proposed collection of information, including the validity of the methodology and assumptions used;

3. Enhance the quality, utility, and clarity of the information to be collected; and

4. Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* permitting electronic submissions of responses.

RI 20–120 is designed to collect information the Office of Personnel Management needs to comply with the wishes of the retired Federal employee whose marriage has ended. This form provides an organized way for the retiree to give us everything at one time.

Analysis

Agency: Retirement Operations, Retirement Services, Office of Personnel Management.

Title: Request for Change to Unreduced Annuity.

OMB Number: 3206–0245.

Frequency: On occasion.

Affected Public: Individuals or Households.

Number of Respondents: 5,000.

Estimated Time per Respondent: 30 minutes.

Total Burden Hours: 2,500 minutes.

Office of Personnel Management.

Alexys Stanley,

Regulatory Affairs Analyst.

[FR Doc. 2021–07659 Filed 4–13–21; 8:45 am]

BILLING CODE 6325–38–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–91510; File No. SR–NYSEAMER–2021–20]

Self-Regulatory Organizations; NYSE American LLC; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change to Amend the NYSE American Options Fee Schedule

Pursuant to Section 19(b)(1)[1] of the Securities Exchange Act of 1934 (the ''Act'')[2] and Rule 19b–4 thereunder,[3] notice is hereby given that, on April 8, 2021, NYSE American LLC (''NYSE American'' or the ''Exchange'') filed with the Securities and Exchange Commission (the ''Commission'') the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the self-regulatory organization. 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 Exchange proposes to amend the NYSE American Options Fee Schedule (''Fee Schedule'') regarding the Professional Step-Up Incentive program. The Exchange proposes to implement the fee change effective April 8, 2021.[4] The proposed rule change is available on the Exchange's website at *www.nyse.com,* at the principal office of the Exchange, and at the Commission's Public Reference Room.

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 self-regulatory organization 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 those 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 parts of such statements.

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

1. *Purpose*

The purpose of this filing is to modify the Fee Schedule regarding the Professional Step-Up Incentive program (the ''Step-Up Incentive'')[5] and correct a typographical error.[6]

The Exchange proposes to implement the rule change on April 8, 2021.

The Exchange has established various pricing incentives designed to encourage increased Electronic volume executed on the Exchange, including (but not limited to) the American Customer Engagement (''ACE'') Program[7] and the Step-Up Incentive. While the ACE Program is limited to Electronic Customer volume, the Step-Up Incentive is limited to Electronic Professional[8] volume. The Exchange proposes to modify certain volume exclusions and qualifying criteria for the Step-Up Incentive to continue to encourage greater Electronic Professional volume and, specifically, to continue to incentivize increased Electronic Professional volume. To the extent that the modifications succeed, the increased liquidity on the Exchange would result in enhanced market quality for all participants.

Currently, the Step-Up Incentive program provides that ATP Holders who increase their monthly Electronic Professional volume by specified percentages of TCADV over their August 2019 volume or, for new ATP Holders, that increase Electronic Professional volume by the specified percentages of TCADV above a base level of 10,000 contracts ADV (the ''Qualifying Volume''), will qualify for certain reduced transaction rates on Electronic Professional volume, as well as credits on Electronic Customer volume at Tier 1 of the ACE program.

The Exchange proposes to modify the Step-Up Incentive program to (1) exclude an additional category of volume from the calculations of base volume amounts and Qualifying Volume, and (2) revise the Qualifying Volume percentages for Tiers A and B.

Currently, volumes from Strategy Executions, CUBE Auctions, and QCC Transactions are excluded from the calculation of base volume amounts and Qualifying Volume. The Exchange proposes to further specify that volume from interest that takes liquidity from posted Customer interest would also be excluded for purposes of calculating base volume amounts and Qualifying Volume for the Step-Up Incentive, as such Customer interest is eligible for discounted rates and credits under other programs set forth in the Exchange's Fee Schedule.[9]

The Step-Up Incentive program includes two tiers that ATP Holders can qualify for based on Qualifying Volume as a percentage of TCADV. The Exchange proposes to increase the qualification for Tier A from 0.12% of TCADV to 0.20% of TCADV and for Tier B from 0.15% of TCADV to 0.25% of TCADV. This proposed change is shown in the table below, with to-be-deleted

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

[2] 15 U.S.C. 78a.

