(ADAMS) to communicate its ''General Statement of Policy and Procedure for NRC Enforcement Actions—Enforcement Policy,'' to discontinue publication of the paper document, NUREG–1600, and to simplify the official policy statement title. The NRC is taking these actions because the policy statement is available electronically on the NRC public Web site and is widely known as the ''NRC Enforcement Policy.''

DATES: Comments on this initiative may be submitted on or before April 15, 2005.

ADDRESSES: Submit written comments to: Michael T. Lesar, Chief, Rules and Directives Branch, Division of Administrative Services, Office of Administration, Mail Stop: T6D59, U. S. Nuclear Regulatory Commission, Washington, DC 20555–0001. Hand deliver comments to: 11555 Rockville Pike, Rockville, Maryland, between 7:30 a.m. and 4:15 p.m., Federal workdays. Copies of comments received may be examined at the NRC Public Document Room, Room O1F21, 11555 Rockville Pike, Rockville, MD. You may also e-mail comments to *nrcrep@nrc.gov.*

FOR FURTHER INFORMATION CONTACT: Renée Pedersen, Senior Enforcement Specialist, Office of Enforcement, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, (301) 415–2742, e-mail *rmp@nrc.gov.*

SUPPLEMENTARY INFORMATION: The Commission first published its ''General Statement of Policy and Procedure for NRC Enforcement Actions—Enforcement Policy,'' (Enforcement Policy) on October 7, 1980 (45 FR 66754). The Policy was codified as Appendix C to Part 2 of Title 10 of the Code of Federal Regulations to provide widespread dissemination. However, the Enforcement Policy has always included a statement recognizing that it is a policy statement and not a regulation. An underlying basis of the Enforcement Policy reflected throughout it is that the determination of the appropriate sanction requires the exercise of discretion such that each action is tailored to the particular factual situation.

On June 30, 1995, the NRC announced that it was removing the Enforcement Policy from the Code of Federal Regulations (60 FR 34380). This action was part of an enforcement program review, to avoid any interpretation that the policy should be construed as a regulation. To continue to ensure widespread dissemination, the NRC published the Enforcement Policy in its NUREG-series publications as NUREG–1600 and continued to publish revisions to the Enforcement Policy in the **Federal Register**. NUREG–1600 was first published in July of 1995. The last complete revision that was issued as a NUREG-series publication (NUREG–1600) was dated May 1, 2000. However, the Enforcement Policy has been revised on multiple occasions (as published in the **Federal Register**) without being republished as a NUREG document.

The NRC maintains the current Enforcement Policy on its Web site at *http://www.nrc.gov,* select What We Do, Enforcement, then Enforcement Policy. The Enforcement Web site also includes a history of the Enforcement Policy by including and/or referencing the **Federal Register** notice for each policy revision since it was first published in 1980. This section of the Web site will continue to be updated with any future revisions to the Enforcement Policy.

Preparation and publication of the NUREG is costly and consumes resources, personnel, and paper. The Commission believes that widespread dissemination of the NRC's Enforcement Policy can now be accomplished more effectively and efficiently by posting it on the NRC public Web site and maintaining it in ADAMS. Continuing to publish material in hard copy when the information is currently and promptly available electronically is not consistent with the Congressional mandate to maximize the value of Information Technology acquisitions and the direction the NRC has taken with its implementation of ADAMS. The staff will continue to publish revisions to the Enforcement Policy in the **Federal Register**. Additionally, the staff will continue its practice of sending printed copies of the most current Enforcement Policy to those licensees and individuals being considered for significant enforcement action who may not have access to the Web site; and to any interested stakeholder upon request.

On July 13, 2000, the NRC made a similar announcement in the **Federal Register** proposing to discontinue publishing NUREG–0940, ''Enforcement Actions: Significant Actions Resolved,'' (65 FR 43383). The NRC only received comments supporting this initiative.

For the above reasons, the Commission believes that publication of NUREG–1600 is no longer needed. In addition, in keeping with plain English initiatives, the staff believes that it is appropriate to simplify the official title from, ''General Statement of Policy and Procedure for NRC Enforcement Actions—Enforcement Policy,'' to ''NRC Enforcement Policy.''

