

AMERITRADE HOLDING CORP

Form PRER14A

November 23, 2005

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**UNITED STATES SECURITIES AND EXCHANGE COMMISSION**  
**Washington, D.C. 20549**  
**SCHEDULE 14A INFORMATION**  
**PROXY STATEMENT PURSUANT TO SECTION 14(a) OF THE SECURITIES**  
**EXCHANGE ACT OF 1934**

Filed by the Registrant

Filed by a Party other than the Registrant

Check the appropriate box:

Preliminary Proxy Statement

Confidential, for Use of the Commission Only (as permitted by Rule 14a-6(e)(2))

Definitive Proxy Statement

Definitive Additional Materials

Soliciting Material Pursuant to §240.14a-11(c) or §240.14a-2

**AMERITRADE HOLDING CORPORATION**

**(Name of Registrant as Specified In Its Charter)**

**(Name of Person(s) Filing Proxy Statement, if other than the Registrant)**

Payment of Filing Fee (Check the appropriate box):

No fee required.

Fee computed on table below per Exchange Act Rules 14a-6(i)(4) and 0-11.

- (1) Title of each class of securities to which transaction applies: TD Waterhouse Group, Inc. common stock, par value \$0.01
- (2) Aggregate number of securities to which transaction applies: 352,944,959 shares of common stock of TD Waterhouse Group, Inc.
- (3) Per unit price or other underlying value of transaction computed pursuant to Exchange Act Rule 0-11 (Set forth the amount on which the filing fee is calculated and state how it was determined): \$1,400,151,000, calculated pursuant to Rule 0-11(c)(1)(i) and (a)(4) of the Securities Exchange Act of 1934, as amended, which represents the book value of TD Waterhouse Group, Inc. (the securities of which will be received by Ameritrade Holding Corporation in the transaction) after giving effect to the Reorganization described in the proxy statement.
- (4) Proposed maximum aggregate value of transaction: \$1,400,151,000, calculated pursuant to Rule 0-11(c)(1)(i) and (a)(4) of the Securities Exchange Act of 1934, as amended.
- (5) Total fee paid: \$164,798

Fee paid previously with preliminary materials.

Check box if any part of the fee is offset as provided by Exchange Act Rule 0-11(a)(2) and identify the filing for which the offsetting fee was paid previously. Identify the previous filing by registration statement number, or the Form or Schedule and the date of its filing.

- (1) Amount Previously Paid:

- (2) Form, Schedule or Registration Statement No.:
  - (3) Filing Party:
  - (4) Date Filed:
-

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, 2005

**To the Stockholders of Ameritrade Holding Corporation:**

On behalf of the board of directors, we are pleased to deliver to you our proxy statement concerning the acquisition by Ameritrade of the U.S. retail securities brokerage business of TD Waterhouse Group, Inc., or TD Waterhouse, from The Toronto-Dominion Bank, or TD. We believe the combination will give Ameritrade the scale, breadth and financial strength to further enhance its position as a leader in the securities brokerage industry.

In the transaction:

We will acquire the U.S. retail securities brokerage business of TD Waterhouse from TD in exchange for the issuance of 196,300,000 shares of Ameritrade common stock, which will represent approximately 32.6% of our post-transaction outstanding voting securities, and \$20,000 in cash.

We will change our name to TD Ameritrade Holding Corporation.

We will pay a special cash dividend of \$6.00 per share to Ameritrade stockholders, subject to Ameritrade obtaining adequate financing, and we will adjust outstanding equity awards granted to our directors and employees to preserve the pre-dividend economic value of the awards. The special dividend is a condition to the completion of the transaction and we will pay it only if the transaction is completed. Ameritrade's board of directors will declare the special dividend prior to the completion of the transaction and the record date for the special dividend will occur prior to the completion of the transaction and the issuance of Ameritrade common stock to TD.

We will sell our Canadian brokerage business, Ameritrade Canada, Inc., to TD for \$60 million in cash.

Following the completion of the acquisition of TD Waterhouse, TD will commence a tender offer, at a price of not less than \$16 per share (on an ex-dividend basis), to increase its beneficial ownership of TD Ameritrade voting securities to 39.9%. J. Joe Ricketts may elect to participate as a co-bidder in the tender offer to increase his beneficial ownership to up to 29%. Mr. Ricketts has informed Ameritrade that he does not intend to participate as a co-bidder in the tender offer.

We have entered into a new stockholders agreement with TD and J. Joe Ricketts, our Chairman and Founder, and certain stockholders of Ameritrade affiliated with Mr. Ricketts, which contains various provisions relating to the governance of TD Ameritrade following the completion of the transaction, including board composition, stock ownership, transfers by TD and Mr. Ricketts and his affiliates, voting and other matters, and we will amend our certificate of incorporation and bylaws to reflect the provisions of the stockholders agreement.

**Our board of directors has unanimously approved the transaction after careful deliberation.** We will hold a special meeting of stockholders at \_\_\_\_\_ at \_\_\_\_\_, on \_\_\_\_\_, 2005, to obtain the approval of Ameritrade stockholders of (1) the issuance of the shares of Ameritrade common stock, (2) the amendment and restatement of our certificate of incorporation, (3) the amendment and restatement of two of our stock plans to reserve additional shares of Ameritrade common stock for future issuance (which, due to a corresponding decrease in the number of shares reserved for issuance under Ameritrade's 1998 Stock Option Plan, will result in no net additional shares being reserved for issuance), and (4) the adjournment of the special meeting if necessary to permit further solicitation of proxies.

**We encourage you to carefully review this proxy statement, which contains important information concerning Ameritrade, TD and TD Waterhouse, the proposed transaction and the proposals to be voted upon by stockholders at the special meeting. In addition, the section entitled Risk Factors beginning on page 33 contains a description of risks that you should consider in evaluating the proposals relating to the transaction.**

Our board of directors unanimously recommends that you vote **FOR** each of the proposals described in this proxy statement. We cannot complete the proposed acquisition of TD Waterhouse unless each of the proposals for the

issuance of Ameritrade common stock to TD and the amendment and restatement of our certificate of incorporation, including each of the related sub-proposals, is approved. Accordingly, a vote against the proposal relating to the issuance of Ameritrade common stock to TD or the proposal relating to the amendment and restatement of our certificate of incorporation or any of the related sub-proposals will have the same effect as a vote against the transaction. The approval of the amendment and restatement of our stock plans is not required to complete the transaction.

In connection with this transaction, J. Joe Ricketts and certain of his affiliates, entities affiliated with TA Associates and entities affiliated with Silver Lake Partners, which collectively own approximately 34% of the outstanding shares of Ameritrade common stock as of November 16, 2005, have agreed to vote their shares in favor of the issuance of Ameritrade common stock to TD and the amendment and restatement of our certificate of incorporation, including each of the related sub-proposals.

**Your vote is very important.** Whether or not you plan to attend the special meeting, please submit your proxy promptly by telephone or via the Internet in accordance with the instructions on the enclosed proxy card or by completing, dating and returning your proxy card in the enclosed envelope. Returning the proxy card or otherwise submitting your proxy does not deprive you of your right to attend the special meeting and vote in person.

We are very excited about this transaction and believe it will accelerate Ameritrade's long-term strategy and growth. Thank you for your support.

Sincerely,

Joseph H. Moglia  
Chief Executive Officer  
Ameritrade Holding Corporation

**Neither the Securities and Exchange Commission nor any U.S. state securities commission has approved or disapproved of the proposed issuance of shares of Ameritrade common stock in connection with the acquisition or determined whether this proxy statement is truthful or complete. Any representation to the contrary is a criminal offense.**

**This proxy statement is dated \_\_\_\_\_, 2005 and is first being mailed to Ameritrade stockholders on or about \_\_\_\_\_, 2005.**

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**REFERENCE TO ADDITIONAL INFORMATION**

This proxy statement incorporates by reference important business and financial information about Ameritrade from documents that are not included in or delivered with this proxy statement. You may obtain documents that are incorporated by reference in this proxy statement without charge by requesting them in writing or by telephone from Ameritrade at:

Ameritrade Holding Corporation  
4211 South 102nd Street  
Omaha, Nebraska 68127  
Telephone: 1-800-237-8692  
Attention: Investor Relations

Please note that copies of the documents provided to you will not include exhibits, unless the exhibits are specifically incorporated by reference in the documents or this proxy statement.

**In order to receive timely delivery of requested documents in advance of the special meeting, you should make your request by no later than \_\_\_\_\_, 2005.**

**For a more detailed description of the information incorporated in this proxy statement by reference and how you may obtain it, see Where You Can Find More Information beginning on page 221.**

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**AMERITRADE HOLDING CORPORATION**

**NOTICE OF SPECIAL MEETING OF STOCKHOLDERS  
TO BE HELD ON \_\_\_\_\_, 2005**

To Our Stockholders:

A special meeting of stockholders of Ameritrade Holding Corporation will be held at \_\_\_\_\_, local time, on \_\_\_\_\_, 2005 at \_\_\_\_\_, to consider and vote upon the proposals listed below and any other matters that may properly come before the special meeting or any adjournment or postponement of the special meeting.

*Proposal No. 1:* A proposal to approve the issuance of 196,300,000 shares of Ameritrade common stock (subject to adjustment for any stock dividends, stock splits or reclassifications) to The Toronto- Dominion Bank, or TD, and/or one or more of TD's affiliates, in accordance with the agreement of sale and purchase by and between TD and Ameritrade, which provides for the acquisition by Ameritrade of all of the capital stock of TD Waterhouse Group, Inc., or TD Waterhouse, a wholly owned subsidiary of TD.

*Proposal No. 2:* A proposal to approve the amendment and restatement of the certificate of incorporation of Ameritrade, which will be renamed TD Ameritrade Holding Corporation in connection with the transaction, in the form attached as Appendix C to this proxy statement, with the following sub-proposals:

2A a proposal to approve provisions restricting the authority of TD Ameritrade to implement anti-takeover measures that would potentially conflict with the terms of the stockholders agreement entered into in connection with the proposed acquisition of TD Waterhouse;

2B a proposal to approve the increase of the authorized number of shares of common stock, \$0.01 par value per share, of TD Ameritrade from 650,000,000 to 1,000,000,000;

2C a proposal to approve a provision which prohibits action by written consent of stockholders of TD Ameritrade;

2D a proposal to approve a provision increasing the size of the board of directors from nine members to twelve members for so long as the corporate governance provisions of the stockholders agreement entered into in connection with the proposed acquisition of TD Waterhouse remain in effect, and thereafter to allow the size of the board of directors to be determined by the board of directors;

2E a proposal to approve a provision setting forth procedures for the nomination or appointment of outside independent directors to the TD Ameritrade board of directors and the maintenance of an outside independent directors committee and a non-TD directors committee; and

2F a proposal to approve a provision which allocates corporate opportunities between TD Ameritrade and TD and which otherwise modifies the existing corporate opportunities provision of the certificate of incorporation.

*Proposal No. 3:* A proposal to approve an amendment and restatement of the Ameritrade Holding Corporation 1996 Long-Term Incentive Plan to reserve an additional 19,000,000 shares of Ameritrade common stock for future issuance under the 1996 Long-Term Incentive Plan. Subject to the approval of Proposal

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No. 3 and Proposal No. 4 (below) by Ameritrade's stockholders, the board of directors of Ameritrade has approved a decrease in the number of shares reserved under Ameritrade's 1998 Stock Option Plan by 20,000,000 shares. The share reserve increase under Proposal No. 3 and Proposal

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No. 4 and the corresponding reduction in the 1998 Stock Option Plan share reserve will therefore result in no net additional shares being reserved for issuance.

*Proposal No. 4:* A proposal to approve an amendment and restatement of the Ameritrade Holding Corporation 1996 Directors Incentive Plan to reserve an additional 1,000,000 shares of Ameritrade common stock for future issuance under the 1996 Directors Incentive Plan.

*Proposal No. 5:* A proposal to adjourn the special meeting of stockholders to a later date or dates if necessary to permit further solicitation of proxies on all matters if there are not sufficient votes at the time of the special meeting to approve Proposal No. 1 relating to the issuance of Ameritrade common stock to TD or Proposal No. 2 relating to the amendment and restatement of our certificate of incorporation, including each of the related sub-proposals.

The close of business on November 16, 2005 has been fixed as the record date for determining those Ameritrade stockholders entitled to vote at the special meeting. Accordingly, only stockholders of record at the close of business on that date are entitled to notice of, and to vote at, the special meeting or any adjournment or postponement of the special meeting.

*If Ameritrade stockholders wish to approve the acquisition of TD Waterhouse, they must approve Proposal No. 1 relating to the issuance of Ameritrade common stock to TD and Proposal No. 2 relating to the amendment and restatement of our certificate of incorporation, including each of the related sub-proposals included in Proposal No. 2.*

**The Ameritrade board of directors recommends that you vote in favor of each of the above proposals (including each of the related sub-proposals under Proposal No. 2). Each member of our board of directors has advised us that he intends to vote all of the shares of Ameritrade common stock held, directly or indirectly, by him in favor of each of the above proposals and sub-proposals.**

**Your vote is very important.** Whether or not you plan to attend the special meeting, please submit your proxy promptly by telephone or via the Internet in accordance with the instructions on the accompanying proxy card, or by completing, dating and returning your proxy card in the enclosed envelope. A failure to submit a proxy by telephone, via the Internet or by mail or to vote in person at the special meeting will have the same effect as a vote against the acquisition of TD Waterhouse.