[3] 17 CFR 240.19b–4.

[4] The Exchange originally filed to amend the Fee Schedule on April 1, 2021 (SR–NYSEAmer–2021–18) and withdrew such filing on April 8, 2021 to make a clarifying change to the proposed Fee Schedule, set forth in the instant filing.

[5] *See* Fee Schedule, Section I.H.

[6] The Exchange proposes a non-substantive change to delete an extraneous word in Section I.H., which would improve the clarity of the Fee Schedule. *See* proposed Fee Schedule, Section I.H.

[7] *See* Fee Schedule, Section I.E.

[8] For purposes of this filing, Electronic ''Professional'' volume includes Electronic volume in the Professional Customer, Broker Dealer, Non-NYSE American Options Market Maker, and Firm ranges.

[9] *See, e.g.,* Fee Schedule, Section I.E.

text in brackets and proposed (new) text underscored.[10]

PROFESSIONAL STEP-UP INCENTIVE

	Qualifying volume as a % of TCADV	Per contract penny rate	Per contract non-penny rate	ACE benefits
Tier A	[0.12%] *0.20%*	$0.35	$0.60	Tier 1
Tier B	[0.15%] *0.25%*	0.20	0.50	Tier 1

As shown in the table above, by achieving an increase in Qualifying Volume, benefits accrue to the ATP Holder. For example, assume an ATP Holder executed Electronic Professional volume in August 2019 totaling 9,000 ADV and, in April 2021, the ATP Holder executed Electronic Professional volume of 100,000 ADV and the TCADV is 37,200,000. To qualify for the Step-Up Incentive, that ATP Holder would need to execute Electronic Professional volume that is at least 74,400 contracts (*i.e.,* 0.20% of TCADV) above its August 2019 Electronic Professional Volume for Tier A, as modified, or at least 93,000 contracts (*i.e.,* 0.25% of TCADV) above its August 2019 Electronic Professional Volume for Tier B, as modified. In other words, that ATP Holder would need to attain Electronic Professional volume of 83,400 contracts to qualify for Tier A and 102,000 contracts to qualify for Tier B, and, in this example, would qualify for Tier A but not for Tier B. If an ATP Holder did not have August 2019 volume, it would have to execute the outlined volumes above the 10,000 ADV base level to qualify for Tiers A and B. Such an ATP Holder would need to attain Electronic Professional volume of 84,400 contracts to qualify for Tier A and 103,000 contracts to qualify for Tier B, and, in this example, would likewise qualify for Tier A but not for Tier B.

ATP Holders that qualify for Tier A, as modified, would continue to be charged reduced rates of $0.35 and $0.60 on Electronic Professional executions on Penny and Non-Penny issues, respectively, and would also receive ACE Tier 1 Customer Credits on Customer executions.

ATP Holders that qualify for Tier B, as modified, would continue to be eligible for even further reduced rates of $0.20 and $0.50 on Electronic Professional executions on Penny and Non-Penny issues, respectively, and would also receive ACE Tier 1 Customer Credits on Customer executions. The Exchange also proposes to modify the Fee Schedule to specify that ATP Holders that qualify for Tier B as modified (*i.e.,* ATP Holders that increase Qualifying Volume by 0.25% of TCADV) and also execute posted Professional volume (*i.e.,* that adds liquidity) of at least 0.10% of TCADV would continue to receive a $0.03 per contract discount off the Tier B rates.

The Exchange's fees are constrained by intermarket competition, as ATP Holders may direct their order flow to any of the 16 options exchanges, including an exchange with a similar incentive program.[11] Thus, ATP Holders have a choice of where they direct their order flow. These proposed modifications to the Step-Up Incentive program are designed to continue to encourage ATP Holders to increase the amount of Electronic Professional volume directed to and executed on the Exchange. The Exchange notes that all market participants stand to benefit from increased Electronic Professional volume, which promotes market depth, facilitates tighter spreads, and enhances price discovery, and may lead to a corresponding increase in order flow from other market participants.

