the carrying firm. The current Interpretation requires that the carrying organization provide general notification to the customer if an account to be transferred contains any nontransferable assets. The amendments require the carrying organization to provide the customer with a list of the specific nontransferable, proprietary products of the carrying firm that are in the customer's account.

Finally, the NYSE is amendment the Interpretation of Rule 412 to address situations where a carrying organization internally reassigns customer accounts to other registered representatives and establishes new account numbers. The proposed amendment places responsibility for tracking these account number changes with the carrying organization and makes clear that a transfer request rejected on the basis of such reassignment will not be considered a legitimate exception under Rule 412.

II. Comments

The Commission received four comment letters. All the commenters expressed strong support for the proposed changes to the Interpretation of Rule 412 discussed above.

III. Discussion

The Commission finds that the proposed rule change is consistent with the Act's requirements and the rules and regulations thereunder and particularly with the requirements of Section 6(b)(5) of the Act.[5] Section 6(b)(5) of the Act[6] requires that the rules of a national securities exchange be designed to remove impediments to and perfect the mechanism of a free and open market and a national market system, and protect investors and the public interest. These obligations are met when procedures governing the transfer of customer accounts are made faster and more efficient. For example, the proposed designation requirements on the part of the receiving firm should reduce the overall timeframe for transferring proprietary and/or third party products and should lower the related costs incurred by NYSE's member organizations. The change to the Interpretation should also reduce customer confusion and facilitate decisions by customers concerning the disposition of proprietary and third party products.

IV. Conclusion

On the basis of the foregoing, the Commission finds that the proposal is consistent with the requirements of the act and in particular with the requirements of Section 17A of the Act and the rules and regulations thereunder.

It is Therefore Ordered, pursuant to Section 19(b)(2) of the Act, that the proposed rule change (File No. SR–NYSE–00–61) be, and hereby is, approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[7]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 01–19280 Filed 8–1–01; 8:45 am]

BILLING CODE 8010–01–M

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

[6] 15 U.S.C. 78f(b)(5).

[7] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–44595; File No. SR–NYSE–2001–15]

Self-Regulatory Organizations; Order Granting Accelerated Approval to Proposed Rule Change by the New York Stock Exchange, Inc. Amending NYSE Rules 104 and 1100 Relating to Trading of ETFs

July 26, 2001.

I. Introduction

On June 15, 2001, the New York Stock Exchange, Inc. (''NYSE'' or ''Exchange'' filed with the Securities and Exchange Commission (''SEC'' or ''Commission''), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'')[1] and Rule 19b–4 thereunder,[2] a proposed rule change consisting of an amendment to NYSE Rule 104 to facilitate trading in Exchange Traded Funds (''ETFs''), and amendments to NYSE Rule 1100 to clarify that rules relating to Investment Company Units apply to such securities traded on the basis of unlisted trading privileges (''UTP''), and to authorize the Exchange to close trading in an ETF at 4:05 p.m. when trading in a related futures contract has closed at that time on the last trading day of the month. The proposed rule change was published for comment in the **Federal Register** on June 28, 2001.[3] The Commission received one comment on the proposal.[4] On July 26, 2001, the Exchange submitted a response to the comment letter.[5]

II. Description of the Proposed Rule Change

The Exchange plans to begin trading certain ETFs on the Exchange on a UTP basis on July 31, 2001. These ETFs are The NASDAQ 100 Trust (symbol QQQ), Standard and Poor's Depositary Receipts (symbol SPY) and the Dow Industrials DIAMONDS (symbol DIA). ETFs are securities which are defined as Investment Company Units in Section 703.16 of the Exchange's Listed Company Manual. The Exchange proposes to amend NYSE Rule 1100(a) to clarify that NYSE rules applying to Investment Company Unites also apply to securities fitting that definition that are traded on the Exchange on the basis of UTP.

NYSE Rule 104 governs specialists' dealings in Their specialty stocks. NYSE Rule 104.10 requires specialists to obtain Floor Official approval when purchasing on a direct plus tick or selling on a direct minus tick, or when purchasing on a zero plus tick more than 50% of the stock offered. These transactions are seen as destabilizing, and may be effected by the specialist only with Floor Official approval. NYSE Rule 104.10(7) was amended several years ago to permit a specialist registered in an Investment Company Unit to effect proprietary destabilizing trades without Floor Official approval to bring the security into parity with the value of the index on which the unit is based or with The net asset value of the securities comprising the unit. The purpose of that amendment was to permit a specialist registered in a ''country basket'' to act expeditiously to bring the basket into parity with the value of the securities comprising the basket.[6]

As noted above, ETFs are within the meaning of the term Investment Company Units, and thus, an ETF specialist is permitted under NYSE Rule 104.10(7) to effect proprietary destabilizing trades without Floor Official approval to bring the ETF into parity with the underlying index or the net asset value of the securities comprising the ETF. The Exchange proposes to permit specialists to effect proprietary destabilizing trades without floor official approval to bring the ETF into parity with a futures contract on the value of the index on which the Unit is

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

[2] 17 CFR 240.19b–4.

[3] *See* Securities Exchange Act Release No. 44465 (June 22, 2001), 66 FR 34503.

[4] *See* letter from Alton B. Harris, Ungaretti & Harris, to Jonathan G. Katz, Secretary, Commission, dated July 13, 2001.

[5] *See* letter from James E. Buck, Senior Vice President and Secretary, NYSE, to Nancy Sanow, Assistant Director of Market Regulation (''Division''), Commission, dated July 26, 2001.

[6] *See* Securities Exchange Act Release No. 37016 (March 22, 1996), 61 FR 14185 (March 29, 1996.)

based. Such transactions remain subject to the requirement that they be effected in a manner that is consistent with the maintenances of a fair and orderly market.