By order of our board of directors,  
*Corporate Secretary*

Omaha, Nebraska  
, 2005

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**SUMMARY TERM SHEET**

*The following is a summary of the proposed transaction between Ameritrade Holding Corporation, or Ameritrade, and The Toronto-Dominion Bank, or TD, in which Ameritrade proposes to acquire the U.S. retail securities brokerage business of TD Waterhouse Group, Inc., or TD Waterhouse. Ameritrade is seeking stockholder approval of the issuance of Ameritrade common stock to TD in the transaction, as well as amendments to its certificate of incorporation to facilitate the transaction and amendments to two of Ameritrade's equity compensation plans.*

*This term sheet is a summary and does not contain all of the information that may be important to you. You should carefully read this entire document, including the appendices and the other documents to which this document refers you, for a more complete understanding of the matters being considered at the special meeting. See *Where You Can Find More Information* beginning on page 221.*

On June 22, 2005, Ameritrade entered into a definitive agreement of sale and purchase to acquire all of the capital stock of TD Waterhouse from TD. On October 28, 2005, Ameritrade and TD entered into amendment to such agreement. In this proxy statement, we refer to the agreement of sale and purchase, as amended, as the share purchase agreement. In connection with the acquisition of all of the capital stock of TD Waterhouse:

Ameritrade will issue 196,300,000 shares of Ameritrade common stock to TD, and/or one or more of TD's affiliates, in accordance with the terms of the share purchase agreement and pay \$20,000 in cash in exchange for the outstanding capital stock of TD Waterhouse. See *The Share Purchase Agreement - Consideration to be Paid in the Transaction* beginning on page 78 for a more detailed discussion.

Ameritrade will change its name to TD Ameritrade Holding Corporation.

Ameritrade will pay a special cash dividend of \$6.00 per share to its stockholders, subject to Ameritrade obtaining adequate financing, and Ameritrade will adjust its outstanding equity awards to preserve the pre-dividend economic value of the awards. The special dividend is a condition to the completion of the transaction and Ameritrade will pay it only if the transaction is completed. Ameritrade's board of directors will declare the special dividend prior to the completion of the transaction and the record date for the special dividend will occur prior to the completion of the transaction and the issuance of Ameritrade common stock to TD. See *The Special Dividend* beginning on page 75 for a more detailed discussion.

Ameritrade will sell its Canadian brokerage business, Ameritrade Canada, Inc., to TD for \$60 million in cash, subject to specified adjustments. See *Certain Agreements Related to the Acquisition of TD Waterhouse Ameritrade Canada Purchase Agreement* beginning on page 107 for a more detailed discussion.

Prior to the completion of the transaction, TD Waterhouse will complete (1) the distribution to TD of any excess capital of TD Waterhouse above a specified minimum capital level (which includes a cash amount equal to \$1.00 per share of Ameritrade common stock to be retained by TD Waterhouse to fund a portion of the special dividend) and (2) the transfer of all of its non-U.S. and non-brokerage businesses to TD, so that at the time of completion of the acquisition of TD Waterhouse, TD Waterhouse will retain only its U.S. retail securities brokerage business. See *The Share Purchase Agreement - Covenants and Agreements - Reorganization* beginning on page 83 for a more detailed discussion.

Ameritrade has entered into a new stockholders agreement with TD and Ameritrade's Chairman and Founder J. Joe Ricketts, his wife and certain trusts for the benefit of their family, collectively referred to in this proxy statement as the Ricketts holders, which contains various provisions relating to the governance of TD Ameritrade following the completion of the transaction, including board composition, stock ownership, transfers by TD and the Ricketts holders, voting and other matters, and Ameritrade is proposing to make changes to its certificate of incorporation and bylaws



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to give effect to and facilitate the provisions of the stockholders agreement. Under the stockholders agreement: the TD Ameritrade Board will be composed of three outside independent directors, the Chief Executive Officer of TD Ameritrade, and subject to maintenance of ownership thresholds, three directors designated by Ricketts holders and five directors designated by TD.

TD Ameritrade Board committees will generally be composed of two directors designated by TD, two directors designated by the Ricketts holders and one outside independent director, subject to applicable legal requirements.

TD cannot own more than 39.9% of TD Ameritrade for three years after the completion of the transaction or more than 45% after that time, unless TD offers to purchase 100% of the outstanding stock of TD Ameritrade with approval of the outside independent directors and holders of a majority of the outstanding shares of TD Ameritrade common stock not affiliated with TD.

J. Joe Ricketts and the other Ricketts holders cannot own more than 29% of TD Ameritrade.

TD and the Ricketts holders will have rights to purchase securities in future TD Ameritrade issuances to maintain their ownership percentages.

TD and the Ricketts holders are generally restricted from transferring shares to any 5% stockholder of TD Ameritrade.

See Certain Agreements Related to the Acquisition of TD Waterhouse Stockholders Agreement beginning on page 100 for a more detailed discussion.

Following the completion of the acquisition of TD Waterhouse:

TD will initially beneficially own approximately 32.6% of the outstanding voting securities of TD Ameritrade.

See The Share Purchase Agreement Consideration to be Paid in the Transaction beginning on page 78 for a more detailed discussion.

TD will commence a tender offer, at a price of not less than \$16 per share (on an ex-dividend basis), to increase its beneficial ownership of TD Ameritrade voting securities up to 39.9%. J. Joe Ricketts has the right to participate as a co-bidder in the tender offer to increase his beneficial ownership of TD Ameritrade voting securities to up to 29%, but has informed the Company that he does not intend to do so. See Certain Agreements Related to the Acquisition of TD Waterhouse Stockholders Agreement Tender Offer and Share Ownership beginning on page 103 for a more detailed discussion.

Subject to specified exceptions, none of TD, J. Joe Ricketts, so long as he is serving as a director of TD Ameritrade, or any of their respective affiliates may participate in or own any portion of a business engaged in the business of providing securities brokerage services in the U.S. (or, solely in the case of Mr. Ricketts and his affiliates, in Canada) to retail traders, individual investors and registered investment advisors. See Certain Agreements Related to the Acquisition of TD Waterhouse Stockholders Agreement Non-Competition Covenants beginning on page 105 for a more detailed discussion.

TD Ameritrade will be prohibited from participating in or owning any portion of a business that competes with TD in the securities brokerage industry in Canada, and from owning a bank or similar financial institution. See Certain Agreements Related to the Acquisition of TD Waterhouse Stockholders Agreement Non-Competition Covenants beginning on page 105 for a more detailed discussion.

TD Ameritrade expects to incur approximately \$55 million to \$65 million of nonrecurring pre-tax charges (approximately \$34 million to \$39 million net of income tax) resulting directly from the acquisition, which will

be included in income within 12 months following the closing. These charges including rebranding costs, client communications, Ameritrade contract termination costs and Ameritrade employee involuntary termination costs. See Unaudited Pro Forma Combined Condensed Financial Statements of TD Ameritrade beginning on page 202 for a more detailed discussion.



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**QUESTIONS AND ANSWERS**

**QUESTIONS AND ANSWERS ABOUT THE SPECIAL MEETING AND RELATED MATTERS**

**Q1: What is the transaction?**

A1: Please refer to the summary term sheet at the beginning of this proxy statement.

**Q2: What am I being asked to vote on?**

A2: You are being asked to vote to approve the issuance of 196,300,000 shares of Ameritrade common stock under the share purchase agreement between Ameritrade and TD.

You are also being asked to vote to approve the amendment and restatement of our certificate of incorporation, including each of the amendments to the certificate of incorporation listed below:

provisions restricting the authority of TD Ameritrade to implement anti-takeover measures that would potentially conflict with the terms of the stockholders agreement entered into in connection with the acquisition of TD Waterhouse;

an increase in the authorized number of shares of common stock, \$0.01 par value per share, of TD Ameritrade from 650,000,000 to 1,000,000,000;

a provision which prohibits action by written consent of stockholders of TD Ameritrade;

an increase in the size of our board of directors from nine members to twelve members for so long as the corporate governance provisions of the stockholders agreement entered into in connection with the proposed acquisition of TD Waterhouse remain in effect, and thereafter allowing the size of our board of directors to be determined by the board of directors;

a provision setting forth procedures for the nomination or appointment of outside independent directors to the TD Ameritrade board of directors and the maintenance of an outside independent directors committee and a non-TD directors committee; and

a provision which allocates corporate opportunities between TD Ameritrade and TD and which otherwise modifies the existing corporate opportunities provision of the certificate of incorporation.

We are also asking you to approve the amendment and restatement of our 1996 Long-Term Incentive Plan and our 1996 Directors Incentive Plan to reserve an additional 20,000,000 shares of Ameritrade common stock for future issuance under these plans. Subject to the approval of the proposed share reserve increase by our stockholders, the board of directors of Ameritrade has approved a corresponding reduction of 20,000,000 shares in the share reserve under Ameritrade's 1998 Stock Option Plan. The share reserve increase under our 1996 Long-Term Incentive Plan and our 1996 Directors Incentive Plan and the corresponding reduction in the 1998 Stock Option Plan share reserve will therefore result in no net additional shares being reserved for issuance.

Finally, you are being asked to vote on a proposal to adjourn the special meeting of stockholders to a later date or dates if necessary to permit further solicitation of proxies on all proposals if there are not sufficient votes at the time of the special meeting to approve the issuance of Ameritrade common stock to TD or the amendment and restatement of our certificate of incorporation, including each related sub-proposal.

**Q3: Why is Ameritrade seeking stockholder approval of the amendment and restatement of its 1996 Long-Term Incentive Plan and its 1996 Directors Incentive Plan?**

A3: The board of directors of Ameritrade has determined, contingent upon stockholder approval, to increase the share reserve under Ameritrade's 1996 Long-Term Incentive Plan by 19,000,000 shares and to increase the share reserve under Ameritrade's 1996 Directors Incentive Plan by 1,000,000 shares. This will help ensure that

Ameritrade (1) has a reasonable number of shares available to grant incentive awards under the 1996 Long-Term Incentive Plan and the

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1996 Directors Incentive Plan and (2) has the most flexibility with respect to the types of incentive awards which may be granted. Subject to the approval of the proposed share reserve increase by Ameritrade's stockholders, the board of directors of Ameritrade has also approved a corresponding reduction of 20,000,000 shares in the share reserve under Ameritrade's 1998 Stock Option Plan.

As a result of these changes, the share reserve increase of 19,000,000 shares under the 1996 Long-Term Incentive Plan and the share reserve increase of 1,000,000 shares under the 1996 Directors Incentive Plan will consist entirely of shares previously authorized for issuance under the 1998 Stock Option Plan. The share increase under the 1996 Long-Term Incentive Plan and the 1996 Directors Incentive Plan and the corresponding reduction in the 1998 Stock Option Plan share reserve will therefore result in no net additional shares being reserved for issuance under Ameritrade stock plans.

**Q4: What vote of Ameritrade stockholders is required in connection with each of the proposals?**

A4: A quorum, consisting of the holders of a majority of the issued and outstanding shares of Ameritrade common stock as of the record date of the special meeting, must be present in person or by proxy before any action may be taken at the special meeting. Abstentions will be treated as shares that are present for purposes of determining the presence of a quorum.

The affirmative vote of the holders of a majority of the shares of Ameritrade common stock present in person or represented by proxy and voting on the matter is required to approve the issuance of Ameritrade common stock to TD in accordance with the terms of the share purchase agreement.

The affirmative vote of the holders of a majority of the outstanding shares of Ameritrade common stock entitled to vote at the special meeting is required to approve our amended and restated certificate of incorporation, including each of the related sub-proposals described in Q&A 2 above.

The affirmative vote of the holders of a majority of the shares of Ameritrade common stock present in person or represented by proxy and voting on the matter is required to approve each of the proposals related to the amended and restated stock plans and the proposal to adjourn the special meeting if necessary to permit further solicitation of proxies on the issuance of Ameritrade common stock in accordance with the terms of the share purchase agreement or the amendment and restatement of our certificate of incorporation, including each related sub-proposal.

The completion of the acquisition of TD Waterhouse is conditioned upon the approval of the issuance of Ameritrade common stock to TD in accordance with the terms of the share purchase agreement and the amendment and restatement of our certificate of incorporation (including each of the related sub-proposals). As a result, a vote against the proposal relating to the issuance of Ameritrade common stock to TD or the proposal relating to the amendment and restatement of our certificate of incorporation (or any of the related sub-proposals) will effectively be a vote against the acquisition of TD Waterhouse. The completion of the acquisition of TD Waterhouse is not conditioned upon the approval of the proposals relating to the amendment and restatement of our stock plans.

In connection with the acquisition of TD Waterhouse, the Ricketts holders, certain entities affiliated with TA Associates, or the TA holders, and certain entities affiliated with Silver Lake Partners, or the SLP holders, have agreed to vote their shares in favor of the issuance of Ameritrade common stock to TD in accordance with the terms of the share purchase agreement and the amendment and restatement of our certificate of incorporation, including each of the related sub-proposals. As of November 16, 2005, the Ricketts holders, the TA holders and the SLP holders collectively owned approximately 34% of the outstanding shares of Ameritrade common stock.

**Q5: Do I need to send in my stock certificates if the transaction is completed?**

A5: No. You will not be required to exchange your certificates representing shares of Ameritrade common stock in connection with this transaction.



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**Q6: What happens if I do not vote?**

A6: The proposal to approve the amendment and restatement of our certificate of incorporation requires the affirmative vote of the holders of a majority of the outstanding shares of Ameritrade common stock. Because of this vote requirement and because the approval of this proposal is required to complete the acquisition of TD Waterhouse, failure to vote on the proposal to approve our amended and restated certificate of incorporation, including any of the related sub-proposals, is effectively a vote against the proposal and therefore a vote against the acquisition of TD Waterhouse.

The failure to vote on the proposals to approve the issuance of Ameritrade common stock to TD, the amendment and restatement of our 1996 Long-Term Incentive Plan and 1996 Directors Incentive Plan, and the adjournment of the special meeting if necessary to permit further solicitation of proxies will have no effect on the outcome of those proposals so long as there is a quorum present at the special meeting. However, the failure to vote on these proposals, by failing to either submit a proxy or attend the special meeting, may make it more difficult to establish a quorum at the special meeting.

