

TD AMERITRADE HOLDING CORP
Form 8-K
May 15, 2008

**UNITED STATES
SECURITIES AND EXCHANGE COMMISSION
Washington, DC 20549**

FORM 8-K

Current Report

**Pursuant to Section 13 or 15(d) of the
Securities Exchange Act of 1934**

Date of Report (Date of earliest event reported): May 14, 2008

TD AMERITRADE Holding Corporation

(Exact name of registrant as specified in its charter)

Delaware
(State or other
jurisdiction of
incorporation)

0-49992
(Commission File
Number)

82-0543156
(I.R.S. Employer
Identification Number)

4211 South 102nd Street
Omaha, Nebraska
(Address of principal executive offices)

68127
(Zip Code)

Registrant's telephone number, including area code: (402) 331-7856

(Former name or former address, if changed since last report)

Check the appropriate box below if the Form 8-K filing is intended to simultaneously satisfy the filing obligation of the registrant under any of the following provisions:

- ☐ Written communications pursuant to Rule 425 under the Securities Act (17 CFR 230.425)
 - ☐ Soliciting material pursuant to Rule 14a-12 under the Exchange Act (17 CFR 240.14a-12)
 - ☐ Pre-commencement communications pursuant to Rule 14d-2(b) under the Exchange Act (17 CFR 240.14d-2(b))
 - ☐ Pre-commencement communications pursuant to Rule 13e-4(c) under the Exchange Act (17 CFR 240.13e-4(c))
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Item 5.02. Departure of Directors or Certain Officers; Election of Directors; Appointment of Certain Officers; Compensatory Arrangements of Certain Officers.

On May 14, 2008, the board of directors of TD AMERITRADE Holding Corporation elected Joseph H. Moglia as chairman of the board of directors, effective October 1, 2008, and Fredric J. Tomczyk as chief executive officer, also effective October 1, 2008. Mr. Tomczyk will become a member of the board of directors when he becomes CEO on October 1, 2008, as provided in the stockholders agreement among TD AMERITRADE, The Toronto-Dominion Bank and the Ricketts shareholders, and a member of the Non-TD Directors Committee. The Toronto-Dominion Bank agreed to waive its right to designate one of its five directors in order to permit Mr. Moglia to become a member of the board on October 1, 2008.

Mr. Moglia and Mr. Tomczyk each entered into an amended and restated employment agreement with TD AMERITRADE in connection with his election to the new position. Below is a summary of the material terms of Mr. Moglia's and Mr. Tomczyk's new employment agreement.

Moglia Chairman Summary

<i>Position</i>	Chairman, beginning October 1, 2008
<i>Term</i>	May 2008 - May 2011
<i>Base Salary</i>	\$1,000,000

Management Incentive Plan

<i>Annual Cash Incentive</i>	FY 2008	FY 2009	FY 2010 and FY 2011
<i>Annual Equity</i>	\$3 million at target	\$2 million (pro-rated target)	None
	\$6 million at target	\$4 million (pro-rated target)	None

Severance**May 2008 - May 31, 2009****June 1, 2009 - May 31, 2011**

<i>Termination</i>	§ Severance period is greater of 1 year and remaining term	§ Severance period is remaining term
<i>Without Cause or</i>	§ Severance (same as current agreement) comprised of:	§ Severance comprised of:
<i>Resignation for Good Reason</i>	<ul style="list-style-type: none"> o base salary o annual cash incentive at actual performance o annual equity incentive in cash at actual performance o continued vesting of performance-based restricted stock units (PRSUs) based on actual performance & full acceleration for restricted stock units (RSUs) o office, assistant & associate for 5 years o medical coverage for family for life 	<ul style="list-style-type: none"> o base salary o continued vesting of PRSUs based on actual performance & full acceleration for RSUs o office, assistant & associate for 5 years o medical coverage for family for life

<i>Resignation</i>	May 2008 - Sept. 30, 2008	Oct. 1, 2008 - May 31, 2009	June 1, 2009 - May 31, 2011
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No severance	Continued vesting of PRSUs	Continued vesting of PRSUs
Unvested RSUs forfeited	based on actual performance	based on actual performance
	& full acceleration for RSUs	& full acceleration for RSUs
	Office, assistant & associate	Office, assistance & associate
	for 5 years	for 5 years
	Medical coverage for family	Medical coverage for family
	for life	for life

Death or Disability

Pro-rated annual cash incentive and annual equity at actual performance
RSUs vest immediately in case of death
RSUs vest in accordance with terms in case of disability

***Completion
(June 1, 2011)***

Office, assistant & associate for 5 years
Medical coverage for family for life

Conditions to Receipt of Severance

As a condition to receiving severance payments, Mr. Moglia is required to enter into a release of claims and abide by non-competition, non-solicitation and non-disparagement covenants.

Tomczyk CEO Summary

<i>Position</i>	CEO & President, beginning October 1, 2008
<i>Term</i>	5 years, with automatic 1 year renewals unless 60 days prior notice
<i>Base Salary</i>	\$500,000

Management Incentive Plan

<i>Annual Incentive</i>	\$1.5 million at target
<i>Annual Equity</i>	\$3.5 million at target

<i>Special Option Grant</i>	Non-qualified option for 1,150,000 shares, with exercise price at FMV at date of grant Vesting: Over 4 years - 25% on 1 st anniversary and 25% each anniversary thereafter Change in control: if not assumed, substituted or replaced, it becomes fully vested and exercisable Termination: 10-year term and earlier 3 months after employment ends (except for severance-related events)
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Severance

<i>Termination Without Cause or Resignation for Good Reason</i>	\$4 million paid equally over 2 years Pro-rated current year annual incentive Performance-based restricted stock units (PRSUs) vest on actual performance Restricted Stock Units (RSUs) immediately vest Option continues to vest 2 years COBRA
<i>Death or Disability</i>	Good reason includes failure to obtain assumption by a successor Pro-rated annual incentive Death: immediate vesting and settlement of PRSUs & RSUs; vested options exercisable for 1 year and unvested options forfeited Disability: continued vesting of PRSUs & RSUs in accordance with terms; vested options exercisable for 1 year and unvested options forfeited
<i>Benefits</i>	All plans available to executive officers Private aircraft for AMTD-related business Reimbursement for tax preparation as long as executive has Canadian and US income
<i>Conditions to Receipt of Severance</i>	As a condition to receiving severance payments, Mr. Tomczyk is required to enter into a release of claims and abide by non-competition, non-solicitation and non-disparagement covenants.

Mr. Tomczyk's biographical information contained in the TD AMERITRADE Definitive Proxy Statement on Schedule 14A filed with the SEC on January 25, 2008 is incorporated into this Current Report on Form 8-K.

SIGNATURE

Pursuant to the requirements of the Securities Exchange Act of 1934, the registrant has duly caused this report to be signed on its behalf by the undersigned hereunto duly authorized.

TD AMERITRADE HOLDING CORPORATION

Date: May 15, 2008

By: /s/ William J. Gerber

Name: William J. Gerber

Title: Chief Financial Officer