TD AMERITRADE HOLDING CORP
Form 10-K/A
May 06, 2009

UNITED STATES SECURITIES AND EXCHANGE COMMISSION
Washington, D.C. 20549

Form 10-K/A
Amendment No. 1

þ **ANNUAL REPORT PURSUANT TO SECTION 13 OR 15(d) OF THE SECURITIES EXCHANGE ACT OF 1934**
For the fiscal year ended September 30, 2008

o **TRANSITION REPORT PURSUANT TO SECTION 13 OR 15(d) OF THE SECURITIES EXCHANGE ACT OF 1934**
For the transition period from to

Commission file number: 0-49992

TD AMERITRADE Holding Corporation
(Exact name of registrant as specified in its charter)

Delaware	**82-0543156**
(State or other jurisdiction of incorporation or organization)	*(I.R.S. Employer Identification Number)*

4211 South 102nd Street,
Omaha, Nebraska 68127
(Address of principal executive offices and zip code)
(402) 331-7856
(Registrant s telephone number, including area code)

Securities registered pursuant to Section 12(b) of the Act:

Title of each class	**Name of each exchange on which registered**
Common Stock $0.01 par value	The NASDAQ Stock Market LLC

Securities registered pursuant to Section 12(g) of the Act:
Title of class
None

Indicate by check mark if the registrant is a well-known seasoned issuer, as defined in Rule 405 of the Securities Act. Yes þ No o

Indicate by check mark if the registrant is not required to file reports pursuant to Section 13 or Section 15(d) of the Act. Yes o No þ

Indicate by check mark whether the registrant (1) has filed all reports required to be filed by Section 13 or 15(d) of the Securities Exchange Act of 1934 during the preceding 12 months (or for such shorter period that the registrant was required to file such reports), and (2) has been subject to such filing requirements for the past 90 days. Yes þ No o

Indicate by check mark if disclosure of delinquent filers pursuant to Item 405 of Regulation S-K is not contained herein, and will not be contained, to the best of registrant s knowledge, in definitive proxy or information statements incorporated by reference in Part III of this Form 10-K or any amendment to this Form 10-K. o

Indicate by check mark whether the registrant has submitted electronically and posted on its corporate Web site, if any, every Interactive Data File required to be submitted and posted pursuant to Rule 405 of Regulation S-T during the preceding 12 months (or for such shorter period that the registrant was required to submit and post such files). Yes o No o

Indicate by check mark whether the registrant is a large accelerated filer, an accelerated filer, a non-accelerated filer, or a smaller reporting company. See the definitions of large accelerated filer, accelerated filer and smaller reporting company in Rule 12b-2 of the Exchange Act. (Check one):

Large accelerated filer þ	Accelerated filer o	Non-accelerated filer o (Do not check if a smaller reporting company)	Smaller reporting company o

Indicate by check mark whether the registrant is a shell company (as defined in Rule 12b-2 of the Act). Yes o No þ

The aggregate market value of the common stock held by non-affiliates of the registrant was approximately $3.7 billion computed by reference to the closing sale price of the stock on the Nasdaq Global Select Market on March 31, 2008, the last trading day of the registrant s most recently completed second fiscal quarter.

The number of shares of common stock outstanding as of November 14, 2008 was 591,748,475 shares.

DOCUMENTS INCORPORATED BY REFERENCE

Definitive Proxy Statement relating to the registrant s 2009 Annual Meeting of Stockholders to be filed hereafter (incorporated into Part III hereof).

Explanatory Note

This Amendment is being filed to include additional disclosure under Part I, Item 1 Business and Item 1A Risk Factors in response to comments received from the Securities and Exchange Commission. Except for Item 1 and Item 1A of Part I, no other information included in the original report on Form 10-K is amended by this Form 10-K/A.

Unless otherwise indicated, references to we, us, Company, or TD AMERITRADE mean TD AMERITRADE Holding Corporation and its subsidiaries, and references to fiscal mean the Company s fiscal year ended September 30 (for fiscal years 2008 and 2007) or the last Friday of September (for fiscal years prior to 2007). References to the parent company mean TD AMERITRADE Holding Corporation.

PART I

Item 1. ***Business***

Form of Organization

The Company was established in 1971 as a local investment banking firm and began operations as a retail discount securities brokerage firm in 1975. The Company is a Delaware corporation.

Mission Statement

In the U.S., we want to be...

The investment firm of choice for the typical family.

One of the best-run companies.

Operations

We are a leading provider of securities brokerage services and technology-based financial services to retail investors and business partners, predominantly through the Internet, a national branch network and relationships with one of the largest groups of independent registered investment advisors (RIAs). Our services appeal to a broad market of independent, value-conscious retail investors, traders, financial planners and institutions. We use our efficient platform to offer brokerage services to retail investors and institutions under a simple, low-cost commission structure.

We have been an innovator in electronic brokerage services since entering the retail securities brokerage business in 1975. We believe that we were the first brokerage firm to offer the following products and services to retail clients: touch-tone trading; trading over the Internet; unlimited, streaming, free real-time quotes; extended trading hours; direct access; and commitment on the speed of order execution. Since initiating online trading, we have substantially increased our number of brokerage accounts, average daily trading volume and total assets in client accounts. We have also built, and continue to invest in, a proprietary trade processing platform that is both cost-efficient and highly scalable, significantly lowering our operating costs per trade. In addition, we have made significant and effective investments in building the TD AMERITRADE brand.

