organization relating to exempt account customers;

• Procedures and guidelines for the use of stress testing of exempt accounts in order to monitor market risk exposure from exempt accounts individually and in the aggregate; and

• Procedures providing for the regular review and testing of these risk management procedures by an independent unit such as internal audit, risk management, or other comparable group.

III. Summary of Comments

The Commission received two comment letters following the publication of the 2003 Release.[30] One commenter expressed strong support for the proposal.[31] The other commenter limited its remarks to the provisions of the proposal affecting transactions in foreign sovereign debt and expressed support for those provisions.[32] Specifically, this commenter maintained that NYSE rule 431 currently imposes high margin requirements on transactions in foreign sovereign debt, which the commenter believes have resulted in the exclusion of U.S. broker-dealers from significant segments of international bond markets. The commenter believed that the proposal would create more reasonable margin requirements for foreign sovereign debt while protecting U.S. broker-dealers and their customers from undue risk.

IV. Discussion

Section 6(c)(3)(A) of the Exchange Act[33] provides, among other things, that a national securities exchange may condition membership privileges on compliance with the exchange's own financial responsibility rules. Pursuant to this authority, the NYSE is authorized to promulgate rules governing the financial responsibility requirements of its members. In addition, the Commission finds that the proposed rule change is consistent with the Exchange Act and the rules and regulations thereunder applicable to a national securities exchange.[34] In particular, as described above, for positions not maintained in exempt accounts, the proposal reduces the customer maintenance margin requirement for certain non-equity securities and establishes a customer maintenance margin requirement of 20% of current market value for other marginable non-equity securities. The Commission believes that these requirements are consistent with the risks of those securities.

The proposal also permits the extension of good faith margin to certain non-equity securities held in exempt accounts. The Commission notes that the definition of exempt account is limited to certain regulated entities as well as to persons with net worth of at least $40 million and financial assets of at least $45 million about whom certain information is publicly available or who make available to the broker-dealer certain current financial information. The Commission believes that these requirements are important to the broker-dealer's evaluation of the creditworthiness of the exempt account borrower and its ability to make an informed decision regarding an extension of good faith margin to the exempt account.

The Commission also notes that the proposal limits the amount of capital charges a broker-dealer may take in lieu of collecting marked to the market losses. Specifically, a broker-dealer may not enter into transactions with exempt accounts that would increase the broker-dealer's capital charges if the broker-dealer's capital charges exceed: (1) 5% of the broker-dealer's tentative net capital on any one account or group of commonly controlled accounts; or (2) 25% of the broker-dealer's tentative net capital on all accounts combined, unless the excess no longer exists on the fifth business day after it was incurred. In addition, the proposal requires broker-dealers to maintain a written risk analysis methodology for assessing the amount of good faith credit extended to exempt accounts and assures that a broker-dealer has procedures for determining, approving, and monitoring extensions of credit to exempt accounts. The Commission believes that these requirements establish important safeguards to minimize potential risks to a broker-dealer.

Accordingly, the Commission finds that the proposed rule change is consistent with section 6(b)(5) of the Exchange Act,[35] which requires, among other things, that the rules of a national securities exchange be designed to promote just and equitable principles of trade, and to protect investors and the public interest.

V. Conclusion

It is therefore ordered, pursuant to section 19(b)(2) of the Exchange Act,[36] that the proposed rule change (SR–NYSE–98–14), as amended, is approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[37]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 03–21822 Filed 8–25–03; 8:45 am]

BILLING CODE 8010–01–P

[30] *See* Daiwa letter and TBMA II, *supra* note 7. As noted above, the Commission received a comment letter from TBMA following the initial publication of the proposal. *See supra* notes 5 and 6. TBMA I and the NYSE's response are described more fully in the 2003 release, *supra* note 4.

[31] *See* TBMA II, *supra* note 7.

[32] *See* Daiwa letter, *supra* note 7.

[33] 15 U.S.C. 78f(c)(3)(A).

[34] In approving the proposed rule change, the Commission has considered the proposal's impact on efficiency, competition, and capital formation. 15 U.S.C. 78c(f).

[35] 15 U.S.C. 78f(b)(5).

