

either by means of facsimile transmission to 301-415-3725 or by e-mail to [OGCMailCenter@nrc.gov](mailto:OGCMailCenter@nrc.gov). A copy of the request for hearing and petition for leave to intervene should also be sent to the attorney for the licensee.

Nontimely filings of petitions for leave to intervene, amended petitions, supplemental petitions and/or requests for a hearing will not be entertained absent a determination by the Commission, the presiding officer or the Atomic Safety and Licensing Board that the petition and/or request should be granted based upon a balancing of the factors specified in 10 CFR 2.714(a)(1)(i)-(v) and 2.714(d).

*Carolina Power & Light Company, Docket No. 50-261, H. B. Robinson Steam Electric Plant, Unit No. 2, Darlington County, South Carolina*

*Date of application for amendment:* January 16, 2003, as supplemented on January 31, 2003.

*Brief description of amendment:* The amendment modifies Technical Specification 3.1.7 to permit the use of an alternate method of determining rod position for Control Rod H-10 until the end of Cycle 22 or until the next shutdown of sufficient duration, whichever occurs first.

*Date of issuance:* February 13, 2003.

*Effective date:* February 13, 2003.

*Amendment No.* 197.

*Facility Operating License No. DPR-23.* Amendment revised the Technical Specifications.

*Public comments requested as to proposed no significant hazards consideration (NSHC):* Yes (68 FR 3556 dated January 24, 2003). The notice provided an opportunity to submit comments on the Commission's proposed NSHC determination. No comments have been received. The notice also provided for an opportunity to request a hearing by February 24, 2003, but indicated that if the Commission makes a final NSHC determination, any such hearing would take place after issuance of the amendment.

The Commission's related evaluation of the amendment, finding of exigent circumstances, and final determination of NSHC are contained in a Safety Evaluation dated February 13, 2003.

*Attorney for licensee:* William D. Johnson, Vice President and Corporate Secretary, Carolina Power & Light Company, Post Office Box 1551, Raleigh, North Carolina 27602.

*NRC Section Chief:* Allen G. Howe.

Dated at Rockville, Maryland, this 21st day of February 2003.

For the Nuclear Regulatory Commission.

**John A. Zwolinski,**

*Director, Division of Licensing Project Management, Office of Nuclear Reactor Regulation.*

[FR Doc. 03-4623 Filed 3-3-03; 8:45 am]

**BILLING CODE 7590-01-P**

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## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-47400; File No. SR-CBOE-2003-03]

### Self-Regulatory Organizations; Notice of Filing of Proposed Rule Change by the Chicago Board Options Exchange, Inc. Relating to the Withdrawal of Approval for Securities Underlying Options Traded on the Exchange

February 25, 2003.

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"),<sup>1</sup> and Rule 19b-4 thereunder,<sup>2</sup> notice is hereby given that on January 27, 2003, the Chicago Board Options Exchange, Inc. ("CBOE" or "Exchange") filed with the Securities and Exchange Commission ("Commission") the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the CBOE. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

#### I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The CBOE proposes to amend CBOE Rule 5.4, which governs the withdrawal of approval for securities underlying options traded on the Exchange. The text of the proposed rule change is available at the Office of the Secretary, CBOE and at the Commission.

#### II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

<sup>1</sup> 15 U.S.C. 78s(b)(1).

<sup>2</sup> 17 CFR 240.19b-4.

#### A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

##### 1. Purpose

CBOE Rule 5.4 sets forth the guidelines to be considered by the Exchange in determining whether an underlying security previously approved for Exchange option transactions no longer meets its requirements for the continuance of such approval. Specifically, Interpretation and Policy .01(a) to CBOE Rule 5.4 provides that absent exceptional circumstances, the Exchange may not list additional series on an option class if there are fewer than 6,300,000 shares of the underlying security held by persons other than those who are required to report their security holdings under section 16(a) of Act<sup>3</sup> (the "float" requirement). Interpretation and Policy .01(b) to CBOE Rule 5.4 provides that, absent exceptional circumstances, the Exchange may not list additional series on an option class if there are fewer than 1,600 holders of the underlying security (the "holders" requirement).

The Exchange is now proposing to add new Interpretation and Policy .11 to CBOE Rule 5.4 to clarify the manner in which the Exchange determines whether the so-called "float" of the underlying security was fewer than 6.3 million shares or the number of "holders" of the underlying security was fewer than 1,600.

Specifically, the Exchange proposes to expressly state that in determining whether any of the events specified in Interpretation and Policy .01(a) or (b) to CBOE Rule 5.4 have occurred, the Exchange would monitor on a daily basis news sources for information of corporate actions, including stock splits, mergers and acquisitions, distribution of special cash dividends, recapitalizations, and stock buy backs. If a corporate action indicates that an underlying security no longer meets the Exchange's requirements for continued approval under Interpretation and Policy .01(a) or (b) to CBOE Rule 5.4, the Exchange would not open additional series of option contracts of the class covering the underlying security. If, however, information of a corporate action does not indicate that any of the events specified in Interpretation and Policy .01(a) or (b) to CBOE Rule 5.4 have occurred, the Exchange shall consider the events specified in

<sup>3</sup> 15 U.S.C. 78p(a).