Strategy

We intend to capitalize on the growth and consolidation of the retail brokerage industry in the United States and leverage our low-cost infrastructure to grow our market share and profitability. Our long-term growth strategy is to increase our market share of client assets by providing superior offerings to long-term investors, RIAs, and active traders. We strive to enhance the client experience by providing sophisticated asset management products and services, enhanced technological capabilities that enable self-directed investors to trade and invest in new asset classes and a superior, proprietary, single-platform system to support RIAs. The key elements of our strategy are as follows:

Focus on retail brokerage services. We plan to focus on attracting active traders, long-term investors and RIAs to our retail brokerage services. This focused strategy is designed to enable us to maintain our low operating cost structure while offering our clients outstanding products and services.

Provide a comprehensive long-term investor solution. We continue to expand our suite of diversified investment products and services to best serve investors needs. We help clients make investment decisions by providing simple-to-use investment tools and objective research, guidance and education.

Maintain industry leadership and market share with active traders. We help traders make better-informed investment decisions by offering fast access to markets, insight into market trends and innovative tools such as strategy back-testing and comprehensive options research and trading capabilities.

Continue to be a leader in the RIA industry. We provide RIAs with comprehensive brokerage and custody services supported by our robust integrated technology platform, customized personal service and practice

management solutions.

Leverage our infrastructure to add incremental revenue. Through our proprietary technology, we are able to provide a very robust online experience for long-term investors and active traders. Our low-cost, scalable platform provides speed, reliability and quality trade execution services for clients. The scalable capacity of our trading system allows us to add a significant number of transactions while incurring minimal additional fixed costs.

Continue to be a low-cost provider of quality services. Our operating expense per trade is among the lowest of any of our publicly-traded competitors. We intend to continue to lower our operating costs per trade by creating economies of scale, utilizing our single-platform proprietary system, continuing to automate processes and locating much of our operations in low-cost geographical areas. This low fixed-cost infrastructure provides us with significant financial flexibility.

Continue to differentiate our offerings through innovative technologies and service enhancements. We have been an innovator in our industry over our 30-year history. We continually strive to provide our clients with the ability to customize their trading experience. We provide our clients greater choice by tailoring our features and functionality to meet their specific needs.

Leverage the TD AMERITRADE brand. We believe that we have a superior brand identity and that our advertising has established TD AMERITRADE as a leading brand in the retail brokerage market.

Continue to aggressively pursue growth through acquisitions. When evaluating potential acquisitions, we look for transactions that will give us operational leverage, technological leverage, increased market share or other strategic opportunities.

On February 4, 2008, we purchased a portion of Fiserv, Inc. s (Fiserv) investment support services business by acquiring all of the outstanding capital stock of Fiserv Trust Company, a wholly-owned subsidiary of Fiserv. The acquisition added approximately $25 billion in client assets to TD AMERITRADE, including $15 billion held in more than 75,000 accounts managed by approximately 500 independent RIAs and $10 billion held in more than 2,000 plans administered by 80 independent third party administrators (TPAs). This acquisition is discussed in further detail in the Company s Form 10-K Item 8, Financial Statements and Supplementary Data Notes to Consolidated Financial Statements: Note 2 Business Combinations.

On January 24, 2006, we acquired the U.S. brokerage business of TD Waterhouse Group, Inc. (TD Waterhouse) from The Toronto-Dominion Bank (TD). The transaction combined highly complementary franchises to create a retail broker with the scale, breadth and financial strength to be a leading player in the increasingly competitive and consolidating investor services industry. The acquisition of TD Waterhouse provided us with a national network of over 100 branches, as well as relationships with one of the largest groups of independent RIAs. We also now provide our clients with a Federal Deposit Insurance Corporation (FDIC)-insured money market sweep alternative for their cash through an arrangement with TD Bank USA, N.A. This acquisition is discussed in further detail under the heading Acquisition of TD Waterhouse in the Company s Form 10-K Item 7, Management s Discussion and Analysis of Financial Condition and Results of Operations.

Client Offerings

We deliver products and services aimed at providing a comprehensive, personalized experience for active traders, long-term investors and independent RIAs. Our client offerings are described below:

TD AMERITRADE® is our core offering for self-directed retail investors. We offer sophisticated tools and services, including Streamer Suite,™ TD AMERITRADE command center, SnapTicket,™ Trade Triggers,™ QuoteScope,™ Advanced Analyzer,™ Market Motion Detector, Pattern Matcher,™ StrategyDesk™ and WealthRuler.™ We offer Ameritrade Apex™ for clients who place an average of five trades per month over a three-month period or have a $100,000 total account value. Apex clients receive free access to services that are normally

available on a subscription basis and access to exclusive services and content.

TD AMERITRADE Institutional is a leading provider of comprehensive brokerage and custody services to more than 4,000 independent RIAs and their clients. Our advanced technology platform, coupled with personal support from our dedicated service teams, allows RIAs to run their practices more effectively and efficiently while optimizing time with clients. Additionally, TD AMERITRADE Institutional provides a robust offering of products, programs and services. These services are all designed to help advisors build their businesses while helping their clients reach their financial goals.

TD AMERITRADE Izone serves self-directed traders who are willing to forgo traditional support and service in favor of a purely electronic brokerage experience and lower commissions.

Amerivest™ is an online advisory service that develops a portfolio of exchange-traded funds (ETFs) to help long-term investors pursue their financial goals. Our subsidiary, Amerivest Investment Management, LLC, recommends an investment portfolio based on our proprietary automated five-step process centered on an investor s goals and risk tolerance.