Dated at Rockville, MD, this 10th day of March, 2005.

For the Nuclear Regulatory Commission.

Annette L. Vietti-Cook,

Secretary of the Commission.

[FR Doc. 05–5119 Filed 3–15–05; 8:45 am]

BILLING CODE 7590–01–P

SECURITIES AND EXCHANGE COMMISSION

[Investment Company Act Release No. 26781; 812–12901]

The Brazilian Equity Fund, Inc., et al.; Notice of Application

March 9, 2005.

AGENCY: Securities and Exchange Commission (''Commission'').

ACTION: Notice of an application under section 17(b) of the Investment Company Act of 1940 (the ''Act'') for an exemption from section 17(a) of the Act and under rule 17d–1 under the Act to permit certain joint transactions.

SUMMARY OF APPLICATION: Applicants request an order permitting the proposed settlement of certain litigation in which the applicants are named as defendants.

APPLICANTS: The Brazilian Equity Fund, Inc. (''Fund''), Credit Suisse Asset Management, LLC (''Adviser''), Enrique R. Arzac (''Arzac''), James J. Cattano (''Cattano''), George W. Landau (''Landau''), Martin M. Torino (''Torino'') and Richard W. Watt (''Watt,'' and together with Arzac, Cattano, Landau and Torino, the ''Director Applicants'').

FILING DATES: The application was filed on November 8, 2002 and amended on February 15, 2005.

HEARING OR NOTIFICATION OF HEARING: An order granting the application will be issued unless the Commission orders a hearing. Interested persons may request a hearing by writing to the Commission's Secretary and serving applicants with a copy of the request, personally or by mail. Hearing requests should be received by the Commission by 5:30 p.m. on March 30, 2005, and should be accompanied by proof of service on the applicants, in the form of an affidavit, or, for lawyers, a certificate of service. Hearing requests should state the nature of the writer's interest, the reason for the request, and the issues contested. Persons who wish to be notified of a hearing may request notification by writing to the Commission's Secretary.

ADDRESSES: Secretary, Commission, 450 Fifth Street, NW., Washington, DC

20549–0609; Applicants, c/o Credit Suisse Asset Management, LLC, 466 Lexington Avenue, New York, NY 10017.

FOR FURTHER INFORMATION, CONTACT: Courtney S. Thornton, Senior Counsel, at (202) 551–6812, or Michael W. Mundt, Senior Special Counsel, at (202) 551–6821 (Division of Investment Management, Office of Investment Company Regulation).

SUPPLEMENTARY INFORMATION: The following is a summary of the application. The complete application may be obtained for a fee at the Commission's Public Reference Branch, 450 Fifth Street, NW., Washington, DC 20549–0102 (telephone (202) 942–8090).

Applicants' Representations

1. The Fund, a corporation organized under the laws of the state of Maryland, is a closed-end management investment company registered under the Act. Shares of the Fund trade on the New York Stock Exchange (''NYSE''). The Adviser, which is an investment adviser registered under the Investment Advisers Act of 1940, serves as the Fund's investment adviser.

2. The Adviser, the Fund, and certain of the Fund's current and former directors (the ''Director Defendants'') are defendants in a derivative and class action lawsuit filed in the United States District Court for the Southern District of New York (''District Court'').[1] The action (''Rights Offering Litigation''), which commenced in May 1997, arose out of the Fund's 1996 rights offering of its common stock (''Rights Offering''). In his derivative capacity, the plaintiff alleged that, in approving the Rights Offering, the Director Defendants put the interests of the Adviser ahead of the interests of the Fund's shareholders, thereby breaching their duties of loyalty and due care to the shareholders of the Fund. The class action claim included similar assertions but alleged that the Fund's shareholders were injured directly by the Director Defendants' breach of their fiduciary duties. Specifically, the complaint alleged violations of section 36(b) of the Act (derivatively against the Adviser), section 36(a) of the Act (against all defendants except the Fund), section 48 of the Act (against the Director Defendants and the Fund), section 36(a) of the Act (derivatively against all defendants except the Fund), and for breach of fiduciary duty at common law.