[36] 15 U.S.C. 78s(b)(2).

[37] 17 CFR 200.30–3(a)(12).

SMALL BUSINESS ADMINISTRATION

[Declaration of Disaster #3535]

Commonwealth of Pennsylvania

Crawford County and the contiguous counties of Erie, Mercer, Venango and Warren in the Commonwealth of Pennsylvania; and Ashtabula and Trumbull Counties in the State of Ohio constitute a disaster area as a result of severe storms and flooding that occurred between July 21 and July 28, 2003. The storms caused serious damage to a number of homes and businesses throughout the county. Applications for loans for physical damage as a result of the disaster may be filed until the close of business on October 14, 2003, and for economic injury until the close of business on May 13, 2004, at the address listed below or other locally announced locations:

U.S. Small Business Administration, Disaster Area 1 Office, 360 Rainbow Blvd., South 3rd Floor, Niagara Falls, NY 14303.

The interest rates are:

	Percent
For Physical Damage:	
Homeowners With Credit Available Elsewhere	5.625
Homeowners Without Credit Available Elsewhere	2.812
Businesses With Credit Available Elsewhere	5.906
Businesses and Non-Profit Organizations Without Credit Available Elsewhere	2.953
Others (Including Non-Profit Organizations) With Credit Available Elsewhere	5.500
For Economic Injury:	
Businesses and Small Agricultural Cooperatives Without Credit Available Elsewhere	2.953

The number assigned to this disaster for physical damage is 353511 for

Pennsylvania; and 353611 for Ohio. The number assigned to this disaster for economic injury is 9W7000 for Pennsylvania; and 9W7100 for Ohio.

(Catalog of Federal Domestic Assistance Program Nos. 59002 and 59008.)

Dated: August 13, 2003.

Hector V. Barreto,

Administrator.

[FR Doc. 03–21798 Filed 8–25–03; 8:45 am]

BILLING CODE 8025–01–P

SOCIAL SECURITY ADMINISTRATION

Rescission of Social Security Acquiescence Ruling 00–4(2)

AGENCY: Social Security Administration.

ACTION: Notice of Rescission of Social Security Acquiescence Ruling (AR) 00–4(2)—*Curry* v. *Apfel*, 209 F.3d 117 (2d Cir. 2000).

SUMMARY: In accordance with 20 CFR 402.35(b)(2), 404.985(e), and 416.1485(e), the Commissioner of Social Security gives notice of the rescission of Social Security AR 00–4(2).

EFFECTIVE DATE: The rescission of this AR is effective on September 25, 2003.

FOR FURTHER INFORMATION CONTACT: Gary Sargent, Office of Acquiescence and Litigation Coordination, Social Security Administration, 6401 Security Boulevard, Baltimore, MD 21235–6401, (410) 965–1695.

SUPPLEMENTARY INFORMATION: An AR explains how we will apply a holding in a decision of a United States Court of Appeals that we determine conflicts with our interpretation of a provision of the Social Security Act (the Act) or regulations when the Government has decided not to seek further review of that decision or is unsuccessful on further review.

As provided by 20 CFR 404.985(e)(4) and 416.1485(e)(4), we may rescind an AR as obsolete if we subsequently clarify, modify or revoke the regulation or ruling that was the subject of the circuit court holding for which the Acquiescence Ruling was issued.

On September 11, 2000, we published AR 00–4(2) (65 FR 54879) to reflect the holding in *Curry* v. *Apfel*, 209 F.3d 117 (2d Cir. 2000). In *Curry*, the United States Court of Appeals for the Second Circuit held that, at step five of the sequential evaluation process for determining disability, we have the burden of proving that a claimant has the residual functional capacity to perform other work which exists in the national economy.