TDX Independence ETFs were launched in October 2007. Our subsidiary, Amerivest Investment Management, LLC, is a sub-advisor to XShares Advisors LLC for TDX Independence Funds, Inc. TDX Independence Funds, Inc. is an investment company that provides diversified goal-based investing options through five lifecycle ETFs. The target-date funds begin by focusing on asset growth through a higher weighting of stocks, shifting to capital preservation over time through historically less risky allocations, thus creating what we believe to be the first lifecycle ETFs. These ETFs seek to replicate certain lifecycle indexes created by Zacks Investment Research.

TD AMERITRADE Corporate Services provides self-directed brokerage services to employees and executives of corporations, either directly in partnership with the employer or through joint marketing relationships with third-party administrators, such as 401(k) providers and employee benefit consultants.

Products and Services

We strive to provide the best value of retail brokerage services to our clients. The products and services available to our clients include:

Common and preferred stock. Clients can purchase common and preferred stocks and American Depository Receipts traded on any United States exchange or quotation system.

Exchange-Traded Funds. ETFs are baskets of securities (stocks or bonds) that typically track recognized indices. They are similar to mutual funds, except they trade the same way that a stock trades, on a stock exchange. We have launched an online resource dedicated to ETFs, offering tools, education and information for active and long-term investors seeking alternatives for pursuing their investment strategies.

Option trades. We offer a full range of option trades, including spreads, straddles and strangles. All option trades, including complex trades, are accessible on our trading platform.

Mutual funds. Clients can compare and select from a portfolio of over 13,000 mutual funds from leading fund families, including a broad range of no-transaction-fee (NTF) funds. Clients can also easily exchange funds within the same mutual fund family.

Fixed income. We offer our clients access to a variety of Treasury, corporate, government agency and municipal bonds, as well as mortgage-backed securities and certificates of deposit.

Margin lending. We extend credit to clients that maintain margin accounts.

Cash management services. Through third-party banking relationships, we offer money market deposit accounts and money market mutual funds to our clients as cash sweep alternatives. We also offer checking and ATM services through these relationships.

We earn commissions and transaction fees on client trades in common and preferred stock, ETFs, options, mutual funds and fixed income securities. Margin lending and the related securities lending business generate net interest revenue. Cash management services and fee-based mutual funds generate money market deposit account fees and investment product fee revenues. The following table presents the percentage of net revenues contributed by each class of similar services during the last three fiscal years:

	Percentage of Net Revenues Fiscal Year Ended		
Class of Service	**Sept. 30, 2008**	**Sept. 30, 2007**	**Sept. 29, 2006**
Commissions and transaction fees	40.1%	37.4%	40.9%

Net interest revenue	21.7%	25.6%	38.6%
Money market deposit account fees	24.8%	24.6%	10.3%
Investment product fees	12.2%	10.7%	7.8%
Other revenues	1.2%	1.7%	2.4%
Net revenues	100.0%	100.0%	100.0%

We provide our clients with an array of channels to access our products and services. These include the Internet, our network of retail branches, wireless telephone or personal digital assistant, interactive voice response and registered representatives via telephone.

Client Service and Support

We strive to provide the best client service in the industry as measured by: (1) speed of response time to telephone calls, (2) turnaround time responding to client inquiries and (3) client satisfaction with the account relationship.

We endeavor to optimize our highly-rated client service by:

Ensuring prompt response to client service calls through adequate staffing with properly trained and motivated personnel in our client service departments, a majority of whom hold a Series 7 license;

Tailoring client service to the particular expectations of the clients of each of our client segments and

Expanding our use of technology to provide automated responses to the most typical inquiries generated in the course of clients securities trading and related activities.

We provide access to client service and support through the following means:

Web sites. Our Web sites provide basic information on how to use our services as well as an in-depth education center that includes a guide to online investing and an encyclopedia of finance. Ted, our Virtual Investment Consultant, is a new tool on our Web sites that allows certain retail clients to interact with a virtual representative to ask questions regarding our products, tools and services.

Branches. We offer a nationwide network of over 100 retail branches, located primarily in large metropolitan areas.

E-mail. Clients are encouraged to use e-mail to contact our client service representatives. Our operating standards require a response within 24 hours of receipt of the e-mail; however, we strive to respond within four hours after receiving the original message.

Telephone. For clients who choose to call or whose inquiries necessitate calling one of our client service representatives, we provide a toll-free number that connects to advanced call handling systems. These systems provide automated answering and directing of calls to the proper department. Our systems also allow linkage between caller identification and the client database to give the client service representative immediate access to the client s account data when the call is received. Client service representatives are available 24 hours a day, seven days a week (excluding market holidays).

Technology and Information Systems

Our technological capabilities and systems are central to our business and are critical to our goal of providing the best execution at the best value to our clients. Our operations require reliable, scalable systems that can handle complex financial transactions for our clients with speed and accuracy. We maintain sophisticated and proprietary technology that automates traditionally labor-intensive securities transactions. Our ability to effectively leverage and adopt new technology to improve our services is a key component of our success.

We continue to make investments in technology and information systems. We have spent a significant amount of resources to increase capacity and improve speed and reliability. To provide for system continuity during potential power outages, we have equipped our data centers with uninterruptible power supply units, as well as back-up generators.

We currently have the capacity to process approximately 800,000 trades per day and approximately 33,000 client login connections per second. During fiscal 2008, our clients averaged approximately 312,000 trades per day. Our greatest number of average client trades per day for a single month occurred in October 2008, when clients averaged approximately 411,000 trades per day. The greatest number of trades our clients have made in a single day is 648,000.

Advertising and Marketing

We intend to continue to grow and increase our market share by advertising online, on television, in print and direct mail and on our own Web sites. We invest heavily in advertising programs designed to bring greater brand

recognition to our services. We intend to continue to aggressively advertise our services. From time to time, we may choose to increase our advertising to target specific groups of investors or to decrease advertising in response to market conditions.