3. On September 15, 1997, the defendants filed a motion to dismiss the complaint in its entirety. The District Court granted the motion to dismiss with respect to all class action claims and the section 36(b) claim, but denied it with respect to all remaining derivative claims. Thereafter, the Fund named from among its directors who are not ''interested persons'' of the Fund within the meaning of section 2(a)(19) of the Act (''Independent Directors'') two directors who are not Director Defendants to act as a special litigation committee (''Special Litigation Committee'') to investigate the matter and determine whether any of the claims asserted in the complaint ought to be prosecuted on behalf of the Fund. The Special Litigation Committee concluded that the litigation should be discontinued and filed a motion to dismiss the complaint in the derivative action. On September 15, 2000, the District Court granted summary judgment and dismissed all remaining derivative claims on the basis of the Special Litigation Committee's determination that continued prosecution of the derivative action was not in the best interests of the Fund or its shareholders. The plaintiff appealed this judgment on the grounds that the District Court had erroneously dismissed the class action claims in the response to the original (September 1997) motion to dismiss. On February 28, 2002, the Second Circuit Court of Appeals (''Second Circuit'') reversed the decision of the District Court and reinstated the class action claims, predicating its decision on its determination that the plaintiff had shareholder standing under Maryland state law to bring direct claims (as opposed to derivative claims). The Second Circuit left the Rights Offering Litigation to the District Court on remand.

4. In addition to the Rights Offering Litigation, the Adviser is a defendant in a separate action commenced on May 21, 1998 in the District Court (''Fee Litigation'' [2] and together with the Rights Offering Litigation, the ''Actions''). The initial complaint alleged that in negotiating the investment advisory fee with the Independent Directors (who were alleged to be not truly independent), the Adviser violated its fiduciary duty pursuant to section 36(b) of the Act.

5. The District Court dismissed the initial complaint upon motion by the Adviser, but gave the plaintiff leave to replead. The amended complaint restated the claim in the initial complaint but added an additional claim under Section 36(a) of the Act asserting that the Adviser was liable for breach of duty for negotiating an advisory agreement with directors who were allegedly not independent. The Adviser filed a motion to dismiss the amended complaint, but the District Court denied the motion subject to the plaintiff adding the Fund as a nominal defendant. The plaintiff subsequently filed a second amended complaint to add the Fund as a defendant. The defendants moved for summary judgment, and the District Court granted the motion on February 28, 2002. The plaintiff filed a notice of appeal of the judgment of the District Court on March 28, 2002.

6. Applicants state that, due to the inherent uncertainties of litigation, as well as the additional costs and expenses that would be necessary to further litigate the Actions, all parties to the Actions reached a settlement on September 12, 2002, following extensive settlement discussions. The settlement involves three separate agreements: A settlement agreement between the plaintiff and the defendants that has been approved by the District Court (''Settlement Agreement''); an agreement among the Fund, the Adviser, and Gulf Insurance Company (''Gulf'') relating to insurance coverage for certain expenses in connection with the litigation and settlement of the Actions (''Insurance Settlement Agreement''); and an agreement between the Fund and the Adviser to share insurance proceeds and certain expenses in connection with the litigation and settlement of the Actions (''Settlement Costs Sharing Agreement''). The complete terms and conditions of the proposed settlement were presented to and unanimously approved by the Fund's board of directors, including all of the Independent Directors, at a meeting held on June 27, 2002. In evaluating the settlement and throughout the settlement negotiation and evaluation process, the Independent Directors were advised by independent legal counsel.

7. The District Court approved the Settlement Agreement on April 7, 2003 and entered an order approving the Settlement Agreement on April 9, 2003. The principal terms and conditions of the Settlement Agreement are as follows:

a. The Fund will be liquidated and its net assets distributed to shareholders.

b. Class members in the Rights Offering Litigation will be entitled to receive either $1.00 or $0.25 per share (''Settlement Payments''), depending on whether they exercised their rights in the Rights Offering. The Settlement Payments have been fixed at $253,922.