Finally, the Exchange proposes to close trading in an ETF at 4:05 p.m. (Eastern Time) on the last business day of each month, which is the same time that trading in a related futures contract closes on the last business day of the month.

III. Summary of Comments

The commenter stated that registered competitive market makers on the Exchange should be treated in a similar manner as specialists when trading ETFs on a UTP basis with respect to the ability to effect destabilizing transactions.

The Exchange responded that, as a matter of policy, it has a determined to utilize a unitary market maker system, *i.e.,* specialists, when trading ETFs on a UTP basis.

IV. Discussion

After careful review, the Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange [7] and, in particular, the requirements of Section 6 of the Act [8] and the rules and regulations thereunder. The Commission finds specifically that the proposed rule change is consistent with Section 6(b)(5) of the Act [9] because it is designed to promote just and equitable principles of trade, to remove impediments to and perfect the mechanism of a free and open market and a national market system and, in general, to protect investors and the public interest.

In particular, the Commission finds that the proposed amendments to NYSE Rules 104 and 1100 will enable the NYSE to accommodate the trading of ETFs on a UTP basis. The Commission believes clarifying NYSE Rule 1100(a) to expressly state that NYSE rules applying to Investment Company Units will also apply to ETFs trading on the Exchange on the basis of UTP should provide members and investors with notice as to the rules applicable to ETFs traded on the NYSE.

In addition, because ETFs are considered Investment Company Units, an ETF specialist is permitted under current NYSE Rule 104.10(7) to effect proprietary destabilizing trades without Floor Official approval to bring the ETF into parity with the underlying index or the net asset value of the securities comprising the ETF. The Exchange proposes to amend this rule to permit an ETF specialist to effect proprietary destabilizing transactions without Floor Official approval to bring the ETF into parity with a futures contract on the index on which the ETF is based. The Commission believes that it is reasonable to allow such transactions without Floor Official approval, so long as such trades are effected in a manner that is consistent with the maintenance of a fair and orderly market.[10] The Commission notes that ETFs have a pricing and trading relationship linked to the index on which the ETF is based, the net asset value of securities comprising the Unit, as well as the futures contract on the value of the index on which the Unit is based. Thus, a specialist may determine that it needs to engage in a parity transaction to bring the ETF in line with these related products. The requirement to secure floor approval could delay specialists from effectuating such transactions, during which time the values of the related index, components, or futures contract could continue to move. Therefore, the Commission believes that it is reasonable for NYSE to remove floor official approval when a specialist engages in transactions to bring an ETF in line with its related futures contract.

Furthermore, the Exchange proposal to close trading in an ETF at 4:05 p.m. on the last business day of each month is consistent with the close of trading in ETFs and futures on other markets and should facilitate the trading of these products across markets.

Finally, the Commission notes that the proposal was noticed for a 15-day comment period and the Commission received only one comment letter regarding the proposal for which the Exchange provided a response. Accordingly, the Commission finds good cause pursuant to Section 19(b)(2) of the Act [11] to approve the proposed rule change on an accelerated basis prior to the thirtieth day after the date of publication of notice of filing thereof in the **Federal Register** in order to allow the NYSE to have these amendments to its rules in place to accommodate the trading of ETFs on a UTP basis scheduled to begin on July 31, 2001.

V. Conclusion

For the foregoing reasons, the Commission finds that the proposal is consistent with the requirements of the Act and rules and regulations thereunder.

It is Therefore Ordered, pursuant to Section 19(b)(2) of the Act [12] that the proposed rule change (File No. SR–NYSE–2001–15) be, and it hereby is, approved on an accelerated basis.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[13]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 01–19282 Filed 8–1–01; 8:45 am]

BILLING CODE 8010–01–M

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

[8] 15 U.S.C. 78f.

[9] 15 U.S.C. 78f(b)(5).

[10] The Commission notes, however, that direct destabilizing transactions that are leading, rather than following, the related futures contract would continue to require Floor Official approval. In addition, specialists remain subject to all other requirements of NYSE Rule 104 with respect to their affirmative and negative obligations to maintain a fair and orderly market. Telephone conversation between Don Siemer, Director, Market Surveillance, NYSE, and Kelly Riley, Special Counsel, Division, Commission, on July 26, 2001.

[11] 15 U.S.C. 78s(b)(2).

[12] 15 U.S.C. 78s(b)(2).

[13] 17 CFR 200.30–3(a)(12).

SMALL BUSINESS ADMINISTRATION

[Declaration of Disaster #3355]

State of Ohio and Contiguous Counties in Indiana and Kentucky

Butler and Hamilton Counties and the contiguous counties of Clermont, Montgomery, Preble, and Warren in the State of Ohio; Dearborn, Franklin, and Union Counties in the State of Indiana; and Boone, Campbell, and Kenton Counties in the Commonwealth of Kentucky constitute a disaster area due to damages caused by severe storms and flooding that occurred July 15 through July 18, 2001. Applications for loans for physical damage as a result of this disaster may be filed until the close of business on September 27, 2001 and for economic injury until the close of business on April 29, 2002 at the address listed below or other locally announced locations:

U.S. Small Business Administration, Disaster Area 2 Office, One Baltimore Place, Suite 300, Atlanta, GA 30308.

The interest rates are:

	Percent
For Physical Damage:	
Homeowners With Credit Available Elsewhere	6.625
Homeowners Without Credit Available Elsewhere	3.312
Businesses With Credit Available Elsewhere	8.000
Businesses and Non-Profit Organizations Without Credit Available Elsewhere	4.000