Advertising for retail clients is generally conducted through Web sites, financial news networks and other television and cable networks. We also place print advertisements in a broad range of business publications and use direct mail advertising. Advertising for institutional clients is significantly less than for retail clients and is generally conducted through highly-targeted media.

To monitor the success of our various marketing efforts, we have installed a data gathering and tracking system. This system enables us to determine the type of advertising that best appeals to our target market so that we can invest in these programs in the future. Additionally, through the use of our database tools, we are working to more efficiently determine the needs of our various client segments and tailor our services to their individual needs. We intend to utilize this system to strengthen our client relationships and support marketing campaigns to attract new clients. All of our methods and uses of client information are disclosed in our privacy statement.

All of our brokerage-related communications with the public are regulated by the Financial Industry Regulatory Authority (FINRA).

Clearing Operations

Our subsidiary, TD AMERITRADE Clearing, Inc. (TDA Clearing) provides clearing and execution services to our introducing broker-dealer subsidiary, TD AMERITRADE, Inc. (TDA Inc.). Clearing services include the confirmation, receipt, settlement, delivery and record-keeping functions involved in processing securities transactions. Our clearing broker-dealer subsidiary provides the following back office functions:

Maintaining client accounts;

Extending credit in a margin account to the client;

Engaging in securities lending and borrowing transactions;

Settling securities transactions with clearinghouses such as The Depository Trust & Clearing Corporation and The Options Clearing Corporation;

Settling commissions and transaction fees;

Preparing client trade confirmations and statements;

Performing designated cashiering functions, including the delivery and receipt of funds and securities to or from the client;

Possession, control and safeguarding funds and securities in client accounts;

Processing cash sweep transactions to and from money market deposit accounts and money market mutual funds;

Transmitting tax accounting information to the client and to the applicable tax authority and

Forwarding prospectuses, proxy materials and other shareholder information to clients.

Competition

We believe that the principal determinants of success in the retail brokerage market are brand recognition, size of client base and client assets, client trading activity, efficiency of operations, technology infrastructure and access to financial resources. We also believe that the principal factors considered by clients in choosing a broker are price, client service, quality of trade execution, delivery platform capabilities, convenience and ease of use, breadth of services, innovation and overall value. Based on our experience, focus group research and the success we have enjoyed to date, we believe that we presently compete successfully in each of these categories.

The market for brokerage services, particularly electronic brokerage services, continues to evolve and is intensely competitive. We have seen intense competition during the past five years and expect this competitive environment to continue. We encounter direct competition from numerous other brokerage firms, many of which provide online brokerage services. These competitors include E*TRADE Financial Corporation, Charles Schwab & Co., Inc., Fidelity Investments and Scottrade, Inc. We also encounter competition from established full-commission brokerage firms such as Merrill Lynch and Smith Barney, as well as financial institutions, mutual fund sponsors and other organizations, some of which provide online brokerage services.

Regulation

The securities industry is subject to extensive regulation under federal and state law. Broker-dealers are required to register with the U.S. Securities and Exchange Commission (SEC) and to be members of FINRA. Our broker-dealer subsidiaries are subject to the requirements of the Securities Exchange Act of 1934 (the Exchange Act) relating to broker-dealers. These regulations establish, among other things, minimum net capital requirements for our broker-dealer subsidiaries. For our clearing broker-dealer subsidiary (TDA Clearing), this minimum net capital level is determined by a calculation described in Rule 15c3-1 that is primarily based on aggregate debits, which primarily are a function of client margin balances. TDA Clearing is required to maintain minimum net capital of 2% of aggregate debits. Since our aggregate debits may fluctuate significantly, our minimum net capital requirements may also fluctuate significantly from period to period. TDA Inc., our introducing broker-dealer subsidiary, is required to maintain a minimum dollar amount of net capital, which was $250,000 as of September 30, 2008.

Certain of our subsidiaries are also registered as investment advisors under the Investment Advisers Act of 1940. We are also subject to regulation in all 50 states and the District of Columbia, including registration requirements.

In its capacity as a securities clearing firm, TDA Clearing is a member of The Depository Trust & Clearing Corporation and The Options Clearing Corporation, each of which is registered as a clearing agency with the SEC. As a member of these clearing agencies, TDA Clearing is required to comply with the rules of such clearing agencies, including rules relating to possession and control of client funds and securities, margin lending and execution and settlement of transactions.

Margin lending activities are subject to limitations imposed by regulations of the Federal Reserve System and FINRA. In general, these regulations provide that in the event of a significant decline in the value of securities collateralizing a margin account, we are required to obtain additional collateral from the borrower or liquidate security positions.

We are subject to a number of state and federal laws applicable to companies conducting business on the Internet that address client privacy, system security and safeguarding practices and the use of client information. For additional, important information relating to government regulation, please review the information set forth under the heading Risk Factors Relating to the Regulatory Environment in Item 1A Risk Factors.

Intellectual Property Rights

Our success and ability to compete are dependent to a significant degree on our intellectual property, which includes our proprietary technology, trade secrets and client base. We rely on copyright, trade secret, trademark, domain name, patent and contract laws to protect our intellectual property and have utilized the various methods available to us, including filing applications for patents and trademark registrations with the United States Patent and Trademark office and entering into written licenses and other technology agreements with third parties. Our patented and patent pending technologies include stock indexing and investor education technologies, as well as innovative trading and analysis tools. Our trademarks include both our primary brand TD AMERITRADE as well as brands for other products and services. A substantial portion of our intellectual property is protected by trade secrets. The source and object code for our proprietary software is also protected using applicable methods of intellectual property protection and general protections afforded to confidential information. In addition, it is our policy to enter into confidentiality and intellectual property ownership agreements with our employees and confidentiality and noncompetition agreements with our independent contractors and business partners, and to control access to and distribution of our intellectual property.