[1] Robert Strougo v. Bassini, *et al.* (97 Civ. 3579) (RWS).

[2] Robert Strougo v. BEA Associates (98 Civ. 3725) (RWS).

c. Plaintiff was to apply to the District Court for an award of attorneys' fees and related amounts, not to exceed $735,000 plus reimbursement of expenses not exceeding $75,000, and a compensatory award not to exceed $15,000. Following an objection made by a Fund shareholder to the plaintiff's requested attorneys' fees, the amount awarded by the District Court was fixed at $500,000 plus $70,561 of disbursements, together with the $15,000 compensatory award, for a total award of $585,561 (collectively, ''Plaintiff's Fees and Expenses'').

d. The consummation of the Settlement Agreement is subject to certain other conditions including: (i) The Fund shareholder class shall have been certified for settlement by the District Court; (ii) the Fund's shareholders shall have duly approved the liquidation of the Fund, subject to the satisfaction of certain conditions; and (iii) the Adviser shall not have been terminated as adviser to the Fund by a shareholder vote. These conditions currently are satisfied.

8. The Fund and the Adviser asserted the right to insurance coverage from Gulf under an errors and omissions policy insuring both the Adviser and the Fund against certain losses, liabilities, and related defense costs. Gulf has agreed to fund the settlement of the Actions and to pay a portion of the defense costs incurred by the Adviser and the Fund in connection with the Actions.

9. Under the Insurance Settlement Agreement, which has not been reviewed or approved by the District Court, Gulf has agreed to reimburse: (a) The Fund and the Adviser for the Plaintiff's Fees and Expenses in the amount of $585,561; (b) the Fund and the Adviser for $253,922 to fund the Settlement Payments plus mailing and related expenses (estimated to be $25,000); and (c) $514,720 of certain costs and attorneys' fees billed to the Adviser, the Fund and the Director Defendants for defense of the Actions (''Defense Fee'') on or prior to December 31, 2001, and 87.5% of certain costs and fees billed to the Adviser, the Fund and the Director Defendants in connection with the litigation and settlement of the Actions after December 31, 2001. Any legal fees and expenses incurred in connection with the liquidation of the Fund (currently estimated at $103,350) will be borne by the Fund to the extent they are not paid by Gulf, and any legal fees and expenses incurred in connection with the Application (currently estimated at $75,000) will be split equally between the Fund and the Adviser, to the extent they are not paid by Gulf.

10. Applicants state that the Settlement Costs Sharing Agreement was the result of extensive negotiation between the Independent Directors and the Adviser. Pursuant to the Settlement Costs Sharing Agreement, which has not been reviewed or approved by the District Court, the Adviser and the Fund have agreed to share in equal parts the 12.5% portion of the certain costs and fees they have incurred or will incur in connection with the litigation and settlement of the Actions after December 31, 2001, that are not paid by Gulf. In addition, under the Settlement Costs Sharing Agreement:

a. The Adviser and the Fund agreed to bear equally any portion of the Settlement Payments not reimbursed by Gulf, although it has since been determined that Gulf's contribution will be sufficient to satisfy all claims.

b. The Adviser and the Fund have agreed that the Defense Fee will be payable $507,360 to the Adviser and $7,360 to the Fund. In consideration for this payment, the Adviser has agreed to waive any and all rights to indemnification from the Fund for the approximately $1.01 million in certain costs and fees incurred by it in connection with the Fee Litigation prior to December 31, 2001.[3] In addition, as consideration for receiving from Gulf 87.5% of certain of the Adviser's additional costs and fees in connection with the Actions after December 31, 2001, the Adviser has agreed to waive any and all rights to indemnification from the Fund for any such costs and fees not paid by Gulf.

c. The Adviser and the Fund also have agreed that all costs and fees not otherwise reimbursed by Gulf associated with (i) liquidating the Fund will be borne by the Fund, and (ii) applying for and obtaining the order requested by the application (''Order'') will be shared equally by the Adviser and the Fund.