**Q7: What do I need to do now?**

A7: After carefully reading and considering the information contained in this proxy statement, please submit your proxy by telephone or via the Internet in accordance with the instructions set forth in the enclosed proxy card, or fill out, sign and date the proxy card, and then mail your signed proxy card in the enclosed prepaid envelope as soon as possible so that your shares may be voted at the special meeting. See *The Special Meeting How to Vote Your Shares* beginning on page 40.

**Q8: If my shares are held in street name by my broker, will my broker vote my shares for me?**

A8: You should instruct your broker to vote your shares. If you do not instruct your broker, your broker will not have the authority to vote your shares for the issuance of Ameritrade common stock to TD in accordance with the terms of the share purchase agreement, the amendment and restatement of our certificate of incorporation, including any of the related sub-proposals, the amendment and restatement of the 1996 Long-Term Incentive Plan and the 1996 Directors Incentive Plan.

Because of the vote requirements discussed in Q&A 4 and Q&A 6 above, broker non-votes, where the broker does not vote for or against a proposal, will have the same effect as votes cast against the proposal to approve the amendment and restatement of our certificate of incorporation (including the related sub-proposals) and, therefore, will have the same effect as votes against the acquisition of TD Waterhouse. However, broker non-votes will have no effect on the approval of the other proposals discussed in Q&A 4 and Q&A 6 above.

Please check with your broker and follow the voting procedures your broker provides. Your broker will advise you whether you may submit voting instructions by telephone or via the Internet. See *The Special Meeting Broker Non-Votes* and *The Special Meeting Quorum and Required Votes* beginning on pages 41 and 42, respectively.

**Q9: May I change my vote after I have submitted a proxy by telephone or via the Internet or mailed my signed proxy card?**

A9: Yes. You may change your vote at any time before your proxy is voted at the special meeting. You can do this in several ways. You can send a written notice stating that you want to revoke your proxy, or you can complete and submit a new proxy card. If you choose either of these methods, you must submit your notice of revocation or your new proxy card to the Corporate Secretary of Ameritrade (Ameritrade Holding Corporation, Attention: Corporate Secretary, 4211 S. 102nd Street, Omaha, NE 68127).

You can also change your vote by submitting a proxy at a later date by telephone or via the Internet, in which case your later-submitted proxy will be recorded and your earlier proxy revoked.

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You can also attend the special meeting and vote in person. Simply attending the special meeting, however, will not revoke your proxy; you must vote at the special meeting.

If you have instructed a broker to vote your shares, the preceding instructions do not apply, and you must follow the voting procedures received from your broker to change your vote.

**Q10: If I want to attend the special meeting, what do I do?**

A10: You should come to \_\_\_\_\_, at \_\_\_\_\_ local time, on \_\_\_\_\_, 2005. Stockholders of record as of the record date for the special meeting (November 16, 2005) can vote in person at the special meeting. If your shares are held in street name, then you are not the stockholder of record and you must ask your broker, bank or other nominee holder how you can vote at the special meeting.

**Q11: Who can help answer my additional questions about this transaction?**

A11: If you have questions about this transaction, you should contact:  
Ameritrade Holding Corporation  
4211 South 102nd Street  
Omaha, Nebraska 68127  
*Attention: Investor Relations*  
Telephone: 1-800-237-8692

**QUESTIONS AND ANSWERS ABOUT THE SPECIAL DIVIDEND**

**Q1: What is a special dividend?**

A1: A dividend is a distribution by a company to its stockholders of cash, stock or property. A company's board of directors may from time to time declare a dividend, payable to stockholders quarterly, semiannually or annually, or on a one-time basis. A one-time or non-recurring dividend is commonly referred to as a special dividend.

**Q2: What is the special dividend that was announced by Ameritrade on June 22, 2005 in connection with the acquisition of TD Waterhouse?**

A2: The dividend Ameritrade announced on June 22, 2005 is a special cash dividend of \$6.00 per share that will be payable only if sufficient funds are available for the dividend and such declaration and payment is permitted by applicable law and if the acquisition of TD Waterhouse is completed. It is important to note that the Ameritrade board of directors has not yet declared the proposed special dividend. Please see Q&A 3 below regarding the declaration date.

Ameritrade estimates that, based on shares of Ameritrade common stock outstanding on November 16, 2005, approximately \$2.4 billion will be required to fund the full amount of the special dividend.

As of September 30, 2005, Ameritrade had approximately \$353 million of cash, cash equivalents and short-term investments available to pay dividends, while maintaining targeted closing date net tangible book value. Based on a preliminary analysis, Ameritrade believes it has adequate surplus under Delaware law to pay the full amount of the special dividend.

As of November 16, 2005, Ameritrade had approximately \$105 million of borrowing capacity available to it under its existing revolving credit agreement. Ameritrade anticipates that it will have to enter into additional credit facilities providing borrowing capacity of between \$1.6 billion and \$2.0 billion to have sufficient borrowing capacity to pay the special dividend. Based on interest rate estimates provided by Ameritrade's lead debt underwriter, Ameritrade estimates that the interest cost in the first fiscal year following the acquisition of TD Waterhouse on amounts borrowed to pay the special dividend, assuming that Ameritrade borrows \$1.9 billion to fund the special dividend, would be approximately \$138 million.

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In addition, TD has agreed to maintain cash in TD Waterhouse equal to \$1.00 per share of Ameritrade common stock outstanding prior to the completion of the transaction, prior to any closing date capital adjustments. TD will therefore effectively fund \$1.00 per share of the special dividend. Based on Ameritrade common stock outstanding as of November 16, 2005, this amount would equal approximately \$406 million.

Assuming the transaction and the financing is completed, as further described in the unaudited pro forma combined condensed financial statements and subject to the assumptions contained in those statements, Ameritrade would have approximately \$2.5 billion of cash, cash equivalents and short term investments. Ameritrade therefore expects it would be able to pay, subject to obtaining financing, the full amount of the special dividend while maintaining targeted closing date tangible net worth.

**Q3: What dates are relevant to the receipt of the special dividend, when will those dates be determined and when will they occur for the special dividend?**

A3: Whether a stockholder is entitled to the special dividend will depend on several significant dates determined in accordance with applicable rules of the Nasdaq National Market. These dates include the declaration date, the record date, the closing date, the payable date and the ex-dividend date. Each of these dates is described below.

*Declaration date* This is the date on which a board of directors (1) decides that the company will pay a dividend and (2) sets the record date and the payable date for the dividend. We expect the declaration date to be on or around \_\_\_\_\_, \_\_\_\_\_.

*Record date* This is the date set by a company for the purpose of determining its stockholders of record and the stock outstanding on the record date. The dividend is paid only on stock outstanding on the record date. Because shares that trade in the market after the record date and on or before the payable date include the right to receive the special dividend, the record date will not be important to you if you trade shares of Ameritrade common stock in the open market. If you purchase shares in the market on or before the payable date (whether or not you owned the shares on the record date) and hold those shares until after the market opens on the ex-dividend date, you will receive the special dividend on those shares. The record date will be relevant with respect to stock options held by Ameritrade employees or directors. See Q&A 6 and Q&A 7 below for questions and answers related to stock options granted by Ameritrade and held by Ameritrade employees or directors. We expect that the record date for the special dividend will be a date at least 10 calendar days after the declaration date and approximately 10 business days before the expected closing date of the acquisition of TD Waterhouse.

*Closing date* This is the date that the acquisition of TD Waterhouse will be completed.

*Payable date* This is the date that a company pays the dividend. Please note that the actual receipt of the dividend by stockholders entitled to the dividend may take several days following the payable date. We expect that the payable date for the special dividend will be on the closing date of the acquisition of TD Waterhouse or the first trading day after the closing date. We expect the payable date to be on or around \_\_\_\_\_, \_\_\_\_\_.

*Ex-dividend date or ex-date* This is the date on and after which the stock trades in the Nasdaq National Market or on a stock exchange without the right to receive the declared dividend. We expect that the ex-dividend date will be the first trading day after the payable date.

Please keep in mind that the special dividend is contingent on the completion of the proposed acquisition of TD Waterhouse.

**Q4: Who is entitled to the special dividend?**

A4: Because shares of Ameritrade common stock sold in the market after the record date and on or before the payable date include the right to receive the special dividend, if you purchase shares of

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Ameritrade common stock in the market on or before the payable date (whether or not you owned the shares on the record date) and hold those shares until after the market opens on the ex-dividend date, you will receive the special dividend on those shares. Accordingly,

If you sell shares of Ameritrade common stock in the market before the ex-dividend date (whether or not you owned the shares on the record date), you will not be entitled to the special dividend with respect to those shares.

If you buy shares of Ameritrade common stock in the market on or after the ex-dividend date, you will not be entitled to the special dividend with respect to those shares.

Your market trade does not need to settle by the payable date in order to receive the special dividend. Rather, if you buy shares of Ameritrade common stock in the market on or before the payable date and hold those shares until after the market opens on the ex-dividend date, you will receive the special dividend on those shares.

The treatment of shares subject to stock options granted by Ameritrade to its employees or directors is not addressed in this Q&A 4. See Q&A 6 and Q&A 7 below for questions and answers related to stock options granted by Ameritrade and held by Ameritrade employees or directors.

The special dividend is contingent on the closing of the acquisition of TD Waterhouse.

**Q5: What happens to a company's stock price after a dividend is paid?**

A5: In theory, and disregarding other events and conditions that may affect financial markets and the price of a company's stock, when a company pays a special dividend, its stock price declines on the ex-dividend date to reflect the payment of the dividend. However, we cannot predict whether our stock price will decline in such a manner.

**Q6: Are holders of stock options and other equity awards granted by Ameritrade entitled to receive the dividend?**

A6: Stock options held by Ameritrade employees or directors are not entitled to cash dividends because dividends are paid on shares of stock outstanding as of the record date. Shares of stock underlying stock options that have not been exercised are not outstanding on the record date and therefore would not be entitled to the proposed special dividend.

However, we believe it is appropriate that holders of outstanding equity awards be treated fairly with respect to the special dividend, and in accordance with the terms of our stock plans, we will adjust any outstanding equity awards under the plans to preserve the pre-dividend economic value of the awards after payment of the proposed special dividend. We do not expect these adjustments to result in any additional compensation expense because the aggregate fair value of each award before and after the modifications to the equity awards will be the same as calculated pursuant to Statement of Financial Accounting Standards No. 123R, *Share-Based Payment*.

Ameritrade employees or directors who want to exercise their vested stock options and receive the dividend on those shares must exercise the options three trading days prior to the record date and hold the shares until after the market opens on the ex-dividend date. Stock options that are not exercised and are outstanding immediately before the ex-dividend date for the special dividend will be adjusted as described in Q&A 7 below.

**Q7: What adjustments will be made to equity awards held by Ameritrade employees or directors?**

A7: Unexercised equity awards that employees or directors hold and that are outstanding as of the ex-dividend date will be adjusted as follows:

The exercise price, if any, will be adjusted downward and the number of shares covered by equity awards will be adjusted upward pursuant to the following formulas, where Average Market Price



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means the volume weighted average market price of a share of Ameritrade common stock on the last trading day before the ex-dividend date for the special dividend.

The exercise price, if any, of equity awards outstanding immediately before the ex-dividend date will be adjusted downward (but not below the par value per share) to the product of:

$$\begin{array}{rcccl} \text{Pre-dividend Exercise} & & \text{(Average Market Price } \$6.00) & & \\ \text{Price} & \times & & = & \text{Post-dividend Exercise Price} \\ & & \text{Average Market Price} & & \end{array}$$

The number of shares covered by each equity award outstanding immediately before the ex-dividend date will be adjusted upward to the product of:

$$\begin{array}{rcccl} \text{Number of Shares} & & \text{Average Market Price} & = & \text{Number of Shares} \\ \text{Pre-dividend} & \times & & & \text{Post-dividend} \\ & & \text{(Average Market Price } \$6.00) & & \end{array}$$

The adjustments will apply to vested and unvested stock options. Additional options outstanding as a result of these adjustments would be vested or unvested in proportion to the number of options covered by an award that are vested or unvested immediately before the adjustment, and the additional unvested options will vest on the remaining vesting dates applicable to such award, in proportion to the number of options that would otherwise vest on each of those dates.

**Q8: Will I owe taxes on the proposed special dividend?**

A8: A portion of the special dividend will be treated as qualified dividend income to the extent paid out of Ameritrade's current or accumulated earnings and profits, as determined under the Internal Revenue Code of 1986, as amended, or the Code, for the calendar year in which the special dividend is paid. The portion of the special dividend that will be taxable as qualified dividend income will not be determined until after December 31 of the year in which the special dividend is paid. Because the portion of the special dividend that will be treated as qualified dividend income is dependent on the earnings and profits of Ameritrade through the close of the calendar year in which the special dividend is paid, Ameritrade is unable to project with reasonable accuracy what portion of the special dividend will be treated as qualified dividend income. The final determination of the portion of the special dividend that will be treated as qualified dividend income will be reported to you on a tax information return in early 2007. Any portion of the special dividend in excess of each holder's pro rata share of Ameritrade's earnings and profits will be treated first as a tax-free return of capital up to each holder's basis in its shares of Ameritrade common stock, with any remainder treated as a capital gain. A non-corporate United States holder of Ameritrade common stock may be eligible to be taxed at a 15% (or lower) federal income tax rate on any portion of the special dividend constituting qualified dividend income for United States federal income tax purposes, provided that a minimum holding period and other requirements are satisfied. The 15% (or lower) tax rate for qualified dividend income is available only if the shares of Ameritrade common stock have been held for at least 61 days during the 121-day period beginning 60 days before the ex-dividend date.