The Exchange believes that the Step-Up Incentive, as modified, would continue to incent ATP Holders to direct volume to the Exchange even with the exclusion of interest that takes liquidity from posted Customer interest from the calculations of base volume amounts and Qualifying Volume, and even though ATP Holders would have to meet higher volume thresholds to qualify for Tiers A and B. Because both Tiers A and B, as proposed, will continue to offer discounted rates coupled with ACE program Tier 1 credits on certain Customer executions, the Exchange believes the Step-Up Incentive, as modified, should continue to incent the consistent and concerted redirection of order flow to the Exchange by ATP Holders in exchange for better economics as provided by the incentive program (*i.e.,* enhanced discounts and credits), making it a more attractive venue for trading.

The Exchange cannot predict with certainty whether any ATP Holders would be incented to qualify for the Step-Up Incentive, as modified; however, the Exchange believes that ATP Holders would continue to be encouraged to direct Electronic Professional volume to the Exchange to qualify for the Step-Up Incentive.

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with Section 6(b) of the Act,[12] in general, and furthers the objectives of Sections 6(b)(4) and (5) of the Act,[13] in particular, because it provides for the equitable allocation of reasonable dues, fees, and other charges among its members, issuers and other persons using its facilities and does not unfairly discriminate between customers, issuers, brokers or dealers.

The Proposed Rule Change is Reasonable

The Exchange operates in a highly competitive market. The Commission has repeatedly expressed its preference for competition over regulatory intervention in determining prices, products, and services in the securities markets. In Regulation NMS, the Commission highlighted the importance of market forces in determining prices and SRO revenues and, also, recognized that current regulation of the market system ''has been remarkably successful in promoting market competition in its broader forms that are most important to investors and listed companies.'' [14]

There are currently 16 registered options exchanges competing for order flow. Based on publicly-available information, and excluding index-based

[10] *See also* proposed Fee Schedule, Section I.H.

[11] *See, e.g.,* MIAX Options (''MIAX'') Fee Schedule, Section 1.a.iv, Professional Rebate Program, *available at: https://www.miaxoptions.com/sites/default/files/fee_schedule-files/MIAX_Options_Fee_Schedule_01_13_21.pdf* (setting forth incentive program that, like the Step-Up Incentive, provides a discounted net rate on Professional (as defined by the MIAX program) electronic volume, provided the Member achieves certain Professional volume increase percentage thresholds in the month relative to the fourth quarter of 2015).

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

[13] 15 U.S.C. 78f(b)(4) and (5).

[14] *See* Securities Exchange Act Release No. 51808 (June 9, 2005), 70 FR 37496, 37499 (June 29, 2005) (S7–10–04) (''Reg NMS Adopting Release'').

options, no single exchange has more than 16% of the market share of executed volume of multiply-listed equity and ETF options trades.[15] Therefore, currently no exchange possesses significant pricing power in the execution of multiply-listed equity and ETF options order flow. More specifically, in February 2021, the Exchange had less than 10% market share of executed volume of multiply-listed equity and ETF options trades.[16]

The Exchange believes that the ever-shifting market share among the exchanges from month to month demonstrates that market participants can shift order flow, or discontinue or reduce use of certain categories of products, in response to fee changes. Accordingly, competitive forces constrain options exchange transaction fees. Stated otherwise, changes to exchange transaction fees can have a direct effect on the ability of an exchange to compete for order flow.

The Exchange believes that the proposed modifications to the Step-Up Incentive are reasonable because they are designed to continue to incent ATP Holders to increase the amount of Electronic Professional order flow directed to the Exchange. The Exchange believes that, even though the proposed changes to the Step-Up Incentive program would exclude an additional category of volume from the calculation of base volume and Qualifying Volume, as well as increase the threshold volume to qualify for Tiers A and B, ATP Holders will still be incentivized to direct order flow to the Exchange in exchange for better economics as provided by the incentive program (*i.e.,* enhanced discounts and credits). The Exchange also notes that all market participants stand to benefit from increased Electronic Professional volume, as such increase promotes market depth, facilitates tighter spreads and enhances price discovery, and may lead to a corresponding increase in order flow from other market participants that do not participate in (or qualify for) the Step-Up Incentive program.