Employees

As of September 30, 2008, we had 4,660 full-time equivalent employees. This number has increased from 3,882 full-time equivalent employees as of the end of fiscal 2007, due primarily to increased staffing associated with growth initiatives and the integration of Fiserv Trust Company. None of our employees is covered by a collective bargaining agreement. We believe that our relations with our employees are good.

Financial Information about Segments and Geographic Areas

See Note 18 of the Notes to Consolidated Financial Statements included in Item 8 of the Company s Form 10-K for segment and geographic area financial information.

Internet Address

Additional information concerning our business can be found on our Web site at www.amtd.com. We make available free of charge on our Web site our annual report on Form 10-K, quarterly reports on Form 10-Q, current reports on Form 8-K and amendments to those reports, as soon as reasonably practicable after we electronically file such material with or furnish it to the SEC.

Item 1A. ***Risk Factors***

In addition to the other information set forth in this report, you should carefully consider the following factors which could materially affect our business, financial condition or future results of operations. Although the risks described below are those that management believes are the most significant, these are not the only risks facing our company. Additional risks and uncertainties not currently known to us or that we currently do not deem to be material also may materially affect our business, financial condition or future results of operations.

Risk Factors Relating to Our Business Operations

Stock market volatility and other securities industry risks could adversely affect our business.

Substantially all of our revenues are derived from our securities brokerage business. Like other securities brokerage businesses, we are directly affected by economic and political conditions, broad trends in business and finance and changes in volume and price levels of securities transactions. Recent events in global financial markets, including failures and government bailouts of large financial services companies, have resulted in substantial market volatility and increased client trading volume. However, any sustained downturn in general economic conditions or U.S. equity markets would likely result in reduced client trading volume and net revenues. For example, events such as the terrorist attacks in the United States on September 11, 2001 and the invasion of Iraq in 2003 resulted in periods of substantial market volatility and reductions in trading volume and net revenues. Severe market fluctuations or weak economic conditions could reduce our trading volume and net revenues and have a material adverse effect on our profitability.

We have exposure to interest rate risk.

As a fundamental part of our brokerage business, we invest in interest-earning assets and are obligated on interest-bearing liabilities. In addition, we earn fees on our money market deposit account (MMDA) sweep arrangement with TD Bank USA, which are subject to interest rate risk. Changes in interest rates could affect the interest earned on assets differently than interest paid on liabilities. A rising interest rate environment generally results in our earning a larger net interest spread. Conversely, a falling interest rate environment generally results in our earning a smaller net interest spread. If we are unable to effectively manage our interest rate risk, changes in interest rates could have a material adverse effect on our profitability.

We have exposure to liquidity risk.

Our liquidity needs to support interest-earning assets are primarily met by client cash balances or financing created from our securities lending activities. A reduction of funds available from these sources may require us to seek other potentially more expensive forms of financing, such as borrowings on our uncommitted lines of credit. Because our broker-dealer lines of credit are uncommitted, there can be no assurance that such financing would be available. Our liquidity could be constrained by an inability to access the capital markets due to a variety of unforeseen market disruptions. If we are unable to meet our funding needs on a timely basis, our business would be adversely affected.

Corporate cash invested in money market mutual funds is subject to liquidity risk in the event the fund sponsor is unable to honor redemption requests. For example, during fiscal 2008, we had substantial corporate cash invested in the Primary Fund, a money market mutual fund managed by The Reserve, an independent mutual fund company. In September 2008, the net asset value of this fund declined below $1.00 per share and the fund announced it was liquidating under the supervision of the SEC. In order to facilitate an orderly liquidation, the SEC allowed the fund to suspend redemptions until the fund could liquidate portfolio securities without further impairing the net asset value. This has created short-term liquidity challenges as we await redemptions of our money market fund positions. On October 31, 2008, The Reserve redeemed approximately 51% of the shares of the fund. However, substantial delays in remaining redemptions could adversely affect our liquidity and require us to borrow on our holding company s revolving line of credit or seek alternative financing.

We are exposed to credit risk with clients and counterparties.

We make margin loans to clients that are collateralized by client securities and we borrow and lend securities in connection with our broker-dealer business. A significant portion of our net revenues is derived from interest on margin loans. By permitting clients to purchase securities on margin, we are subject to risks inherent in extending credit, especially during periods of rapidly declining markets in which the value of the collateral held by us could fall below the amount of a client s indebtedness. In addition, in accordance with regulatory guidelines, we collateralize

borrowings of securities by depositing cash or securities with lenders. Sharp changes in market values of substantial amounts of securities and the failure by parties to the borrowing transactions to honor their commitments could have a material adverse effect on our revenues and profitability.

Our clearing operations expose us to liability for errors in clearing functions.

Our broker-dealer subsidiary, TDA Clearing, provides clearing and execution services to our introducing broker-dealer subsidiary. Clearing and execution services include the confirmation, receipt, settlement and delivery functions involved in securities transactions. Clearing brokers also assume direct responsibility for the possession and control of client securities and other assets and the clearance of client securities transactions. However, clearing brokers also must rely on third-party clearing organizations such as The Depository Trust & Clearing Corporation and The Options Clearing Corporation in settling client securities transactions. Self-clearing securities firms are subject to substantially more regulatory control and examination than introducing brokers that rely on others to perform clearing functions. Errors in performing clearing functions, including clerical and other errors related to the handling of funds and securities held by us on behalf of clients, could lead to civil penalties as well as losses and liability in related lawsuits brought by clients and others.