Non-United States holders of Ameritrade common stock will generally be subject to withholding on the gross amount of the special dividend at a rate of 30% or such lower rate as may be specified by an applicable income tax treaty.

Because individual tax circumstances vary, you should consult your own tax advisor as it relates to your particular tax situation.

**QUESTIONS AND ANSWERS ABOUT THE TENDER OFFER**

**Q1: What is the tender offer?**

A1: Following the closing of the acquisition of TD Waterhouse, TD will initially beneficially own approximately 32.6% of the outstanding voting securities of TD Ameritrade. Following the closing of the acquisition of TD Waterhouse, TD will commence a tender offer, at a price of no less than \$16 per share (on an ex-dividend basis) to increase its beneficial ownership of TD Ameritrade voting securities

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to 39.9%. The tender offer will allow TD and to increase its percentage ownership of TD Ameritrade without causing additional dilution to Ameritrade stockholders and will offer liquidity to the stockholders of TD Ameritrade, subject to proration if the tender offer is oversubscribed. In addition, the tender offer will allow participating TD Ameritrade stockholders to sell their shares at a premium to the dividend adjusted market price of Ameritrade stock at the time of the execution of the share purchase agreement.

We estimate, based on shares of Ameritrade common stock outstanding on November 16, 2005 on a pro forma basis, that TD will be able to purchase up to 44,153,893 shares of Ameritrade common stock at \$16 per share in the tender offer for an aggregate purchase price of \$706,462,288. J. Joe Ricketts may elect to participate as a co-bidder in the tender offer to increase his beneficial ownership to up to 29% of TD Ameritrade voting securities. Mr. Ricketts has informed Ameritrade that he does not intend to participate in the tender offer as a co-bidder. TD will not be obligated to offer to pay more than \$16 per share.

Following the closing of the acquisition of TD Waterhouse, TD will provide TD Ameritrade stockholders with additional information regarding the tender offer.

**Q2: Can TD change the price per share of the tender offer?**

A2: The tender offer is subject to a minimum price per share of \$16. However, TD may, at its discretion, increase the price per share that it offers.

**Q3: Will TD buy all shares that are tendered?**

A3: The tender offer will not be subject to any minimum condition on the number of shares tendered. Subject to the other conditions of the tender offer being satisfied and the proration described in the following sentence, TD will purchase any shares that are tendered even if the number of shares tendered is less than the number TD offers to buy. If the number of shares of TD Ameritrade common stock tendered is greater than the number TD offers to buy, TD will purchase the shares pro rata, which means that a stockholder who accepts the offer will have only a portion of such stockholder's shares bought by TD.

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**SUMMARY**

*This summary highlights selected information from this proxy statement. It does not contain all of the information that may be important to you. You should carefully read this entire document, including the appendices and the other documents to which this document refers you, for a more complete understanding of the matters being considered at the special meeting. See *Where You Can Find More Information* beginning on page 221. Additionally, some of the statements contained in, or incorporated by reference into, this proxy statement are forward-looking statements. See *Cautionary Statement Concerning Forward-Looking Statements* on page 38. All references in this proxy statement to dollars or \$ are to U.S. dollars and all references to CDN \$ are to Canadian dollars. In this proxy statement, unless otherwise indicated, we refer to accounting principles generally accepted in the U.S. as GAAP.*

**The Transaction (see page 44)**

Ameritrade and TD entered into an agreement of sale and purchase, which provides for the acquisition by Ameritrade of the U.S. retail securities brokerage business of TD Waterhouse from TD, which will result in a combined company named TD Ameritrade Holding Corporation, or TD Ameritrade. We refer to the agreement of sale and purchase, as amended, as the *share purchase agreement* in this proxy statement. In this transaction, Ameritrade will issue 196,300,000 shares of Ameritrade common stock to TD in accordance with the terms of the share purchase agreement and pay TD \$20,000 in cash in exchange for the outstanding capital stock of TD Waterhouse. Following the completion of the transaction, TD will initially beneficially own approximately 32.6% of the outstanding voting securities of TD Ameritrade. In connection with the transaction, we will pay a special cash dividend of \$6.00 per share to our stockholders, subject to Ameritrade obtaining adequate financing. The special dividend is a condition to the completion of the transaction and we will pay it only if the transaction is completed. TD will effectively fund \$1.00 per share of the special dividend. Ameritrade will be required to borrow approximately \$1.6 to \$2.0 billion to fund the special dividend.

Prior to the completion of the transaction, TD Waterhouse will complete the transfer of all of its non-U.S. and non-brokerage businesses to TD and retain only its U.S. retail securities brokerage business. TD Waterhouse will also distribute to TD any excess capital of TD Waterhouse above a specified minimum capital level (which includes a cash amount equal to \$1.00 per Ameritrade share to be retained by TD Waterhouse to fund a portion of the special dividend).

In connection with entering into the share purchase agreement, Ameritrade also entered into a stockholders agreement with TD and the Ricketts holders, which contains various provisions relating to the governance of TD Ameritrade following the completion of the transaction, including board composition, stock ownership, transfers by TD and the Ricketts holders, voting and other matters, and Ameritrade is proposing to make certain changes to its certificate of incorporation and bylaws to give effect to and facilitate the provisions of the stockholders agreement. See *Certain Agreements Related to the Acquisition of TD Waterhouse* *Stockholders Agreement* beginning on page 101 for a further discussion of the stockholders agreement.

Ameritrade and several of its stockholders, including the Ricketts holders, have also entered into a voting agreement and an amended and restated registration rights agreement. Each Ameritrade stockholder who signed the voting agreement agreed to vote their shares of Ameritrade common stock in favor of the proposals to issue Ameritrade common stock to TD in accordance with the terms of the share purchase agreement and the amendment and restatement of our certificate of incorporation, including each of the related sub-proposals, and against competing proposals, subject to certain exceptions. Under the terms of the amended and restated registration rights agreement, the Ricketts holders and certain other existing Ameritrade stockholders will continue to be entitled to require, and TD will become entitled to require, TD Ameritrade to register their securities of TD Ameritrade under applicable securities laws.

Ameritrade and TD also entered into a trademark license agreement and have agreed to enter into a services agreement and a money market deposit account agreement. The trademark license agreement

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generally requires Ameritrade to use the TD trademark and logo as part of Ameritrade's corporate identity, TD Ameritrade, following the completion of the acquisition of TD Waterhouse. The money market deposit account agreement provides for the availability of money market deposit accounts to TD Ameritrade clients, and the services agreement provides for the availability of money market funds to TD Ameritrade clients. See Certain Agreements Related to the Acquisition of TD Waterhouse beginning on page 99 for a further discussion of these agreements.

Ameritrade has also agreed, under the terms of an agreement of sale and purchase among Ameritrade, Datek Online Holdings Corp., TD and TD Waterhouse Canada Inc., dated June 22, 2005, or the Canadian purchase agreement, to sell all of the capital stock of Ameritrade Canada, Inc. to TD Waterhouse Canada Inc. in exchange for \$60 million in cash, subject to certain adjustments.

Following the completion of the acquisition of TD Waterhouse, TD will commence a tender offer, at a price of not less than \$16 per share (on an ex-dividend basis), to increase its beneficial ownership of TD Ameritrade voting securities to 39.9%. J. Joe Ricketts may elect to participate as a co-bidder in the tender offer to increase his beneficial ownership of TD Ameritrade voting securities to up to 29%. Mr. Ricketts has informed Ameritrade that he does not intend to participate as a co-bidder in the tender offer.

The tender offer will allow TD to increase its percentage ownership of TD Ameritrade without causing additional dilution to Ameritrade stockholders and will offer liquidity to the stockholders of TD Ameritrade, subject to proration in the event that the tender offer is oversubscribed. In addition, the tender offer will allow participating TD Ameritrade stockholders to sell their shares at a premium to the dividend adjusted market price of Ameritrade stock at the time of the execution of the share purchase agreement.

Subject to certain exceptions described in further detail in Certain Agreements Related to the Acquisition of TD Waterhouse Stockholders Agreement Non-Competition Covenants (beginning on page 105) none of J. Joe Ricketts, so long as he is serving as a director of TD Ameritrade, TD or any of their respective affiliates may participate in or own any portion of a business engaged in the business of providing securities brokerage services in the U.S. (or, solely in the case of Mr. Ricketts and his affiliates, in Canada) to retail traders, individual investors and registered investment advisors. If TD acquires indirectly such a competing business as a result of its acquisition of a non-competing business, TD must offer to sell the competing business to TD Ameritrade at its appraised fair value as determined in accordance with the terms of the stockholders agreement entered into in connection with the proposed acquisition of TD Waterhouse. If TD Ameritrade decides not to purchase the competing business, TD must use commercially reasonable efforts to divest the competing business within two years. In addition, TD Ameritrade will be prohibited from participating in or owning any portion of a business that competes with TD in the securities brokerage industry in Canada, and from owning a bank or similar financial institution.

**Adoption of the Proposed Amendments to Ameritrade Stock Plans (see pages 119 and 125)**

The board of directors believes that Ameritrade must offer a competitive equity incentive program if it is to continue to successfully attract and retain the best possible candidates for positions of responsibility within Ameritrade. The board of directors expects that the 1996 Long-Term Incentive Plan and the 1996 Directors Incentive Plan will continue to be important factors in attracting, retaining and rewarding the high caliber employees and independent directors essential to our success and in motivating these individuals to strive to enhance our growth and profitability.

The board of directors of Ameritrade has determined, contingent upon stockholder approval, to increase the share reserve under Ameritrade's 1996 Long-Term Incentive Plan by 19,000,000 shares and to increase the share reserve under Ameritrade's 1996 Directors Incentive Plan by 1,000,000 shares. This will help ensure that Ameritrade (1) has a reasonable number of shares available to grant incentive awards under the 1996 Long-Term Incentive Plan and the 1996 Directors Incentive Plan and (2) has the most flexibility with respect to the types of incentive awards which may be granted. Subject to the approval of the proposed increases to the share reserves under the two 1996 stock plans by Ameritrade's stockholders,

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the board of directors of Ameritrade has also approved a corresponding reduction of 20,000,000 shares in the share reserve under Ameritrade's 1998 Stock Option Plan. The share increase under the two 1996 plans and the corresponding reduction in the 1998 plan share reserve will result in no net additional shares being reserved for issuance under Ameritrade stock plans.

**Material U.S. Federal Income Tax Consequences of the Acquisition of TD Waterhouse to Holders of Ameritrade Common Stock (see page 70)**

Ameritrade's purchase of all of the capital stock of TD Waterhouse and sale of all of the capital stock of Ameritrade Canada will not result in the recognition of gain or loss by holders of Ameritrade common stock.

A portion of the special dividend will be treated as qualified dividend income to the extent paid out of Ameritrade's current or accumulated earnings and profits, as determined under the Code, for the calendar year in which the special dividend is paid. The portion of the special dividend that will be taxable as qualified dividend income will not be determined until after December 31 of the year in which the special dividend is paid. Because the portion of the special dividend that will be treated as qualified dividend income is dependent on the earnings and profits of Ameritrade through the close of the calendar year in which the special dividend is paid, Ameritrade is unable to project with reasonable accuracy what portion of the special dividend will be treated as qualified dividend income. The final determination of the portion of the special dividend that will be treated as qualified dividend income will be reported to you on a tax information return in early 2007. Any portion of the special dividend in excess of each holder's pro rata share of Ameritrade's earnings and profits will be treated first as a tax-free return of capital up to each holder's basis in its shares of Ameritrade common stock, with any remainder treated as a capital gain.

A non-corporate United States holder of Ameritrade common stock may be eligible to be taxed at a 15% (or lower) federal income tax rate on any portion of the special dividend constituting qualified dividend income for United States federal income tax purposes, provided that a minimum holding period and other requirements are satisfied. The 15% (or lower) tax rate for qualified dividend income is available only if the shares of Ameritrade common stock have been held for at least 61 days during the 121-day period beginning 60 days before the ex-dividend date.

Non-United States holders of Ameritrade common stock will generally be subject to withholding on the gross amount of the special dividend at a rate of 30% or such lower rate as may be specified by an applicable income tax treaty.

Because individual tax circumstances vary, you should consult your own tax advisor as it relates to your particular tax situation.

**Ameritrade's Financial Advisor has Delivered an Opinion that, as of June 22, 2005, the Consideration to be Paid by Ameritrade in the Acquisition of TD Waterhouse was Fair, from a Financial Point of View, to Ameritrade (see page 56)**

In deciding to approve the acquisition of TD Waterhouse, Ameritrade's board of directors and a special committee of the board, which was formed to review, investigate and analyze a possible transaction with TD and other strategic alternatives, considered the oral opinion of Citigroup Global Markets Inc., which we refer to in this proxy statement as Citigroup, delivered on June 22, 2005, which was subsequently confirmed in writing, that, as of that date and based upon and subject to the assumptions, limitations and considerations set forth in the opinion, the 193,600,000 shares of Ameritrade common stock to be paid by Ameritrade in the acquisition of TD Waterhouse pursuant to the original share purchase agreement was fair, from a financial point of view, to Ameritrade. The written opinion of Citigroup is attached as Appendix B to this proxy statement. We urge Ameritrade stockholders to read the Citigroup opinion carefully and in its entirety. Citigroup's opinion was provided for the information of the Ameritrade board of directors and its special committee in their evaluation of the proposed acquisition of TD Waterhouse and was limited solely to the fairness from a financial point of view as of the date of the opinion of the consideration to be paid by Ameritrade in the acquisition of TD Waterhouse. Citigroup's opinion did not constitute a recommendation of the acquisition of TD Waterhouse to the Ameritrade board.

