

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 Annual Equity</i> | FY 2008 | FY 2009 | FY 2010 and FY 2011 |
|---|-----------------------|--------------------------------|----------------------------|
| | \$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 Without Cause or Resignation for Good Reason</i> | <p>§ Severance period is greater of 1 year and remaining term</p> <p>§ Severance (same as current agreement) comprised of:</p> <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 | <p>§ Severance period is remaining term</p> <p>§ Severance comprised of:</p> <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 & full acceleration for RSUs | based on actual performance & full acceleration for RSUs |
| | Office, assistant & associate for 5 years | Office, assistance & associate for 5 years |
| | Medical coverage for family for life | Medical coverage for family 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

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

Management Incentive Plan

Annual Incentive \$1.5 million at target
Annual Equity \$3.5 million at target

Special Option Grant Non-qualified option for 1,150,000 shares, with exercise price at FMV at date of grant
 Vesting: Over 4 years - 25% on 1st 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)

Severance

Termination Without Cause or Resignation for Good Reason \$4 million paid equally over 2 years
 Pro-rated current year annual incentive
 Performance-based restricted stock units (RSUs) vest on actual performance
 Restricted Stock Units (RSUs) immediately vest
 Option continues to vest
 2 years COBRA

Death or Disability Good reason includes failure to obtain assumption by a successor
 Pro-rated annual incentive
 Death: immediate vesting and settlement of RSUs & RSUs; vested options exercisable for 1 year and unvested options forfeited
 Disability: continued vesting of RSUs & RSUs in accordance with terms; vested options exercisable for 1 year and unvested options forfeited

Benefits 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

Conditions to Receipt of Severance 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