11. Applicants state that in considering whether to approve the terms of the settlement, the Board, advised by independent legal counsel, reviewed and discussed at length the expected benefits to shareholders from the liquidation and dissolution of the Fund, including the realization by shareholders of their investment in the Fund at net asset value. The Board also reviewed information about the investment outlook for the Fund and the possible delisting of the Fund's shares from the NYSE as a result of the steady deterioration of the Fund's average market capitalization at that time. In approving the terms upon which the Fund participated in the settlement arrangements, the Board considered a number of factors, including: (i) The possibility that the Fund would have to reimburse the Adviser for additional legal expenses if the plaintiff appealed the District Court's granting of the Adviser's motion for summary judgment in the Fee Litigation; (ii) the conclusion by the Special Litigation Committee that there was no basis on the merits to institute an action against the Adviser in the Rights Offering Litigation; (iii) the re-institution by the Second Circuit of the class action claims in the Rights Offering Litigation, which could entail considerable legal expenses to defend; and (iv) the fact that under the terms of the settlement, most of the settlement costs would be absorbed by Gulf, and the Fund would be relieved of substantial reimbursement obligations to the Adviser. The Board also noted that extensive negotiations had been conducted between the Adviser and Gulf and between the Fund and the Adviser and concluded that the terms agreed upon were as favorable to the Fund as possible, short of commencing an action against Gulf to seek further recovery.

Applicants' Legal Analysis

1. Section 17(a)(1) of the Act generally prohibits an affiliated person of a registered investment company, or an affiliated person of an affiliated person, from selling any securities or other property to the company. The Adviser is an affiliated person of the Fund within the meaning of section 2(a)(3)(E) of the Act, which defines an affiliated person of an investment company to include any investment adviser to that investment company. Applicants state that the release by the Adviser of its right to indemnification (pursuant to the Advisory Agreement) from the Fund for fees and expenses incurred by the Adviser in the defense of the Actions in consideration of the Settlement Costs Sharing Agreement could be viewed as a sale of a property right by the Adviser to the Fund.

2. Section 17(b) of the Act authorizes the Commission to exempt a proposed

[3] Pursuant to the investment advisory agreement between the Adviser and the Fund (''Advisory Agreement''), the Adviser is entitled to (i) indemnification from the Fund for any losses arising from matters to which the Advisory Agreement relates (provided the Adviser has not engaged in ''disabling conduct'' (*i.e.*, willful misfeasance, bad faith or gross negligence)), and (ii) advances from the Fund for payment of reasonable expenses in connection with the matter as to which it is seeking indemnification, provided certain requirements are met. Accordingly, applicants state that the Adviser's waiver of its right to indemnification will result in a significant measurable economic benefit to the Fund and a significant economic cost to the Adviser.

transaction from section 17(a) provided that the terms of the transaction, including the consideration to be paid or received, are fair and reasonable and do not involve overreaching on the part of any person concerned, and the proposed transaction is consistent with the policy of the registered investment company as recited in its registration statement and with the general purposes of the Act.

3. Section 17(d) of the Act and rule 17d–1 under the Act generally prohibit an affiliated person of a registered investment company, or affiliated persons of an affiliated person, when acting as principal, from effecting any transaction in which the company is a joint or joint and several participant unless permitted by Commission order upon application. Applicants state that because the Adviser and the Director Applicants are affiliated persons of the Fund,[4] the proposed settlement could be deemed a transaction or arrangement prohibited by section 17(d) and rule 17d–1. In considering an application for an order under rule 17d–1, the Commission must determine whether the participation of the investment company in a joint enterprise or joint arrangement is consistent with the provisions, policies and purposes of the Act and the extent to which the company's participation would be on a basis different from or less advantageous than that of the other participants.

4. Applicants believe that the relative benefits from the proposed settlement to the Fund markedly outweigh its contributions to the settlement, and that the Fund's participation in the proposed settlement is on terms that are at least as favorable to the Fund as to the Adviser and the Director Applicants. Under the terms of the proposed settlement, the Fund's contributions are limited to the following: (a) 6.25% (50% of 12.5%) of the costs and fees incurred after December 31, 2001 in connection with the litigation and settlement of the Actions (the balance being paid by Gulf and the Adviser); (b) 50% of the costs associated with obtaining the Order after any contribution by Gulf; and (c) the costs associated with liquidating the Fund after any contribution by Gulf. The Fund will make no contribution in respect of the Settlement Payments and will be relieved of any payment obligations to the class members in the Rights Offering Litigation. In addition, as noted above, the Fund will be relieved of its obligation to indemnify the Adviser for the legal fees and expenses it has incurred in connection with the Actions.