In this issue of the **Federal Register**, we are publishing final rules that, among other things, amend Social Security Regulations No. 4 and 16 (20 CFR 404.1512(c) and (g), 416.912(c) and (g), 404.1520(g), 416.920(g), 404.1545(a)(3) and (5), 416.945(a)(3) and (5), 404.1560(c) and 416.960(c)) to clarify our rules about the responsibility that you have to provide evidence and the responsibility that we have to develop evidence in connection with your claim of disability. When we decide your case at step five of the sequential evaluation process, we are responsible for providing evidence that demonstrates other work that you can do exists in significant numbers in the national economy. However, we do not have the burden to prove what your residual functional capacity is. The final rules also explain that we use at step five the same residual functional capacity assessment that we used for determining whether you could do your past relevant work at step four of the sequential evaluation process. We explain in the preamble to the final rules that these clarifying regulatory amendments are consistent with the Supreme Court's decision in *Bowen* v. *Yuckert*, 482 U.S. 137, 146 n.5 (1987).

Because these changes in our regulations clarify our policy that was the subject of the *Curry* AR, we are rescinding AR 00–4(2) concurrently with the effective date of the final rules. The final rules and this notice of rescission restore uniformity to our nationwide system of rules, in accordance with our commitment to the goal of administering our programs through uniform national standards.

We will continue to apply this AR to your claim if it is readjudicated under our acquiescence regulations (20 CFR 404.985(b)(2) and 416.1485(b)(2)).

(Catalog of Federal Domestic Assistance, Program Nos. 96.001 Social Security—Disability Insurance; 96.002 Social Security—Retirement Insurance; 96.004 Social Security—Survivors Insurance; 96.006—Supplemental Security Income)

Dated: May 22, 2003.

Jo Anne B. Barnhart,

Commissioner of Social Security.

[FR Doc. 03–21612 Filed 8–25–03; 8:45 am]

BILLING CODE 4191–02–P

SOCIAL SECURITY ADMINISTRATION

Rescission of Social Security Acquiescence Ruling 90–3(4)

AGENCY: Social Security Administration.

ACTION: Notice of Rescission of Social Security Acquiescence Ruling (AR) 90–3(4)—*Smith* v. *Bowen*, 837 F.2d 635 (4th Cir. 1987).

SUMMARY: In accordance with 20 CFR 402.35(b)(2), 404.985(e), and 416.1485(e), the Commissioner of Social Security gives notice of the rescission of Social Security AR 90–3(4).

EFFECTIVE DATE: The rescission of this AR will be effective September 25, 2003.

FOR FURTHER INFORMATION CONTACT: Gary Sargent, Office of Acquiescence and Litigation Coordination, Social Security Administration, 6401 Security Boulevard, Baltimore, MD 21235–6401, (410) 965–1695.

SUPPLEMENTARY INFORMATION: An AR explains how we will apply a holding in a decision of a United States Court of Appeals that we determine conflicts with our interpretation of a provision of the Social Security Act (the Act) or regulations when the Government has decided not to seek further review of that decision or is unsuccessful on further review.

As provided by 20 CFR 404.985(e)(4) and 416.1485(e)(4), we may rescind an AR as obsolete if we subsequently clarify, modify or revoke the regulation or ruling that was the subject of the circuit court holding for which the Acquiescence Ruling was issued.

On July 16, 1990, we published AR 90–3(4) (55 FR 28949) to reflect the holding in *Smith* v. *Bowen*, 837 F.2d 635 (4th Cir. 1987). In *Smith*, the United States Court of Appeals for the Fourth Circuit held that, under 20 CFR 404.1566(e), we could not rely on a vocational expert's testimony in determining that an individual can do his or her past relevant work at step four of the sequential evaluation process for determining disability.

In this issue of the **Federal Register**, we are publishing final rules, that among other things, amend Social Security Regulations No. 4 and 16 (20 CFR 404.1560(b) and 416.960(b)) to clarify that we may use the services of a vocational expert, vocational specialist or other vocational resources at step four of the sequential evaluation process.

Because the changes in the regulations clarify our policy on using vocational expert evidence at step four that was the subject of the *Smith* AR, we are rescinding AR 90–3(4) concurrently with the effective date of the final rules. The final rules and this notice of rescission restore uniformity to our nationwide system of rules, in accordance with our commitment to the goal of administering our programs through uniform national standards.

(Catalog of Federal Domestic Assistance, Program Nos. 96.001 Social Security—Disability Insurance; 96.002 Social Security—Retirement Insurance; 96.004