Systems failures, delays and capacity constraints could harm our business.

We receive and process trade orders through a variety of electronic channels, including the Internet, wireless web, personal digital assistants and our interactive voice response system. These methods of trading are heavily dependent on the integrity of the electronic systems supporting them. Our systems and operations are vulnerable to damage or interruption from human error, natural disasters, power loss, computer viruses, distributed denial of service (DDOS) attacks, spurious spam attacks, intentional acts of vandalism and similar events. It could take several hours or more to restore full functionality in the event of an unforeseen disaster. Extraordinary trading volumes could cause our computer systems to operate at an unacceptably low speed or even fail. Extraordinary Internet traffic caused by DDOS or spam attacks could cause our Web site to be unavailable or slow to respond. While we have made significant investments to upgrade the reliability and scalability of our systems and added hardware to address extraordinary Internet traffic, there can be no assurance that our systems will be sufficient to handle such extraordinary circumstances. We may not be able to project accurately the rate, timing or cost of any increases in our business or to expand and upgrade our systems and infrastructure to accommodate any increases in a timely manner. Systems failures and delays could occur and could cause, among other things, unanticipated disruptions in service to our clients, slower system response time resulting in transactions not being processed as quickly as our clients desire, decreased levels of client service and client satisfaction and harm to our reputation. If any of these events were to occur, we could suffer:

a loss of clients or a reduction in the growth of our client base;

increased operating expenses;

financial losses;

litigation or other client claims and

regulatory sanctions or additional regulatory burdens, based on the authority of the SEC and FINRA to enforce regulations regarding business continuity planning and the ability to adequately service clients.

Our networks and client information could be vulnerable to security risks.

The secure transmission of confidential information over public networks is a critical element of our operations. Our networks could be vulnerable to unauthorized access, computer viruses, phishing schemes and other security problems. We, along with the financial services industry in general, have experienced losses related to clients login and password information being compromised while using public computers or due to vulnerabilities of clients private computers.

Persons who circumvent security measures could wrongfully use our confidential information or our clients confidential information or cause interruptions or malfunctions in our operations. We could be required to expend significant additional resources to protect against the threat of security breaches or to alleviate problems caused by any breaches. We may not be able to implement security measures that will protect against all security risks. Because we provide a security guarantee under which we reimburse clients for losses resulting from unauthorized activity in their

accounts, significant unauthorized activity could have a material adverse effect on our results of operations.

Substantial competition could reduce our market share and harm our financial performance.

The market for electronic brokerage services is continually evolving and is intensely competitive. The retail brokerage industry has experienced significant consolidation, which may continue in the future, and which may increase competitive pressures in the industry. There has been substantial price competition in the industry, including various free trade offers. We expect this competitive

environment to continue in the future. We face direct competition from numerous retail brokerage firms, including E*TRADE Financial Corporation, Charles Schwab & Co., Inc., Fidelity Investments and Scottrade, Inc. We also encounter competition from the broker-dealer affiliates of established full-commission brokerage firms as well as from financial institutions, mutual fund sponsors and other organizations, some of which provide online brokerage services. Some of our competitors have greater financial, technical, marketing and other resources, offer a wider range of services and financial products, and have greater name recognition and a more extensive client base than we do. We believe that the general financial success of companies within the retail securities industry will continue to attract new competitors to the industry, such as banks, software development companies, insurance companies, providers of online financial information and others. These companies may provide a more comprehensive suite of services than we do. Increased competition, including pricing pressure, could have a material adverse effect on our results of operations and financial condition.

We will need to introduce new products and services and enhance existing products and services to remain competitive.

Our future success depends in part on our ability to develop and enhance our products and services. In addition, the adoption of new Internet, networking or telecommunications technologies or other technological changes could require us to incur substantial expenditures to enhance or adapt our services or infrastructure. There are significant technical and financial costs and risks in the development of new or enhanced products and services, including the risk that we might be unable to effectively use new technologies, adapt our services to emerging industry standards or develop, introduce and market enhanced or new products and services. An inability to develop new products and services, or enhance existing offerings, could have a material adverse effect on our profitability.

Risk Factors Relating to the Regulatory Environment

Failure to comply with net capital requirements could adversely affect our business.

The SEC, FINRA and various other regulatory agencies have stringent rules with respect to the maintenance of specific levels of net capital by securities broker-dealers. Net capital is a measure, defined by the SEC, of a broker-dealer s readily available liquid assets, reduced by its total liabilities other than approved subordinated debt. All of our broker-dealer subsidiaries are required to comply with net capital requirements. If we fail to maintain the required net capital, the SEC could suspend or revoke our registration, or FINRA could expel us from membership, which could ultimately lead to our liquidation, or they could impose censures, fines or other sanctions. If the net capital rules are changed or expanded, or if there is an unusually large charge against net capital, then our operations that require capital could be limited. A large operating loss or charge against net capital could have a material adverse effect on our ability to maintain or expand our business.

Regulatory uncertainties could harm our business.

The securities industry is subject to extensive regulation and broker-dealers are subject to regulations covering all aspects of the securities business. The SEC, FINRA and other self-regulatory organizations and state and foreign regulators can, among other things, censure, fine, issue cease-and-desist orders to, suspend or expel a broker-dealer or any of its officers or employees. We could fail to establish and enforce procedures to comply with applicable regulations, which could have a material adverse effect on our business.