Finally, to the extent the proposed modifications attract greater volume and liquidity, the Exchange believes the proposed changes would improve the Exchange's overall competitiveness and strengthen its market quality for all market participants, and continue to attract Electronic Professional volume to the Exchange even though the proposed changes would raise the qualification thresholds for the Step-Up Incentive. In the backdrop of the competitive environment in which the Exchange operates, the proposed changes are a reasonable attempt by the Exchange to increase the depth of its market and improve its market share relative to its competitors. The proposed changes are designed to incent ATP Holders to direct liquidity to the Exchange in Electronic Professional executions, similar to another exchange program offering incentives on professional volume,[17] thereby promoting market depth, price discovery and improvement and enhancing order execution opportunities for market participants.

The Proposed Rule Change is an Equitable Allocation of Credits and Fees

The Exchange believes the proposed rule change is an equitable allocation of its fees and credits. The proposed change is based on the amount and type of business transacted on the Exchange, and ATP Holders can opt to avail themselves of the Step-Up Incentive program or not. Moreover, even though the proposed changes would exclude additional volume from the calculation of base volume and Qualifying Volume, as well as increase the threshold volume to qualify for the Step-Up Incentive, the Exchange believes they are designed to encourage ATP Holders to aggregate their executions—particularly Electronic Professional—at the Exchange as a primary execution venue. To the extent that the proposed changes attract more Electronic Professional volume to the Exchange, this increased order flow would continue to make the Exchange a more competitive venue for, among other things, order execution. Thus, the Exchange believes the proposed rule changes would continue to improve market quality for all market participants on the Exchange and, as a consequence, continue to attract more order flow to the Exchange thereby improving market-wide quality and price discovery.

The Proposed Rule Change is not Unfairly Discriminatory

The Exchange believes that the proposal is not unfairly discriminatory because the proposed modifications would be available to all similarly-situated market participants on an equal and non-discriminatory basis.

The proposed changes are based on the amount and type of business transacted on the Exchange and ATP Holders are not obligated to participate in the Step-Up Incentive program. Rather, the proposed changes are designed to continue to encourage ATP Holders to utilize the Exchange as a primary trading venue (if they have not done so previously) or increase Electronic Professional volume sent to the Exchange. To the extent that the proposed changes attract more executions to the Exchange, this increased order flow would continue to make the Exchange a more competitive venue for, among other things, order execution. Thus, the Exchange believes the proposed rule changes would improve market quality for all market participants on the Exchange and, as a consequence, attract more order flow to the Exchange thereby improving market-wide quality and price discovery, even though they exclude an additional category of volume from the calculation of base volume and Qualifying Volume and increase the threshold volume to qualify for the Step-Up Incentive. The resulting increased volume and liquidity would provide more trading opportunities and tighter spreads to all market participants and thus would promote just and equitable principles of trade, 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.

Finally, the Exchange believes that it is subject to significant competitive forces, as described below in the Exchange's statement regarding the burden on competition.

For the foregoing reasons, the Exchange believes that the proposal is consistent with the Act.

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

In accordance with Section 6(b)(8) of the Act, the Exchange does not believe that the proposed rule change would impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. Instead, as discussed above, the Exchange believes that the proposed changes would encourage the submission of additional liquidity to a public exchange, thereby promoting market depth, price discovery and transparency and enhancing order execution opportunities for all market participants. As a result, the Exchange believes that the proposed change furthers the Commission's goal in

[15] The OCC publishes options and futures volume in a variety of formats, including daily and monthly volume by exchange, available here: *https://www.theocc.com/market-data/volume/default.jsp.*

[16] Based on a compilation of OCC data for monthly volume of equity-based options and monthly volume of ETF-based options, *see id.,* the Exchange's market share in multiply-listed equity and ETF options increased slightly from 8.42% for the month of February 2020 to 8.86% for the month of February 2021.

