associated with financings undertaken in current market conditions. As a result, the relief from the Short Form Prospectus Eligibility Requirements is being sought concurrently with the completion of the Reorganization and any possible follow-on distribution of New BIPC securities.
65. The qualification criteria for short form prospectus eligibility are outlined in section 2.2 of NI 44-101. Having become a reporting issuer pursuant to the Reorganization, New BIPC satisfies all of the qualification criteria for short form prospectus eligibility in section 2.2 of NI 44-101 with the exception of subsection 2.2(e) which requires that an issuer's equity securities are listed and posted for trading on a short form eligible exchange and that an issuer is not an issuer whose (a) operations have ceased, or (b) whose principal asset is cash, cash equivalents, or its exchange listing (the **Short Form Prospectus Equity Security Requirement**). The term "equity security" is defined under the Legislation as a security that carries a residual right to participate in the earnings of the issuer and, on the liquidation or winding up of the issuer, in its assets. The New Exchangeable Shares do not carry a residual

right to participate in the assets of New BIPC upon liquidation or winding-up of New BIPC, and accordingly, are not equity securities under the Legislation.

66. In the event that New BIPC undertakes an offering or other distribution of its securities prior to the filing of its audited financial statements for the year ended December 31, 2024, New BIPC intends to rely on the exemption in subsection 2.7(2) of NI 44-101 from the requirements to have (a) current annual financial statements and (b) a current AIF.
67. New BIPC is not eligible for the exemption for alternative qualification criteria for conventional preferred shares under Part 2 of NI 44-101 because the New Exchangeable Shares are not conventional preferred shares.
68. It is appropriate for the New Exchangeable Shares to be treated as equity securities for the purposes of NI 44-101 since the New Exchangeable Shares are, in effect, the economic and voting equivalent of the BIP Units and the BIP Units qualify as equity securities under NI 44-101.
69. Except for not meeting the Short Form Prospectus Equity Security Requirement, New BIPC is otherwise qualified to file a prospectus in the form of a short form prospectus pursuant to, and in accordance with, NI 44-101.

Qualification of At-the-Market Distribution

70. Pursuant to section 9.3(1)(b) of NI 44-102, only equity securities may be distributed by way of an at-the-market distribution using the shelf procedures. As noted above, the New Exchangeable Shares are not equity securities under the Legislation.
71. Based on the rationale provided in paragraphs 45, 65, 68 and 69 above, the Filers submit that it is not prejudicial to the public interest to exempt New BIPC from the At-the-Market Distribution Eligibility Requirements.

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:

1. the Prospectus Requirement shall not apply to the delivery by Brookfield of BIP Units to holders of New Exchangeable Shares for the duration of the Rights Agreement, provided that:
 - (a) such BIP Units are delivered strictly pursuant to Brookfield's agreement to guarantee New BIPC's obligation to deliver BIP Units in connection with an Exchange under the terms of the Rights Agreement;
 - (b) BIP is a reporting issuer, as defined in the Legislation, in a jurisdiction of Canada at the time such relief is relied upon for the delivery of BIP Units;

- (c) the terms of the Rights Agreement are not materially amended; and
 - (d) Brookfield has provided prior written notice of the distribution to the principal regulator in accordance with the terms of subsection 2.42(2) of NI 45-106;
2. any first trade in BIP Units acquired by a holder of New Exchangeable Shares in connection with Brookfield satisfying its obligations under the Rights Agreement shall not be a distribution under the Legislation, provided that:
- (a) BIP is and has been a reporting issuer, as defined in the Legislation, in a jurisdiction of Canada for the four months immediately preceding the trade;
 - (b) the trade is not in previously issued securities of an issuer from the holdings of any control person, as that term is defined in subsection 1(1) of the *Securities Act* (Ontario);
 - (c) no unusual effort is made to prepare the market or to create a demand for the BIP Units;
 - (d) no extraordinary commission or consideration is paid to a person or company in respect of the trade;
 - (e) if the selling securityholder is an insider or officer of BIP, the selling security holder has no reasonable grounds to believe that BIP is in default of securities legislation; and
 - (f) the terms of the Rights Agreement are not materially amended;
3. the decision as it relates to the Prospectus Requirement shall terminate on the day on which the Rights Agreement is terminated;
4. New BIPC does not have to comply with the Short Form Prospectus Eligibility Requirements so long as:
- (a) New BIPC is otherwise qualified to file a preliminary short form prospectus under section 2.2 of NI 44-101;
 - (b) the New Exchangeable Shares are listed and posted for trading on a short form eligible exchange (as defined in NI 44-101);
 - (c) New BIPC is not an issuer whose operations have ceased;
 - (d) New BIPC is not an issuer whose principal asset is cash, cash equivalents, or its exchange listing; and
 - (e) the BIP Units qualify as equity securities under NI 44-102;
5. New BIPC does not have to comply with the At-the-Market Distribution Requirements so long as:

- (a) New BIPC otherwise satisfies the conditions set out in section 9.3 of NI 44-102 to distribute securities under an ATM prospectus (as defined in NI 44-102) as part of an at-the-market distribution;
- (b) the security being distributed is a New Exchangeable Share; and
- (c) the BIP Units qualify as equity securities under NI 44-102.

“Erin O’Donovan”

Erin O’Donovan
Manager, Corporate Finance Division
Ontario Securities Commission

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