While we neither actively solicit new accounts nor have established offices outside the United States, our websites are accessible world-wide over the Internet and we currently have account holders located outside the United States. These accounts comprise approximately 1.6% of our total accounts and are spread across many jurisdictions. Adverse action by foreign regulators with respect to regulatory compliance by us in foreign jurisdictions could adversely affect our revenues from clients in such countries or regions.

Various regulatory and enforcement agencies have been reviewing the following areas related to the brokerage industry:

- § sales practices and suitability of financial products and services;
- § auction rate securities;
- § money market mutual funds;

- § mutual fund trading;
- § client cash sweep arrangements;
- § regulatory reporting obligations;
- § risk management;
- § valuation of financial instruments;

§ best execution practices;

§ client privacy;

§ system security and safeguarding practices and

§ advertising claims.

These reviews could result in enforcement actions, new regulations or clarification of existing regulations, which could adversely affect our operations.

In addition, we use the Internet as a major distribution channel to provide services to our clients. A number of regulatory agencies have adopted regulations regarding client privacy, system security and safeguarding practices and the use of client information by service providers. Additional laws and regulations relating to the Internet and safeguarding practices could be adopted in the future, including laws related to identity theft and regulations regarding the pricing, taxation, content and quality of products and services delivered over the Internet. Complying with these laws and regulations may be expensive and time-consuming and could limit our ability to use the Internet as a distribution channel, which would have a material adverse effect on our profitability.

We are subject to litigation and may not always be successful in defending against such claims.

We are subject to claims and lawsuits in the ordinary course of business, which can result in settlements, awards and injunctions. Litigation may include client-initiated claims related to the purchase or sale of investment securities. It is inherently difficult to predict the ultimate outcome of these matters, particularly in cases in which claimants seek substantial or unspecified damages. A substantial judgment, settlement, fine or penalty could have a material adverse effect on our results of operations or cash flows.

Risk Factors Relating to Strategic Acquisitions and the Integration of Acquired Operations

Acquisitions involve risks that could adversely affect our business.

We intend to pursue strategic acquisitions of businesses and technologies. Acquisitions may entail numerous risks, including:

difficulties in the integration of acquired operations, services and products;

failure to achieve expected synergies;

diversion of management s attention from other business concerns;

assumption of unknown material liabilities of acquired companies;

amortization of acquired intangible assets, which could reduce future reported earnings;

potential loss of clients or key employees of acquired companies and

dilution to existing stockholders.

As part of our growth strategy, we regularly consider, and from time to time engage in, discussions and negotiations regarding strategic transactions such as acquisitions, mergers and combinations within our industry. The purchase price for possible acquisitions could be paid in cash, through the issuance of common stock or other securities, borrowings or a combination of these methods.

We cannot be certain that we will be able to continue to identify, consummate and successfully integrate strategic transactions, and no assurance can be given with respect to the timing, likelihood or business effect of any possible transaction. For example, we could begin negotiations that we subsequently decide to suspend or terminate for a variety of reasons. However, opportunities may arise from time to time that we will evaluate. Any transactions that we consummate would involve risks and uncertainties to us. These risks could cause the failure of any anticipated benefits of an acquisition to be realized, which could have a material adverse effect on our revenues and profitability.

Risk Factors Relating to Owning Our Stock

The market price of our common stock could fluctuate significantly.

Our common stock, and the U.S. securities markets in general, experience significant price fluctuations. The market prices of securities of financial services companies, in particular, have been especially volatile. The price of our common stock has recently

decreased substantially and could decrease further. In addition, because the market price of our common stock tends to fluctuate significantly, we could become the object of securities class action litigation, which could result in substantial costs and a diversion of management s attention and resources and could have a material adverse effect on our business and the price of our common stock.

We are restricted by the terms of our senior credit facilities.

In connection with the acquisition of TD Waterhouse, we entered into a credit agreement, as amended, on January 23, 2006 for $2.2 billion in senior credit facilities with a syndicate of lenders. These credit facilities contain various covenants and restrictions that may limit our ability to:

- § incur additional indebtedness;
- § create liens;
- § sell assets and make capital expenditures;
- § pay dividends or make distributions;
- § repurchase our common stock;
- § make investments;
- § merge or consolidate with another entity and
- § conduct transactions with affiliates.

As a result of the covenants and restrictions contained in the credit facilities, we are limited in how we conduct our business. We cannot guarantee that we will be able to remain in compliance with these covenants or be able to obtain waivers for noncompliance in the future. A failure to comply with these covenants could have a material adverse effect on our financial condition by impairing our ability to secure and maintain financing.

Our corporate debt level may limit our ability to obtain additional financing.

As of September 30, 2008, we had approximately $1.4 billion of long-term debt. Our ability to meet our cash requirements, including our debt service obligations, is dependent upon our future performance, which will be subject to financial, business and other factors affecting our operations, many of which are or may be beyond our control. We cannot provide assurance that our business will generate sufficient cash flows from operations to fund these cash requirements, including our debt service obligations. If we are unable to meet our cash requirements from operations, we would be required to obtain alternative financing. The degree to which we may be leveraged as a result of the indebtedness we have incurred could materially and adversely affect our ability to obtain financing for working capital, acquisitions or other purposes, could make us more vulnerable to industry downturns and competitive pressures or could limit our flexibility in planning for, or reacting to, changes and opportunities in our industry, which may place us at a competitive disadvantage. There can be no assurance that we would be able to obtain alternative financing, that any such financing would be on acceptable terms or that we would be permitted to do so under the terms of existing financing arrangements. In the absence of such financing, our ability to respond to changing business and economic conditions, make future acquisitions, react to adverse operating results, meet our debt service obligations, or fund required capital expenditures, could be materially and adversely affected.