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of directors or its special committee and Citigroup makes no recommendation to any stockholder regarding how such stockholder should vote or act on any matters relating to the acquisition of TD Waterhouse, including whether any stockholder should tender shares of Ameritrade common stock in the tender offer to be made by TD following consummation of the acquisition of TD Waterhouse and in which J. Joe Ricketts may participate as a co-bidder.

**The opinion of Citigroup will not reflect any developments that may occur or may have occurred after the date of its opinion and prior to completion of the transaction. Ameritrade did not request, and does not currently expect that it will request, an updated opinion from Citigroup. In particular, Citigroup was not requested to update, and has not updated, its opinion in connection with the amendment to the share purchase agreement to increase the number of shares of Ameritrade common stock to be issued to TD from 193,600,000 shares to 196,300,000 shares.**

**Ameritrade Executive Officers and Directors have Financial and Other Interests in the Transaction that may be Different from or in Addition to Your Interests (see page 66)**

When you consider our board of directors' recommendation to vote in favor of the proposals presented in this proxy statement, you should be aware that some of Ameritrade's executive officers and directors have interests in the acquisition of TD Waterhouse that may be different from, or in addition to, the interests of other Ameritrade stockholders.

Ameritrade has agreed to provide Ameritrade's directors with customary indemnification and insurance coverage.

Our board of directors consists of eight members. J. Joe Ricketts, one of the eight directors, has entered into a voting agreement with TD pursuant to which, among other things, he agreed, solely in his capacity as a stockholder, to vote all of his shares of Ameritrade common stock in favor of the acquisition of TD Waterhouse and the related amendment to the Ameritrade certificate of incorporation. Two directors, Michael Bingle and Glenn Hutchins, are affiliated with Silver Lake Partners, L.P. and its affiliated entities, which entered into the voting agreement with TD under which, among other things, the entities agreed to vote all of their shares of Ameritrade common stock in favor of the acquisition of TD Waterhouse and the related amendment to the Ameritrade certificate of incorporation. In addition, C. Kevin Landry, a member of Ameritrade's board of directors at the time the share purchase agreement was executed, is affiliated with TA Associates and its affiliated entities, who entered into a voting agreement with TD, pursuant to which, among other things, the entities agreed to vote all of their shares of Ameritrade common stock in favor of the acquisition of TD Waterhouse and the related amendment to the Ameritrade certificate of incorporation.

We expect that Mr. Moglia will continue to serve as Chief Executive Officer of TD Ameritrade and that J. Joe Ricketts will continue to serve as Chairman of TD Ameritrade. Ameritrade expects to enter into a new employment agreement with Mr. Moglia with respect to his continued employment. In addition, Ameritrade may negotiate and enter into (after consultation with TD if prior to the closing) new or amended employment agreements with other executive officers.

The Employment Agreement, dated October 1, 2001, between J. Joe Ricketts and Ameritrade provides that Ameritrade will pay the reasonable fees and expenses for legal, financial and certain other advisory services provided to Mr. Ricketts by professional and consultants selected by him. Mr. Ricketts engaged legal advisers and SCG Group Corporation, as a financial advisor, in connection with this transaction.

In connection with the acquisition of TD Waterhouse, directors and executive officers of Ameritrade, who beneficially own approximately 125,438,924 shares of Ameritrade common stock as of November 16, 2005 will receive an aggregate of approximately \$752.6 million as a result of the payment of proposed special dividend of \$6.00 per share assuming the timely exercise of all vested options. The beneficial ownership of directors and executive officers of Ameritrade includes options to purchase 14,910,982 shares of Ameritrade common stock exercisable within 60 days of November 16, 2005. In particular, based on J. Joe Ricketts's beneficial ownership of Ameritrade common stock as of November 16, 2005,

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Mr. Ricketts will receive approximately \$535.9 million as a result of the payment of the proposed special dividend, assuming timely exercise of all vested options.

In connection with the proposed special dividend, Ameritrade will adjust outstanding equity awards under its stock option plans to preserve the pre-dividend economic value of the award after payment of the special dividend. As of November 16, 2005, directors and executive officers of Ameritrade collectively held options (vested and unvested) to purchase 16,354,325 shares of common stock with a weighted average exercise price of \$5.98 per share. These options will be adjusted unless exercised prior to the ex-dividend date. As a result of their ownership of Ameritrade equity awards, which will be adjusted in connection with the payment of such special dividend, the directors have interests in the proposed transaction that may be different from the interests of other stockholders.

In addition, under the terms of the stockholders agreement entered into in connection with the proposed acquisition of TD Waterhouse, the Ricketts holders will have, among other things, specified rights relating to board representation and the ability to acquire additional TD Ameritrade securities to maintain their ownership position. In particular, the Ricketts holders may designate three directors for election, following the closing of the acquisition of TD Waterhouse, and may participate in a tender offer with TD, such that upon completion of the tender offer, the Ricketts holders may beneficially own up to 29% of the outstanding voting securities of TD Ameritrade. The Ricketts holders also have the right to approve candidates for the outside independent director positions on the TD Ameritrade board of directors. See *Certain Agreements Related to the Acquisition of TD Waterhouse* Stockholders Agreement beginning on page 101. As of November 16, 2005, the Ricketts holders collectively owned approximately 26% of the outstanding shares of Ameritrade common stock.

Further, pursuant to the terms of the amended and restated registration rights agreement, the Ricketts holders and other Ameritrade directors or their affiliates will continue to be entitled to require TD Ameritrade to register their securities of TD Ameritrade under applicable securities laws. See *Certain Agreements Related to the Acquisition of TD Waterhouse* Amended and Restated Registration Rights Agreement beginning on page 107.

The Ameritrade board of directors was aware of these interests when it approved the issuance of Ameritrade common stock in accordance with the terms of the share purchase agreement and the amendment and restatement of our certificate of incorporation and determined that the transactions contemplated by the share purchase agreement were fair to, and in the best interests of, Ameritrade and its stockholders.

In addition, after execution of the purchase agreement, on November 17, 2005, J. Joe Ricketts and his wife entered into a \$65 million credit facility with an affiliate of TD secured by Ameritrade stock.

**The Companies**

*Ameritrade Holding Corporation*

4211 South 102nd Street  
Omaha, Nebraska 68127  
(402) 331-7856

Ameritrade is a leading provider of securities brokerage services and technology-based financial services to retail investors and business partners, predominantly through the Internet. Ameritrade's services appeal to a broad market of independent, value conscious retail investors, traders, financial planners and institutions. Ameritrade uses its low-cost platform to offer brokerage services to retail investors and institutions under a commission structure that is generally lower and simpler than that of most of its major competitors.

Ameritrade has been an innovator in electronic brokerage services since being established in 1975. Ameritrade believes it was 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 execution. Since initiating online trading,



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Ameritrade has substantially increased its number of client brokerage accounts, average daily trading volume and total assets in client accounts. Ameritrade has also built, and continues to invest in, a proprietary trade processing platform that is both cost efficient and highly scalable, significantly lowering its operating costs per trade.

*The Toronto-Dominion Bank*

Toronto-Dominion Centre  
P.O. Box 1  
Toronto, Ontario, Canada M5K 1A2  
(416) 982-8222

TD is a Canadian chartered bank subject to the provisions of the Bank Act (Canada) and was formed in 1955 through the amalgamation of The Bank of Toronto (established in 1855) and The Dominion Bank (established in 1869). TD and its subsidiaries are collectively known as TD Bank Financial Group. In Canada and around the world, TD Bank Financial Group serves more than 14 million clients, in four key businesses operating in a number of locations in key financial centers around the globe: Canadian Personal and Commercial Banking, including TD Canada Trust; Wealth Management, including the global operations of TD Waterhouse; Wholesale Banking, including TD Securities; and U.S. Retail and Commercial Banking through TD Banknorth. TD Bank Financial Group also ranks among the world's leading online financial services firms, with more than 4.5 million online customers. TD Bank Financial Group had CDN \$368 billion in assets as of July 31, 2005.

*TD Waterhouse Group, Inc.*

TD Waterhouse provides investors and financial advisors with a broad range of brokerage, mutual fund, banking, and other consumer financial products. TD Waterhouse had approximately 2.9 million active customer accounts (active is defined as having funds, a security or activity in the most recent month) as of July 31, 2005 in the U.S. and Canada, of which 2.1 million are in the U.S. TD Waterhouse is a wholly owned subsidiary of TD. See TD Waterhouse Business Description beginning on page 132.

**Board of Directors and Executive Management of TD Ameritrade Following the Acquisition of TD Waterhouse (see page 68)**

Following the transaction, the TD Ameritrade board of directors will consist of twelve members, five of whom will be designated by TD, three of whom will be designated by the Ricketts holders, one of whom will be the chief executive officer of TD Ameritrade, and three of whom will be outside independent directors, who will initially be designated from among Ameritrade's current independent directors (or will be new directors designated by those existing independent directors, subject to the consent of TD and the Ricketts holders) and thereafter will be designated by the existing outside independent directors of TD Ameritrade, subject to the consent of TD and the Ricketts holders. The initial designees of TD will be W. Edmund Clark, Fredric J. Tomczyk, Daniel A. Marinangeli, Marshall A. Cohen and Wilbur J. Prezzano. The initial designees of the Ricketts holders will be J. Joe Ricketts, J. Peter Ricketts and Thomas S. Ricketts, each of whom is currently a member of the Ameritrade board of directors. The right of each of TD and the Ricketts holders to designate directors is subject to their maintenance of specified ownership thresholds of TD Ameritrade common stock. The TD Ameritrade board of directors will continue to be classified into three classes, with each class serving staggered, three-year terms. TD and the Ricketts holders have agreed to vote their shares to maintain these directors. Following the completion of the acquisition of TD Waterhouse, we expect that TD Ameritrade will qualify as a controlled company for purposes of NASD Rule 4350(c) and, as such, will be exempt from specified director independence requirements of The Nasdaq Stock Market that would otherwise be applicable to Ameritrade. See The Transaction Directors and Management of TD Ameritrade Following the Acquisition of TD Waterhouse beginning on page 68.

In addition, it is expected that Joseph H. Moglia will continue as the Chief Executive Officer of TD Ameritrade, J. Joe Ricketts will continue as the Chairman of TD Ameritrade and W. Edmund Clark,

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the President and Chief Executive Officer of TD, will serve as Vice Chairman of the TD Ameritrade board of directors.

**The Special Meeting of Ameritrade Stockholders (see page 39)**

*When and Where.* The special meeting of stockholders of Ameritrade will be held at \_\_\_\_\_, local time, on \_\_\_\_\_, 2005 at \_\_\_\_\_.

*Purpose of the Special Meeting.* The purpose of the special meeting is to consider and vote on the proposals and sub-proposals described below, each of which must be approved by Ameritrade stockholders in order for us to complete the acquisition of TD Waterhouse.

A proposal to approve the issuance of 196,300,000 shares of Ameritrade common stock to TD, and/or one or more of TD's affiliates, in accordance with the terms of the share purchase agreement;

A proposal to approve the amendment and restatement of our certificate of incorporation, with the following sub-proposals:

a proposal to approve provisions restricting the authority of TD Ameritrade to implement anti-takeover measures that would potentially conflict with the terms of the stockholders agreement entered into in connection with the proposed acquisition of TD Waterhouse;

a proposal to approve the increase of the authorized number of shares of common stock, \$0.01 par value per share, of TD Ameritrade from 650,000,000 to 1,000,000,000;

a proposal to approve a provision which prohibits action by written consent of stockholders of TD Ameritrade;

a proposal to increase the size of the board of directors from nine members to twelve members for so long as the corporate governance provisions of the stockholders agreement entered into in connection with the proposed acquisition of TD Waterhouse remain in effect, and thereafter to allow the size of the board of directors to be determined by the board of directors;

a proposal to approve a provision setting forth procedures for the nomination or appointment of outside independent directors to the TD Ameritrade board of directors and the maintenance of an outside independent directors committee and a non-TD directors committee; and

a proposal to approve a provision which allocates corporate opportunities between TD Ameritrade and TD and which otherwise modifies the existing corporate opportunities provision of the certificate of incorporation.

**Approval of each of the proposals above, including each of the sub-proposals relating to the amendment and restatement of our certificate of incorporation, is a condition to the completion of the acquisition of TD Waterhouse.**

The following additional proposals will also be voted on at the special meeting:

A proposal to approve an amendment and restatement of our 1996 Long-Term Incentive Plan to reserve an additional 19,000,000 shares of Ameritrade common stock for future issuance under the 1996 Long-Term Incentive Plan;

A proposal to approve an amendment and restatement of our 1996 Directors Incentive Plan to reserve an additional 1,000,000 shares of Ameritrade common stock for future issuance under the 1996 Directors Incentive Plan; and

A proposal to adjourn the special meeting of stockholders to a later date or dates if necessary to permit further solicitation of proxies on all proposals if there are not sufficient votes at the time of the special meeting to approve the proposals relating to the issuance of Ameritrade common stock to TD in accordance with the terms of the share purchase agreement or the amendment and restatement of our certificate of incorporation, including

each of the related sub-proposals.

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Approval of these additional proposals is not a condition to the completion of the acquisition of TD Waterhouse.

At the special meeting, Ameritrade stockholders will also be asked to consider and vote on any other matters that may properly come before the special meeting or any adjournment or postponement of the special meeting.

*Record Date; Shares Entitled to Vote.* Ameritrade has fixed the close of business on November 16, 2005 as the record date for the determination of holders of Ameritrade common stock entitled to notice of and to vote at the special meeting and any adjournment or postponement of the special meeting. At the close of business on the record date for the special meeting, there were 406,341,335 shares of Ameritrade common stock outstanding and entitled to vote. Each share of Ameritrade common stock entitles its holder to one vote at the special meeting on all matters properly presented at the meeting.