Interpretation and Policy .01(a) and (b) to have been satisfied.<sup>4</sup>

## 2. Statutory Basis

The Exchange believes that the current proposal will allow it to provide investors with those options that are most useful and demanded by them without sacrificing any investor protection. As such, the Exchange believes that the proposed rule change is consistent with section 6(b) of the Act,<sup>5</sup> in general, and furthers the objectives of section 6(b)(5) of the Act,<sup>6</sup> in particular, in that it is designed to promote just and equitable principles of trade, to facilitate transactions in securities, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and to protect investors and the public interest.

### *B. Self-Regulatory Organization's Statement on Burden on Competition*

The Exchange does not believe that the proposed rule change will impose any unnecessary or inappropriate burdens on competition.

### *C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others*

No written comments were solicited or received with respect to the proposed rule change.

## III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 35 days of the date of publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding, or (ii) as to which the Exchange consents, the Commission will:

(A) By order approve such proposed rule change; or

(B) Institute proceedings to determine whether the proposed rule change should be disapproved.

<sup>4</sup> The Exchange represents that existing Interpretation and Policy .03 to CBOE Rule 5.4 would continue to apply when the Exchange considers whether any of the events specified in Interpretation and Policy .01 have occurred with respect to an underlying security. Specifically, Interpretation and Policy .03 to CBOE Rule 5.4 provides that the Exchange shall ordinarily rely on information made publicly available by the issuer and/or markets in which such security is traded. Telephone conversation between Patrick Sexton, CBOE, and Frank N. Genco, Attorney, Division of Market Regulation, Commission, on February 11, 2003.

<sup>5</sup> 15 U.S.C. 78f(b).

<sup>6</sup> 15 U.S.C. 78f(b)(5).

## IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549-0609. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room. Copies of the filing will also be available for inspection and copying at the principal offices of the Exchange. All submissions should refer to File No. SR-CBOE-2003-03 and should be submitted by March 25, 2003.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.<sup>7</sup>

**Margaret H. McFarland,**  
*Deputy Secretary.*

[FR Doc. 03-4952 Filed 3-3-03; 8:45 am]

BILLING CODE 8010-01-P

## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-47393; File No. SR-CBOE-2002-40]

### **Self-Regulatory Organizations; Order Granting Accelerated Approval of a Proposed Rule Change and Amendment No. 1 and Notice of Filing and Order Granting Accelerated Approval of Amendment No. 2 Thereto by the Chicago Board Options Exchange, Inc. Relating to Options on the CBOE Asian 25 Index and Options on the CBOE Euro 25 Index**

February 24, 2003.

#### I. Introduction

On July 22, 2003, the Chicago Board Options Exchange, Inc. ("CBOE" or "Exchange") filed with the Securities and Exchange Commission ("Commission"), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act")<sup>1</sup> and Rule 19b-4

thereunder,<sup>2</sup> a proposed rule change to provide for the listing and trading of options on the CBOE Euro 25 Index and the CBOE Asian 25 Index, both broad-based indexes. On January 13, 2003, CBOE filed Amendment No. 1 to the proposed rule change.<sup>3</sup> Notice of the proposed rule change, as amended, appeared in the **Federal Register** on February 5, 2003.<sup>4</sup> The Commission received no comments on the proposed rule change. On February 19, 2003, CBOE filed Amendment No. 2 to the proposed rule change and requested accelerated effectiveness of the proposed rule change.<sup>5</sup> This order approves the proposed rule change, as amended, on an accelerated basis.

## II. Description of the Proposed Rule Change

CBOE proposes to list and trade cash-settled, European-style stock index options on the CBOE Euro 25 Index and the CBOE Asian 25 Index, both broad-based indexes. The CBOE Euro 25 Index and the CBOE Asian 25 Index are capitalization-weighted indexes of twenty-five (25) American Depository Receipts ("ADR"), New York Registered Shares ("NYS"), or NYSE Global Shares® ("NGS"), which are traded on the New York Stock Exchange, Inc. ("NYSE"), the American Stock Exchange LLC ("AMEX"), or the NASDAQ.

### A. Index Design

The CBOE Euro 25 Index and the CBOE Asian 25 Index have each been designed to measure the performance of large market capitalization companies in their respective regions.<sup>6</sup> Options on

<sup>2</sup> 17 CFR 240.19b-4.

<sup>3</sup> See letter from James Flynn, Legal Division, CBOE, to Nancy Sanow, Assistant Director, Division of Market Regulation ("Division"), Commission, dated January 10, 2003 ("Amendment No. 1") (replacing the original filing in its entirety). Amendment No. 1, among other things: (1) Clarified the initial and maintenance criteria for the underlying component securities of the indices, including further detail on the component securities that are ADRs and not subject to comprehensive surveillance agreements; (2) clarified that options on both indices will be A.M. settled; (3) provided more recent market capitalization and weighting figures; and (4) specified that CBOE's surveillance procedures are adequate to monitor the trading of these products.

<sup>4</sup> See Securities Exchange Act Release No. 47287 (January 30, 2003), 68 FR 5942.

<sup>5</sup> See letter from James Flynn, Legal Division, CBOE, to Nancy Sanow, Assistant Director, Division, Commission, dated February 18, 2003 ("Amendment No. 2"). In Amendment No. 2, CBOE requests accelerated effectiveness of the proposed rule change to begin listing and trading options on the CBOE Euro 25 and CBOE Asian 25 Indexes.

<sup>6</sup> The Exchange will make an updated list of the components underlying each index available to the public on the internet by accessing the following

<sup>7</sup> 17 CFR 200.30-3(a)(12).

<sup>1</sup> 15 U.S.C. 78s(b)(1).