TD and the Ricketts holders exercise significant influence over TD AMERITRADE.

As of September 30, 2008, TD and J. Joe Ricketts, our founder, members of his family and trusts held for their benefit (which we collectively refer to as the Ricketts holders), owned approximately 39.9% and 21.8%, respectively, of the outstanding voting securities of TD AMERITRADE. TD is permitted under the terms of a stockholders agreement to own up to 39.9% of the outstanding shares of TD AMERITRADE common stock during the three years following the January 24, 2006 closing of the TD Waterhouse acquisition, up to 45% of the outstanding shares of TD AMERITRADE common stock for the remainder of the term of the stockholders agreement (a maximum of 10 years

following the closing) and an unlimited number of shares of TD AMERITRADE following the termination of the stockholders agreement. The Ricketts holders are permitted under the terms of the stockholders agreement to own up to 29% of the outstanding shares of TD AMERITRADE. As a result, TD and the Ricketts holders have the ability to significantly influence the outcome of any matter submitted for the vote of TD AMERITRADE stockholders. The stockholders agreement also provides that TD may designate five of the twelve members of the TD AMERITRADE board of directors and the Ricketts holders may designate three of the twelve members of the TD AMERITRADE board of directors, subject to adjustment based on their

respective ownership positions in TD AMERITRADE. Accordingly, TD and the Ricketts holders are able to significantly influence the outcome of all matters that come before the TD AMERITRADE board. As a result of their significant share ownership in TD AMERITRADE, TD or the Ricketts holders may have the power, subject to applicable law, to significantly influence actions that might be favorable to TD or the Ricketts holders, but not necessarily favorable to other TD AMERITRADE stockholders. In addition, the ownership position and governance rights of TD and the Ricketts holders could discourage a third party from proposing a change of control or other strategic transaction concerning TD AMERITRADE. As a result, the common stock of TD AMERITRADE could trade at prices that do not reflect a takeover premium to the same extent as do the stocks of similarly situated companies that do not have a stockholder with an ownership interest as large as TD s and the Ricketts holders combined ownership interest.

Conflicts of interest may arise between TD AMERITRADE and TD, which may be resolved in a manner that adversely affects TD AMERITRADE s business, financial condition or results of operations.

We transact business and have extensive relationships with TD and certain of its affiliates. During fiscal 2008, revenues related to money market sweep arrangements with TD and certain of its affiliates accounted for approximately 33% of our net revenues. Conflicts of interest may arise between TD AMERITRADE and TD in areas relating to past, ongoing and future relationships, including corporate opportunities, potential acquisitions or financing transactions, sales or other dispositions by TD of its interests in TD AMERITRADE and the exercise by TD of its influence over the management and affairs of TD AMERITRADE. Some of the directors on the TD AMERITRADE board are persons who are also officers or directors of TD or its subsidiaries. Service as a director or officer of both TD AMERITRADE and TD or its other subsidiaries could create conflicts of interest if such directors or officers are faced with decisions that could have materially different implications for TD AMERITRADE and for TD. Our amended and restated certificate of incorporation contains provisions relating to the avoidance of direct competition between TD AMERITRADE and TD. In addition, an independent committee of our board of directors reviews and approves transactions with TD and its affiliates. TD AMERITRADE and TD have not established any other formal procedures to resolve potential or actual conflicts of interest between them. There can be no assurance that any of the foregoing potential conflicts would be resolved in a manner that does not adversely affect the business, financial condition or results of operations of TD AMERITRADE. In addition, the provisions of the stockholders agreement related to non-competition are subject to numerous exceptions and qualifications and may not prevent TD AMERITRADE and TD from competing with each other to some degree in the future.

The terms of the stockholders agreement, our charter documents and Delaware law could inhibit a takeover that stockholders may consider favorable.

Provisions in the stockholders agreement among TD and the Ricketts holders, our certificate of incorporation and bylaws and Delaware law will make it difficult for any party to acquire control of us in a transaction not approved by the requisite number of directors. These provisions include:

the presence of a classified board of directors;

the ability of the board of directors to issue and determine the terms of preferred stock;

advance notice requirements for inclusion of stockholder proposals at stockholder meetings; and

the anti-takeover provisions of Delaware law.

These provisions could delay or prevent a change of control or change in management that might provide stockholders with a premium to the market price of their common stock.

PART IV

Item 15. ***Exhibits and Financial Statement Schedules***

(b) Exhibits

Exhibit No.	**Description**
31.1	Certification of Fredric J. Tomczyk, Principal Executive Officer, as required pursuant to Section 302 of the Sarbanes-Oxley Act of 2002
31.2	Certification of William J. Gerber, Principal Financial Officer, as required pursuant to Section 302 of the Sarbanes-Oxley Act of 2002
32.1	Certification pursuant to 18 U.S.C. Section 1350 as adopted pursuant to Section 906 of the Sarbanes-Oxley Act of 2002

SIGNATURES

Pursuant to the requirements of Section 13 or 15(d) of the Securities Exchange Act of 1934, the registrant has duly caused this report to be signed on its behalf by the undersigned, thereunto duly authorized, on this 6th day of May, 2009.

TD AMERITRADE HOLDING CORPORATION

By: /s/ FREDRIC J. TOMCZYK
Fredric J. Tomczyk
President, Chief Executive Officer
(Principal Executive Officer)

By: /s/ WILLIAM J. GERBER
William J. Gerber
Executive Vice President, Chief Financial Officer
(Principal Financial and Accounting Officer)