5. Applicants state that the participation by the Director Applicants in the proposed settlement is also consistent with the provisions of section 17(d) and rule 17d–1. As part of the Settlement Agreement, the Director Applicants will be released from any liability in connection with the Rights Offering Litigation. Although the Director Applicants' legal expenses incurred in connection with the Rights Offering Litigation have been paid by the Fund, the Fund is obligated under its articles of incorporation and by-laws (and, in the case of the Independent Directors, under separate indemnification agreements with each such Director) to pay those expenses regardless of whether the Actions are settled, provided the Director Applicants have not engaged in willful misfeasance, bad faith, gross negligence or reckless disregard of their duties. Furthermore, the proposed settlement is predicated upon the settlement of both Actions in their entirety. Consequently, if the Director Applicants could not participate, applicants state that the proposed settlement in all likelihood would not be consummated, and the Fund would continue to incur legal fees and expenses in connection with its indemnification of the Director Applicants.

6. Applicants represent that the liquidation of the Fund cannot occur without settlement of the Actions. Applicants state that the liquidation of the Fund will benefit shareholders because it will enable them to realize immediately the full net asset value of their shares. Applicants note that at the Fund's annual meeting of shareholders held on January 16, 2003, the holders of a majority of the Fund's outstanding shares voted in favor of the Fund's liquidation. Applicants also assert that the continued litigation of the Actions would be detrimental to both the Fund and its shareholders because of the costs and expenses to the Fund in connection with its defense of the Actions.

7. Accordingly, applicants submit that the terms of the proposed settlement, including the consideration to be paid or received, are fair and reasonable and do not involve overreaching and that the proposed transaction is consistent with the policy of the Fund and with the general purposes of the Act. Applicants further submit that the Fund's participation in the proposed settlement would not be on a basis different from or less advantageous than that of the other participants.

[4] Each Director Applicant is an affiliated person of the Fund pursuant to section 2(a)(3)(D) of the Act, which defines an ''affiliated person'' of another person to include any director of such other person.

For the Commission, by the Division of Investment Management, under delegated authority.

J. Lynn Taylor,

Assistant Secretary.

[FR Doc. E5–1133 Filed 3–15–05; 8:45 am]

BILLING CODE 8010–01–P

SECURITIES AND EXCHANGE COMMISSION

Sunshine Act Meeting

FEDERAL REGISTER CITATION OF PREVIOUS ANNOUNCEMENT: 70 FR 11720, March 9, 2005.

STATUS: Closed meeting.

PLACE: 450 Fifth Street, NW., Washington, DC.

DATE AND TIME OF PREVIOUSLY ANNOUNCED MEETING: Monday, March 14, 2005, at 3:30 p.m.

CHANGE IN THE MEETING: Cancellation of meeting.

The closed meeting scheduled for Monday, March 14, 2005, has been cancelled.

For further information please contact the Office of the Secretary at (202) 942–7070.

Dated: March 11, 2005.

Jonathan G. Katz,

Secretary.

[FR Doc. 05–5267 Filed 3–11–05; 4:16 pm]

BILLING CODE 8010–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–51337; File No. SR–Amex–2004–109]

Self-Regulatory Organizations; American Stock Exchange LLC; Notice of Filing and Order Granting Accelerated Approval of a Proposed Rule Change and Amendment Nos. 1, 2 and 3 Thereto Relating to Split Price Priority

March 9, 2005.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act''),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on December 23, 2004, the American Stock Exchange LLC (''Amex'' or the ''Exchange'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I and II below, which Items have been prepared by the Amex. On February 4, 2005, the Amex amended the proposed rule change (''Amendment

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.