*Required Votes.* The affirmative vote of the holders of a majority of the outstanding shares of Ameritrade common stock entitled to vote at the special meeting is necessary to approve the amendment and restatement of our certificate of incorporation, including each of the related sub-proposals. The affirmative vote of the holders of a majority of the shares present in person or represented by proxy and voting on the applicable matter is necessary to approve the issuance of Ameritrade common stock to TD in accordance with the terms of the share purchase agreement, the amended and restated stock plans and the proposal to adjourn the special meeting if necessary to permit further solicitation of proxies. **The approval of the issuance of Ameritrade common stock to TD in accordance with the terms of the share purchase agreement and the approval of the amendment and restatement of our certificate of incorporation (including each of the related sub-proposals) are conditions to the completion of the acquisition of TD Waterhouse.**

The Ameritrade board of directors has unanimously determined that the acquisition of TD Waterhouse is fair to and in the best interests of Ameritrade and its stockholders and has declared advisable the share purchase agreement and the transactions contemplated by the share purchase agreement. The Ameritrade board of directors also has unanimously approved the amendment and restatement of our certificate of incorporation. The board of directors has approved the amended and restated stock plans.

In connection with the acquisition of TD Waterhouse, the Ricketts holders, the TA holders, and the SLP holders have agreed to vote their shares in favor of the issuance of Ameritrade common stock to TD in accordance with the terms of the share purchase agreement and the amendment and restatement of our certificate of incorporation, including each of the related sub-proposals. As of November 16, 2005, the Ricketts holders, the TA holders and the SLP holders collectively owned approximately 34% of the outstanding shares of Ameritrade common stock.

**The Ameritrade board of directors unanimously recommends that you vote *FOR* approval of the proposed issuance of Ameritrade common stock to TD, the proposed amendment and restatement of our certificate of incorporation, including each of the related sub-proposals, the amendment and restatement of our stock plans and the adjournment of the special meeting if necessary to permit further solicitation of proxies.**

**The Share Purchase Agreement (see page 78)**

The share purchase agreement is described beginning on page 78. The share purchase agreement and amendment thereto are attached to this proxy statement as Appendix A-1 and Appendix A-2, respectively, to this proxy statement. We urge you to read the share purchase agreement in its entirety because this document is the legal document governing the proposed acquisition of TD Waterhouse.

*Consideration to be Paid in the Transaction.* Upon the terms and conditions contained in the share purchase agreement, Ameritrade will purchase from TD all of the capital stock of TD Waterhouse in exchange for 196,300,000 shares of Ameritrade common stock and \$20,000 in cash. Immediately after the

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completion of the transaction, TD will beneficially own approximately 32.6% of the outstanding voting securities of TD Ameritrade.

*Closing Date Capital Adjustment.* The share purchase agreement contains a closing date capital adjustment mechanism that is designed to ensure that a specified level of tangible value will be contributed to the combined entity by both TD Waterhouse and Ameritrade upon the closing of the transaction. Under the closing date capital adjustment, Ameritrade may be required to pay TD additional consideration in the event the closing date net tangible book value of Ameritrade is below a specified level or the closing date net tangible book value of TD Waterhouse is above a specified level. Similarly, TD may be required to make capital contributions to Ameritrade in the event the closing date net tangible book value of TD Waterhouse is below a specified level or the closing date net tangible book value of Ameritrade is above a specified level.

*Reorganization.* Prior to the consummation of the transactions contemplated by the share purchase agreement, TD Waterhouse will complete the transfer of all of its non-U.S. and non-brokerage businesses to TD, so that at the time of completion of the acquisition of TD Waterhouse, TD Waterhouse will retain only its U.S. retail securities brokerage business, and TD Waterhouse will also distribute to TD any excess capital of TD Waterhouse above a specified minimum capital level (which will include a cash amount equal to \$1.00 per share of Ameritrade common stock to be retained by TD Waterhouse to fund a portion of the special dividend). We refer to these transactions collectively as the Reorganization in this proxy statement.

*Sale of Ameritrade Canada.* In connection with the consummation of the transactions contemplated by the share purchase agreement, Ameritrade has also agreed to sell all of the capital stock of Ameritrade Canada, Inc. to TD Waterhouse Canada Inc. in exchange for \$60 million in cash, subject to certain adjustments. See Certain Agreements Related to the Acquisition of TD Waterhouse Ameritrade Canada Purchase Agreement beginning on page 107.

*The Special Dividend.* Under the terms of the share purchase agreement, the Ameritrade board of directors will declare a special dividend of \$6.00 per share if sufficient funds are available for the dividend and such declaration and payment is permitted by applicable law, which will be payable only if the acquisition of TD Waterhouse is completed. The Ameritrade board will declare the special dividend prior to the closing date of the acquisition of TD Waterhouse, and the special dividend will have a record date prior to the closing date. It is a condition to Ameritrade's and TD's obligations to consummate the acquisition of TD Waterhouse that Ameritrade (1) has available to it sufficient funds, and is permitted under applicable law, to pay the special dividend, and (2) has duly declared the special dividend. TD will effectively fund \$1.00 per share of the special dividend by means of its agreement to cause TD Waterhouse to be capitalized as of the record date for the special dividend with cash in an amount at least equal to the product of \$1.00 multiplied by the number of outstanding shares of Ameritrade common stock as of a date that is within three business days of the record date, and to cause TD Waterhouse to maintain this minimum capitalization until the closing.

*Completion of the Acquisition of TD Waterhouse is Subject to Conditions.* The respective obligations of each of Ameritrade and TD to consummate the acquisition of TD Waterhouse are subject to the satisfaction or waiver of the following conditions:

receipt of the required approval of the Ameritrade stockholders of the issuance of Ameritrade common stock to TD in accordance with the terms of the share purchase agreement and the amendment and restatement of our certificate of incorporation, including each of the related sub-proposals;

the receipt and continued effectiveness of required regulatory approvals;

the absence of any injunction or other legal restraint or prohibition against the acquisition of TD Waterhouse or the consummation of the other transactions contemplated by the share purchase agreement;

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the completion of the Reorganization; and

as described above, the availability of sufficient funds, and the ability under applicable law, to pay the special dividend and the declaration of the special dividend.

Ameritrade's obligation to consummate the acquisition of TD Waterhouse is subject to the satisfaction or waiver of the following conditions:

the accuracy of the representations and warranties of TD as of the date of the share purchase agreement and as of the closing date, other than, in most cases, those failures to be true and correct that would not result or reasonably be expected to result, individually or in the aggregate, in a material adverse effect on TD Waterhouse;

performance in all material respects by TD of the obligations required to be performed by it at or prior to the closing date;

each of the stockholders agreement, the trademark license agreement, the services agreement and the money market deposit account agreement being in full force and effect and the representations and warranties of TD in each such agreement being true and correct in all material respects and TD having performed in all material respects all obligations required to be performed by it thereunder, if any, at or prior to the closing date; and

receipt of a copy of the resolutions duly adopted by the board of directors (or a duly authorized committee thereof) of TD authorizing the execution, delivery and performance by TD of the share purchase agreement.

TD's obligation to consummate the sale of TD Waterhouse is subject to the satisfaction or waiver of the following conditions:

the accuracy of the representations and warranties of Ameritrade as of the date of the share purchase agreement and as of the closing date, other than, in most cases, those failures to be true and correct that would not result or reasonably be expected to result, individually or in the aggregate, in a material adverse effect on Ameritrade;

performance in all material respects by Ameritrade of the obligations required to be performed by it at or prior to the closing date;

each of the stockholders agreement, the amended and restated registration rights agreement, the trademark license agreement, the services agreement and the money market deposit account agreement being in full force and effect and the representations and warranties of Ameritrade in each such agreement being true and correct in all material respects and Ameritrade having performed in all material respects all obligations required to be performed by it thereunder, if any, at or prior to the closing date;

all necessary actions having been taken, including the execution, acknowledgement and filing of the amended and restated certificate of incorporation with the Secretary of State of the State of Delaware, such that, as of the closing, (1) the amended bylaws of Ameritrade as required by the share purchase agreement and the amended and restated certificate of incorporation are in effect as the duly adopted bylaws and certificate of incorporation of Ameritrade, and (2) the Ameritrade board of directors is constituted in accordance with the terms of the stockholders agreement; and

receipt of a copy of the resolutions duly adopted by the board of directors (or a duly authorized committee thereof) of Ameritrade authorizing the execution, delivery and performance by Ameritrade of the share purchase agreement.

*The Share Purchase Agreement May Be Terminated under Certain Circumstances.* The share purchase agreement may be terminated at any time prior to the closing, by action taken or authorized by the board of directors of the terminating party or parties, whether before or after approval of the issuance of Ameritrade common stock to TD in accordance with the terms of the share purchase agreement and



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the amendment and restatement of our certificate of incorporation by the Ameritrade stockholders, in any of the following ways:

by mutual written consent of Ameritrade and TD;

by either Ameritrade or TD if:

any governmental entity which must grant a required regulatory approval required to complete the acquisition of TD Waterhouse has denied such approval and this denial has become final and nonappealable or a governmental entity has issued a final nonappealable order prohibiting the consummation of the transactions contemplated by the share purchase agreement;

the closing has not occurred on or before March 31, 2006, except that (1) neither TD nor Ameritrade may terminate the share purchase agreement for this reason if its breach of any obligation under the share purchase agreement has resulted in the failure of the closing to occur by that date and (2) TD may not terminate the share purchase agreement for this reason if as of March 31, 2006 the Reorganization has not been completed but all of the other closing conditions have been satisfied or waived on or prior to such date;

there is a breach by the other party of the share purchase agreement which would prevent satisfaction of a closing condition and the breach cannot be cured prior to the closing or is not cured prior to 30 days after receipt of written notice of the breach, but neither Ameritrade nor TD may terminate the share purchase agreement for this reason if it is then in material breach of the share purchase agreement; or

the stockholders of Ameritrade fail to give the necessary approval of the issuance of Ameritrade common stock to TD in accordance with the terms of the share purchase agreement or the amendment and restatement of our certificate of incorporation (including each of the related sub-proposals) at the Ameritrade special meeting; by TD, if Ameritrade shall have breached its obligations in any material respect with respect to calling and giving notice of, and using all reasonable efforts to convene and hold, the Ameritrade special meeting, and shall not have cured such breach within five business days following written notice from TD of the breach; and

by TD, if any of the following events occur:

Ameritrade's board of directors, or any committee thereof, has publicly withdrawn, modified or qualified in any manner adverse to TD its recommendation of the issuance of Ameritrade common stock to TD in accordance with the terms of the share purchase agreement or the amendment and restatement of our certificate of incorporation (or any of the related sub-proposals) or has adopted a resolution to do so;

Ameritrade's board of directors fails to make or reaffirm (publicly, if so requested) its recommendation in favor of the issuance of Ameritrade common stock to TD in accordance with the terms of the share purchase agreement or the amendment and restatement of our certificate of incorporation (including each of the related sub-proposals) within five business days after TD requests in writing that such recommendation be made or reaffirmed (except that the five business day time period may be extended if a third party has made an acquisition proposal with respect to Ameritrade);

Ameritrade's board of directors or any committee thereof approves or publicly recommends any acquisition proposal with respect to Ameritrade;

Ameritrade executes any agreement or contract accepting any acquisition proposal with respect to Ameritrade; or

A third party commences a tender or exchange offer relating to securities of Ameritrade and Ameritrade does not inform its security holders within ten business days after such





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commencement that the Ameritrade board of directors unconditionally recommends rejection of such tender or exchange offer.

*Ameritrade May Be Required to Pay a Termination Fee Under Some Circumstances.* If the share purchase agreement is terminated under specified circumstances, including circumstances involving a change in recommendation by Ameritrade's board of directors, Ameritrade will be required to pay TD a termination fee of \$97 million. See *The Share Purchase Agreement - Effect of Termination* beginning on page 97 for a description of the additional circumstances in which the termination fee is payable. The termination fee could discourage other companies from seeking to acquire or merge with Ameritrade.

**The Voting Agreement (see page 100)**

In connection with the execution of the share purchase agreement, the Ricketts holders, the TA holders, the SLP holders and TD entered into a voting agreement pursuant to which, among other things, the parties to the voting agreement agreed, solely in their capacity as stockholders, to vote their shares of Ameritrade common stock in favor of the issuance of Ameritrade common stock to TD in accordance with the terms of the share purchase agreement and the amendment and restatement of our certificate of incorporation (including each of the related sub-proposals) and against competing proposals, unless Ameritrade has effected a change in recommendation with respect to the proposed acquisition of TD Waterhouse as permitted under the share purchase agreement.

**The Stockholders Agreement (see page 101)**

Concurrently with entering into the share purchase agreement, Ameritrade, the Ricketts holders and TD entered into a stockholders agreement. The stockholders agreement contains certain governance arrangements and various provisions relating to board composition, stock ownership, transfers by TD and the Ricketts holders, voting and other matters. The stockholders agreement is included as Appendix F to this proxy statement, and we urge you to read it in its entirety.