[17] *See, e.g., supra* note 11 (regarding MIAX Professional Rebate Program).

adopting Regulation NMS of fostering integrated competition among orders, which promotes ''more efficient pricing of individual stocks for all types of orders, large and small.'' [18]

Intramarket Competition. The proposed changes are designed to attract additional order flow (particularly Electronic Professional volume) to the Exchange. The Exchange believes that the proposed modifications to the Step-Up Incentive would continue to incent market participants to direct additional volume to the Exchange. Greater liquidity benefits all market participants on the Exchange and increased Electronic Professional volume would increase opportunities for execution of other trading interest. The proposed modifications to the calculation of base volume amounts and Qualifying Volume and to the qualification bases for Tiers A and B of the Step-Up Incentive would apply to all ATP Holders that execute Electronic Professional volume, and, as such, the proposed change would not impose a disparate burden on competition among market participants on the Exchange.

Intermarket Competition. The Exchange operates in a highly competitive market in which market participants can readily favor one of the 16 competing option exchanges if they deem fee levels at a particular venue to be excessive. In such an environment, the Exchange must continually adjust its fees to remain competitive with other exchanges and to attract order flow to the Exchange. Based on publicly-available information, and excluding index-based options, no single exchange has more than 16% of the market share of executed volume of multiply-listed equity and ETF options trades.[19] Therefore, currently no exchange possesses significant pricing power in the execution of multiply-listed equity and ETF options order flow. More specifically, in February 2021, the Exchange had less than 10% market share of executed volume of multiply-listed equity and ETF options trades.[20]

The Exchange believes that the proposed rule change reflects this competitive environment because it modifies the Exchange's fees in a manner designed to continue to encourage ATP Holders to direct trading interest (and, in particular, Electronic Professional volume) to the Exchange, to provide liquidity and to attract order flow. To the extent that this purpose is achieved, all the Exchange's market participants should benefit from the improved market quality and increased opportunities for price improvement.

The Exchange believes that the proposed change could promote competition between the Exchange and other execution venues, including those that currently offer similar pricing incentives, by encouraging additional orders to be sent to the Exchange for execution.

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

The foregoing rule change is effective upon filing pursuant to Section 19(b)(3)(A) [21] of the Act and subparagraph (f)(2) of Rule 19b–4 [22] thereunder, because it establishes a due, fee, or other charge imposed by the Exchange.

At any time within 60 days of the filing of such proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings under Section 19(b)(2)(B) [23] of the Act to determine whether the proposed rule change should be approved or disapproved.

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. Comments may be submitted by any of the following methods:

Electronic Comments

• Use the Commission's internet comment form (*http://www.sec.gov/rules/sro.shtml*); or

• Send an email to *rule-comments@sec.gov.* Please include File Number SR–NYSEAMER–2021–20 on the subject line.

Paper Comments

• Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549–1090.

All submissions should refer to File Number SR–NYSEAMER–2021–20. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's internet website (*http://www.sec.gov/rules/sro.shtml*). 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 website viewing and printing in the Commission's Public Reference Room, 100 F Street NE, Washington, DC 20549 on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change. Persons submitting comments are cautioned that we do not redact or edit personal identifying information from comment submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–NYSEAMER–2021–20, and should be submitted on or before May 5, 2021.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[24]

J. Matthew DeLesDernier,

Assistant Secretary.

[FR Doc. 2021–07596 Filed 4–13–21; 8:45 am]

BILLING CODE 8011–01–P

[18] *See* Reg NMS Adopting Release, *supra* note 14, at 37499.

[19] *See supra* note 15.

[20] Based on a compilation of OCC data for monthly volume of equity-based options and monthly volume of ETF-based options, *see id.,* the Exchange's market share in multiply-listed equity and ETF options increased slightly from 8.42% for the month of February 2020 to 8.86% for the month of February 2021.

[21] 15 U.S.C. 78s(b)(3)(A).

[22] 17 CFR 240.19b–4(f)(2).

[23] 15 U.S.C. 78s(b)(2)(B).

[24] 17 CFR 200.30–3(a)(12).