*Governance of TD Ameritrade.* The stockholders agreement provides that following consummation of the acquisition of TD Waterhouse, the board of directors of TD Ameritrade will consist of twelve members, five of whom will be designated by TD, three of whom will be designated by the Ricketts holders, one of whom will be the chief executive officer of TD Ameritrade, and three of whom will be outside independent directors, who will initially be designated from among Ameritrade's current independent directors (or will be new directors designated by those existing independent directors, subject to the consent of TD and the Ricketts holders) and thereafter will be designated by the existing outside independent directors of TD Ameritrade, subject to the consent of TD and the Ricketts holders. Following the completion of the acquisition of TD Waterhouse, the number of directors designated by TD and the Ricketts holders will depend on their maintenance of specified ownership thresholds of TD Ameritrade common stock and may increase or decrease from time to time based on those ownership thresholds, but will never exceed five (in the case of TD) or three (in the case of the Ricketts holders). The TD Ameritrade board of directors will continue to be classified into three classes, with each class serving staggered three-year terms. Subject to applicable laws and certain conditions, TD Ameritrade will cause each committee of its board of directors (other than the outside independent director committee and a committee of the board of directors comprised solely of all directors who are not TD directors) to initially consist of two of the directors designated by TD, one of the directors designated by the Ricketts holders, and two of the outside independent directors. These levels of committee representation are subject to adjustment from time to time based on TD's and the Ricketts holders' maintenance of specified ownership thresholds. The parties to the stockholders agreement each agreed to vote their shares of TD Ameritrade common stock in favor of, and TD Ameritrade agreed that it would solicit votes in favor of, each director nominated for election in the manner provided for in the stockholders agreement.

*Tender Offer and Share Ownership.* The stockholders agreement provides that following consummation of the acquisition of TD Waterhouse, TD will commence a cash tender offer pursuant to which TD will offer to purchase a number of shares of TD Ameritrade common stock such that, upon successful

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completion of the offer, TD will beneficially own 39.9% of the outstanding voting securities of TD Ameritrade. If J. Joe Ricketts elects to participate in the tender offer, he may offer to purchase up to the number of shares of TD Ameritrade common stock such that, upon successful completion of the tender offer, the Ricketts holders collectively own 29% of the outstanding voting securities of TD Ameritrade. The offer price will be no less than \$16 per share and the offer will not be subject to any minimum condition on the number of shares tendered. The stockholders agreement further provides that following the acquisition of TD Waterhouse and the completion of the tender offer, TD may acquire additional shares of TD Ameritrade common stock only up to an aggregate beneficial ownership interest of 39.9% of the outstanding voting securities of TD Ameritrade for a period of three years following completion of the acquisition of TD Waterhouse, and up to an aggregate beneficial ownership of 45% for the remaining term of the stockholders agreement, and the Ricketts holders may acquire additional shares of TD Ameritrade common stock only up to an aggregate ownership interest of 29% of the outstanding TD Ameritrade common stock. The stockholders agreement also provides that TD will not, subject to certain exceptions, solicit proxies with respect to TD Ameritrade common stock. Despite the limitations on TD's ownership described above, the stockholders agreement permits TD to make a non-public proposal to the TD Ameritrade board of directors to acquire additional shares pursuant to a tender offer or merger for 100% of the outstanding voting securities of TD Ameritrade and to complete such a transaction, subject to the approval of independent directors and holders of a majority of the outstanding shares of TD Ameritrade common stock not affiliated with TD.

*Right to Purchase Securities.* In addition, TD and the Ricketts holders will have the right to purchase up to their respective proportionate share of future issuances of TD Ameritrade common stock, other than in connection with TD Ameritrade stock issued as consideration in an acquisition by TD Ameritrade and certain other issuances specified in the stockholders agreement. If TD Ameritrade proposes to issue shares as consideration in an acquisition, TD Ameritrade will discuss in good faith with TD and the Ricketts holders alternative structures in which a portion of such shares would be sold to TD or the Ricketts holders, with the proceeds of such sale used to fund the acquisition.

The stockholders agreement further provides that if TD Ameritrade engages in discussions with a third party that could result in the acquisition by such party of 25% of the voting securities or consolidated assets of TD Ameritrade, TD Ameritrade must offer TD the opportunity to participate in parallel discussions with TD Ameritrade regarding a comparable transaction.

*Transfer Restrictions.* The stockholders agreement generally prohibits TD and the Ricketts holders from transferring shares of TD Ameritrade common stock, absent approval of the independent directors, to any holder of 5% or more of the outstanding shares of TD Ameritrade, subject to certain exceptions. For so long as TD and TD Ameritrade constitute the same audit client, TD will not engage the auditor of TD Ameritrade, and TD Ameritrade will not engage the auditors of TD, to provide any non-audit services.

*Information Rights.* Subject to confidentiality and nondisclosure obligations, TD, for so long as it owns at least 15% of the outstanding shares of TD Ameritrade common stock, will be entitled to access to and information regarding TD Ameritrade's business, operations and plans as TD may reasonably require to appropriately manage and evaluate its investment in TD Ameritrade and to comply with its obligations under U.S. and Canadian laws.

*Obligation to Repurchase Shares.* If, at any time after the completion of the acquisition of TD Waterhouse, TD Ameritrade issues shares of its common stock pursuant to any compensation or similar program or arrangement, then TD Ameritrade will, subject to certain exceptions, use its reasonable efforts to repurchase a corresponding number of shares of its common stock in the open market within 120 days after any such issuance.

*Non-Competition Covenants.* Subject to specified exceptions described in further detail below in *Certain Agreements Related to the Acquisition of TD Waterhouse* Stockholders Agreement Non-Competition Covenants (beginning on page 105) the stockholders agreement generally provides that none of TD, J. Joe Ricketts, so long as he is a director of TD Ameritrade, or any of their respective affiliates may participate in or own any portion of a business engaged in the business of providing securities

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brokerage services in the U.S. (or, solely in the case of Mr. Ricketts and his affiliates, in Canada) to retail traders, individual investors and registered investment advisors. If TD acquires indirectly such a competing business as a result of its acquisition of a non-competing business, TD must offer to sell the competing business to TD Ameritrade at its appraised fair value as determined in accordance with the terms of the stockholders agreement. If TD Ameritrade decides not to purchase the competing business, TD must use commercially reasonable efforts to divest the competing business within two years. Mr. Ricketts, TD and their affiliates will be permitted under the terms of the stockholders agreement to own a passive investment representing less than 2% of a class of equity securities of a competing business so long as the class of equity securities is traded on a national securities exchange in the U.S. or the Toronto Stock Exchange or quoted on the Nasdaq National Market. TD also will be permitted to engage in certain activities in the ordinary course of its banking and securities businesses. In addition, Ameritrade has agreed that it will not hold or acquire control of a bank or similar depository institution except (1) incidentally in connection with the acquisition of an entity not principally engaged in the banking business or (2) in the event that TD does not hold control of any bank or similar depository institution which is able to offer money market deposit accounts to clients of TD Ameritrade as a designated sweep vehicle or TD has indicated that it is not willing to offer such accounts to clients of TD Ameritrade through one or more of any banks or similar depository institutions it controls.

*Termination of the Stockholders Agreement.* The stockholders agreement will terminate (1) with respect to the Ricketts holders, when their aggregate ownership of TD Ameritrade common stock falls below approximately 4%, and (2) upon the earliest to occur of (a) the consummation of a merger or tender offer where TD acquires 100% of the TD Ameritrade common stock, (b) the tenth anniversary of the consummation of the acquisition of TD Waterhouse, (c) the date on which TD's ownership of TD Ameritrade common stock falls below approximately 4% of the outstanding voting securities of TD Ameritrade, (d) the commencement by a third party of a tender offer or exchange offer for not less than 25% of TD Ameritrade common stock unless the TD Ameritrade board recommends against such tender offer or exchange offer and continues to take steps to oppose such tender offer or exchange offer, (e) the approval by the TD Ameritrade board of a business combination that would result in another party owning 25% of the voting securities or consolidated assets of TD Ameritrade or which would otherwise result in a change of control of TD Ameritrade, or (f) the acquisition of 20% of the voting securities of TD Ameritrade by a third party. For a period of up to one year following a termination under (2)(d), (2)(e) or (2)(f) above, TD and the Ricketts holders will be prohibited from acquiring shares of TD Ameritrade common stock that would cause, in the case of TD, its aggregate ownership to exceed 45% (39.9% in the first three years following the completion of the acquisition of TD Waterhouse) or, in the case of the Ricketts holders, 29%, except pursuant to a tender offer or merger for 100% of the outstanding shares of TD Ameritrade common stock approved by the holders of a majority of the outstanding shares of TD Ameritrade common stock (other than the Ricketts holders and TD). In addition, during that one-year period, the provisions of the stockholders agreement relating to the designation of directors and certain other provisions will remain in effect.

**Regulatory Approvals Required for the Acquisition of TD Waterhouse (see page 73)**

TD and Ameritrade are required, under the Hart-Scott-Rodino Antitrust Improvements Act of 1976, or the HSR Act, to notify and furnish required information to the Antitrust Division of the U.S. Department of Justice and to the U.S. Federal Trade Commission prior to completing the acquisition of TD Waterhouse. We and TD have made these filings and the waiting period under the HSR Act has expired.

TD and Ameritrade have furnished certain information to the NASD regarding the acquisition of TD Waterhouse in compliance with applicable requirements under NASD Membership and Registration Rules. The change of equity ownership of TD's and Ameritrade's broker-dealer subsidiaries resulting from the acquisition of TD Waterhouse requires NASD approval.

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TD and Ameritrade have furnished certain information to the New York Stock Exchange regarding the acquisition of TD Waterhouse in compliance with applicable requirements under New York Stock Exchange Membership Rules. The closing of the acquisition of TD Waterhouse is subject to the furnished information being posted in the New York Stock Exchange's weekly bulletin to members. The furnished information must be posted for two consecutive weeks before the closing of the acquisition of TD Waterhouse can occur.

Under the Canadian Bank Act, TD is required to obtain the prior approval of the Canadian Minister of Finance to acquire beneficial ownership of more than 10% of the voting shares of Ameritrade, or to subsequently acquire any shares that would result in an increase in the size of its investment. TD has received the required approvals.

**Adjustment of Equity Awards**

In connection with the special dividend, unexercised equity awards outstanding as of the ex-dividend date will be adjusted according to a formula to preserve their intrinsic value. The exercise price, if any, will be adjusted downward (but not below the par value per share) and the number of shares covered by equity awards will be adjusted upward in accordance with a formula derived by comparing the volume weighted average market price for a share of Ameritrade common stock on the last trading day before the ex-dividend date for the special dividend with the volume weighted average market price less \$6.00. As of November 16, 2005, directors and executive officers of Ameritrade collectively held options (vested and unvested) to purchase 16,354,325 shares of common stock with a weighted average exercise price of \$5.98 per share.

**Accounting Treatment of the Acquisition of TD Waterhouse (see page 73)**

The acquisition of TD Waterhouse will be accounted for using the purchase method of accounting under Statement of Financial Accounting Standards No. 141, *Business Combinations*. Ameritrade is the acquiring entity. Under the purchase method of accounting, the aggregate cost of the acquired entity, TD Waterhouse, will be allocated to the tangible and intangible assets acquired and liabilities assumed based on their estimated fair values, with any excess being recognized as goodwill. Under Statement of Financial Accounting Standards No. 142, *Goodwill and Other Intangible Assets*, goodwill will not be amortized, but will be subject to an impairment test at least annually.

**Table of Contents****Comparative Historical and Pro Forma Per Share Data**

The following table presents historical per share data for Ameritrade and TD Waterhouse; pro forma per share data of TD Ameritrade after giving effect to the acquisition of TD Waterhouse, the sale of Ameritrade Canada, the Reorganization and the special dividend; and pro forma equivalent per share data for TD Waterhouse with respect to the portion of the acquisition consideration that will be received in the form of Ameritrade shares. The TD Ameritrade pro forma per share data was derived by combining information from the historical consolidated financial statements of Ameritrade and TD Waterhouse using the purchase method of accounting for the acquisition of TD Waterhouse. You should read this table in conjunction with the historical audited and unaudited consolidated financial statements of Ameritrade that are filed with the SEC and incorporated by reference in this document and the historical consolidated financial statements of TD Waterhouse contained elsewhere in this document. See **Where You Can Find More Information** beginning on page 221 and **TD Waterhouse Management's Discussion and Analysis of Financial Condition and Results of Operations** beginning on page 177. You should not rely on the pro forma per share data as being necessarily indicative of actual results had the acquisition of TD Waterhouse occurred in the past, or of future results.

The pro forma per share data does not reflect revenue opportunities and cost savings that we expect to realize after the acquisition of TD Waterhouse. No assurance can be given with respect to the estimated revenue opportunities and operating cost savings that are expected to be realized as a result of the acquisition of TD Waterhouse. The pro forma per share data does not reflect restructuring or exit costs that may be incurred by Ameritrade or TD Waterhouse in connection with the acquisition of TD Waterhouse.

	<b>Ameritrade Historical(1)</b>	<b>TD Ameritrade Pro Forma(2)</b>	<b>TD Waterhouse Historical</b>	<b>TD Waterhouse Equivalent Pro Forma</b>
<b>Earnings per share basic:</b>				
Fiscal year ended September 24, 2004	\$ 0.68	\$0.38	(3)	(3)
Nine months ended June 24, 2005	\$ 0.61	\$0.39	(3)	(3)
<b>Earnings per share diluted:</b>				
Fiscal year ended September 24, 2004	\$ 0.66	\$0.37	(3)	(3)
Nine months ended June 24, 2005	\$ 0.60	\$0.38	(3)	(3)
<b>Cash dividends per share:</b>				
Fiscal year ended September 24, 2004				
Nine months ended June 24, 2005				
Book value per share as of June 24, 2005	\$ 3.47	\$1.89	\$ 8.19(4)	\$ 1.05(5)

- (1) The Ameritrade historical financial information has been restated to reflect the embedded collars within Ameritrade's prepaid variable forward contracts on its investment in Knight Capital Group, Inc. common stock as non-hedging derivatives. The restatements are discussed further in Note 18 of the Notes to Consolidated Financial Statements included in Ameritrade's Form 10-K/A for the fiscal year ended September 24, 2004, which was filed on November 18, 2005, and Note 12 of the Notes to Condensed Consolidated Financial Statements included in Ameritrade's Form 10-Q/A for the fiscal quarter ended June 24, 2005, which was filed on

November 18, 2005.

- (2) TD Ameritrade's pro forma data includes the effect of the acquisition of TD Waterhouse, the sale of Ameritrade Canada, the Reorganization and the special dividend on the basis described in the notes to the unaudited pro forma combined condensed financial statements included elsewhere in this document.
- (3) TD Waterhouse is not a publicly traded company and, accordingly, no information is presented regarding its earnings per share or equivalent pro forma earnings per share.

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- (4) TD Waterhouse's historical book value per share is as of July 31, 2005 and is based on 352,944,959 shares of Class A common stock outstanding.
- (5) The TD Waterhouse equivalent pro forma book value per share is calculated by multiplying the corresponding TD Ameritrade pro forma amount by the exchange ratio of 0.5562 Ameritrade shares exchanged for each share of TD Waterhouse. The exchange ratio does not include the \$20,000 of cash consideration received by TD or any other cash consideration resulting from closing date capital adjustments for Ameritrade or TD Waterhouse.

**Per Share Market Price Data**

Ameritrade common stock trades on the Nasdaq National Market under the symbol AMTD. The following table shows the high and low sales prices in U.S. dollars for Ameritrade common stock for the periods indicated, as reported by the Nasdaq National Market. The prices reflect inter-dealer prices and do not include retail markups, markdowns or commissions.

The closing sale price of Ameritrade common stock as reported on the Nasdaq National Market on June 21, 2005, the date prior to the public announcement of the proposed acquisition of TD Waterhouse, was \$14.82 per share. The closing sale price of Ameritrade common stock as reported on the Nasdaq National Market on November 16, 2005 was \$22.17 per share. As of that date there were 646 holders of record of Ameritrade common stock based on information provided by our transfer agent. The number of stockholders of record does not reflect the actual number of individual or institutional stockholders that own Ameritrade common stock because most stock is held in the name of nominees. There are a substantially greater number of beneficial holders of Ameritrade common stock.

**Ameritrade Common Stock Price (in \$)**

	For the Fiscal Year Ended September 30, 2005		For the Fiscal Year Ended September 24, 2004	
	High	Low	High	Low
<b>First Quarter</b>	14.61	11.21	14.67	11.16
<b>Second Quarter</b>	14.38	10.02	17.67	13.40
<b>Third Quarter</b>	19.00	9.91	16.38	10.25
<b>Fourth Quarter</b>	22.25	18.04	12.73	9.35



**Table of Contents****Summary Selected Historical Consolidated Financial Data of TD Waterhouse**

The following information is being provided to aid in your analysis of the financial aspects of the acquisition of TD Waterhouse. TD Waterhouse derived this financial information from audited consolidated financial statements of TD Waterhouse for fiscal years 2002 through 2004 and from unaudited consolidated financial statements for fiscal years ended 2000 and 2001 and for the nine months ended July 31, 2005 and July 31, 2004. The consolidated financial statements for the fiscal years 2000 and 2001 have not been restated for the July 1, 2002 acquisition of the full service brokerage and financial planning operations of TD Securities, Inc. and TD Investment Services, Inc., which was accounted for as a merger of entities under common control, because it was impracticable to obtain the required information. In the opinion of TD Waterhouse's management, the unaudited consolidated interim period information reflects all adjustments, consisting only of normal or recurring adjustments, necessary for a fair statement of the results of operations and financial condition as of and for the nine months ended July 31, 2005 and July 31, 2004. Results for interim periods should not be considered indicative of results for any other periods or for the year.

This information is only a summary. You should read it along with TD Waterhouse's historical audited and unaudited consolidated financial statements contained in this proxy statement and related notes and the section titled TD Waterhouse Management's Discussion and Analysis of Financial Condition and Results of Operations beginning on page 177 of this proxy statement.

	Nine Months Ended			Years Ended October 31			
	July 31, 2005	July 31, 2004	2004	2003(2) (Restated)	2002(2) (Restated)	2001(1) (Restated)	2000(1) (Restated)
	(In thousands)			(In thousands)			
<b>Consolidated Statements of Income Data</b>							
Revenues:							
Commissions and fees	\$ 509,313	\$ 545,831	\$ 681,944	\$ 653,154	\$ 573,638	\$ 594,500	\$ 997,490
Mutual fund and related revenue	159,467	158,300	202,735	144,713	113,734	133,466	117,442
Gain on principal transactions	17,730	22,807	33,973	21,116			19,923
Other	121,207	92,027	124,973	90,153	169,758	87,810	70,931
Total non-interest revenue	807,717	818,965	1,043,625	909,136	857,130	815,776	1,205,786
Interest revenue	578,502	343,280	478,122	384,814	372,612	783,272	1,160,748
Interest expense	201,024	87,554	125,263	103,486	96,444	433,727	713,630
Net interest income	377,478	255,726	352,859	281,328	276,168	349,545	447,118
Net revenues	1,185,195	1,074,691	1,396,484	1,190,464	1,133,298	1,165,321	1,652,904
Operating expenses:							
Employee compensation and	460,511	389,986	527,229	456,597	372,557	386,837	430,643

benefits							
Floor brokerage, exchange and clearing fees	104,145	83,027	104,596	86,472	53,125	116,763	141,183
Occupancy	61,509	48,089	68,448	71,832	66,650	62,908	56,015
Advertising and promotion	85,881	76,117	91,293	66,788	91,123	74,047	108,386
Depreciation and amortization	40,135	41,140	56,231	55,743	57,399	59,680	37,190
Equipment	27,654	27,996	39,012	37,782	46,992	55,316	37,039
Communications and data processing	40,886	45,003	57,543	77,356	82,529	90,443	125,221
Amortization of goodwill						45,912	42,099
Professional fees	43,082	41,173	58,294	42,973	41,902	50,938	53,633
Stationery and postage	31,036	28,898	37,045	33,789	37,653	39,039	50,190
Other	42,764	71,493	103,778	101,755	190,171	97,389	126,183
Total expenses	937,603	852,922	1,143,469	1,031,087	1,040,101	1,079,272	1,207,782
Income before income taxes and minority interest	247,592	221,769	253,015	159,377	93,197	86,049	445,122
Income tax provision	80,233	78,956	85,793	53,881	44,492	51,129	194,645
Income after taxes before minority interest	167,359	142,813	167,222	105,496	48,705	34,920	250,477
Minority interest in subsidiary	8,535	8,707	9,150	5,828	1,386		
Income from continuing operations	158,824	134,106	158,072	99,668	47,319	34,920	250,477
<b>Discontinued operations</b>							
Loss from discontinued operations				(64,661)	(16,896)	(10,081)	(9,123)
Income tax benefit				(9,751)	(5,010)	(2,362)	(2,731)
Loss on discontinued operations				(54,910)	(11,886)	(7,719)	(6,392)
Net income	\$ 158,824	\$ 134,106	\$ 158,072	\$ 44,758	\$ 35,433	\$ 27,201	\$ 244,085



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					<b>October 31</b>			
	<b>July 31, 2005</b>	<b>July 31, 2004</b>	<b>2004</b>	<b>2003(2) (Restated)</b>	<b>2002(2) (Restated)</b>	<b>2001(1) (Restated)</b>	<b>2000(1) (Restated)</b>	
	<b>(In thousands)</b>				<b>(In thousands)</b>			
<b>Consolidated Statements of Financial Condition Data:</b>								
Cash and cash equivalents	\$ 126,855	\$ 172,347	\$ 222,716	\$ 420,825	\$ 331,514	\$ 487,832	\$ 980,195	
Receivables from customers	5,598,778	4,919,848	5,069,332	4,438,506	2,942,819	3,384,159	7,978,551	
Trading securities owned, at market value	1,961,179	1,901,556	1,873,353	1,573,351	576,654	736,090	138,515	
Securities purchased under agreement to resell	1,017,510	1,137,158	1,515,855	1,492,896	1,831,166	1,164,781	617,031	
Securities available for sale	8,380,028	6,519,672	6,940,966	5,335,376	3,935,200	4,137,111	3,968,657	
Securities held to maturity	2,576,334	2,454,391	2,831,595	1,249,852	1,620,151	1,501,306	1,029,127	
Total assets	\$ 21,225,121	\$ 18,512,042	19,918,457	15,939,709	13,090,681	12,831,019	16,339,155	
Interest bearing deposits	9,243,458	8,321,835	8,631,570	5,807,827	5,341,772	5,535,102	5,006,328	
Deposits received for securities loaned	1,368,143	978,616	1,081,561	909,460	72,974	279,525	4,111,677	
Payable to customers	5,686,497	5,116,708	5,391,422	5,337,499	4,303,569	3,753,689	2,847,789	
Total stockholders equity	2,891,932	2,833,510	2,894,456	2,700,835	2,599,690	2,589,557	2,568,983	

(1) The financial information for the fiscal years 2000 and 2001 reflects consolidated TD Waterhouse Holdings, Inc., the predecessor of TD Waterhouse. TD Waterhouse Holdings, Inc. contains the same operating companies as TD

Waterhouse restated to correct TD Waterhouse's method of accounting for leases, but does not reflect the merger of certain entities under common control.

- (2) The October 31, 2003 and October 31, 2002 consolidated financial statements have been restated to correct TD Waterhouse's accounting for leases, stock compensation, certain intercompany eliminations, the 2002 disposition of two wholly owned subsidiaries, other adjustments that had no effect on net income and were not material to the consolidated financial statements and the July 1, 2002 acquisition of the full service brokerage and financial planning operations of TD Securities, Inc. and TD Investment Services, Inc. by TD Waterhouse Canada Inc.

**Table of Contents****Summary Selected Historical Consolidated Financial Data of Ameritrade**

The following information is being provided to aid in your analysis of the financial aspects of the acquisition of TD Waterhouse. Ameritrade derived its financial information from audited financial statements for the fiscal years 2000 through 2004 and from unaudited financial statements for the nine months ended June 24, 2005 and June 25, 2004. In the opinion of Ameritrade's management, this unaudited interim period information reflects all adjustments, consisting only of normal and recurring adjustments, necessary for a fair presentation of the results of operations and financial condition for the nine months ended June 24, 2005 and June 25, 2004. Results for interim periods should not be considered indicative of results for any other periods or for the year. Fiscal year 2000 was a 53-week year. All other fiscal years presented were 52-week years.

This information is only a summary. You should read it along with Ameritrade's historical audited and unaudited financial statements and related notes and the section titled "Management's Discussion and Analysis of Financial Condition and Results of Operations" contained in Ameritrade's annual reports, quarterly reports and other information on file with the SEC and incorporated by reference into this document. See "Where You Can Find More Information" beginning on page 221.

	Nine Months Ended			Fiscal Year Ended			
	June 24, 2005(1)	June 25, 2004(1)	Sept. 24, 2004(1)	Sept. 26, 2003(1)	Sept. 27, 2002	Sept. 28, 2001	Sept. 29, 2000

(In thousands, except per share amounts)

**Consolidated  
Statements of  
Operations Data:**

## Revenues:

Commissions and clearing fees	\$ 394,596	\$ 457,635	\$ 560,052	\$ 472,760	\$ 252,526	\$ 269,384	\$ 389,742
Interest revenue	366,797	200,144	278,550	184,175	128,649	208,479	260,479
Brokerage interest expense	93,526	26,768	41,861	33,192	24,564	60,896	91,679
Net interest revenue	273,271	173,376	236,689	150,983	104,085	147,583	168,800
Other	60,973	62,285	83,372	89,511	74,182	37,763	21,890
Net revenues	728,840	693,296	880,113	713,254	430,793	454,730	580,432

## Expenses:

Employee compensation and benefits	130,811	118,588	154,792	172,159	133,897	144,820	144,198
Clearing and execution costs	20,081	24,155	30,610	35,711	19,086	18,252	17,718
Communications	27,203	31,382	39,853	41,420	31,429	33,880	36,230
Occupancy and equipment costs	33,018	32,080	42,353	57,091	57,060	63,661	48,480
Depreciation and	17,543	17,458	23,224	31,708	27,945	36,033	21,624

amortization							
Professional services	26,722	24,053	27,381	31,121	25,753	42,502	55,574
Interest on borrowings	1,503	1,959	2,581	5,076	5,110	11,067	16,412
(Gain)/loss on disposal of property	(220)	(575)	1,166	(5,093)	403	999	(552)
Other	13,146	16,607	16,632	20,298	12,583	11,241	15,117
Advertising	72,307	80,414	100,364	90,415	72,638	148,009	241,169
Unrealized fair value adjustments of derivative instruments	(11,826)	(10,117)	(17,930)	46,668			
Gain on sale of investments						(9,692)	
Restructuring and asset impairment charges				5,991	63,406	38,268	4,726
Debt conversion expense						62,082	
Total expenses	330,288	336,004	421,026	532,565	449,310	601,122	600,696
Pre-tax income (loss)	398,552	357,292	459,087	180,689	(18,517)	(146,392)	(20,264)
Provision for (benefit from) income taxes	153,186	136,435	176,269	72,048	10,446	(55,215)	(6,638)
Net income (loss)	\$ 245,366	\$ 220,857	\$ 282,818	\$ 108,641	\$ (28,963)	\$ (91,177)	\$ (13,626)

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	Nine Months Ended			Fiscal Year Ended			
	June 24, 2005(1)	June 25, 2004(1)	Sept. 24, 2004(1)	Sept. 26, 2003(1)	Sept. 27, 2002	Sept. 28, 2001	Sept. 29, 2000
(In thousands, except per share amounts)							
Basic earnings (loss) per share	\$ 0.61	\$ 0.53	\$ 0.68	\$ 0.25	\$ (0.13)	\$ (0.49)	\$ (0.08)
Diluted earnings (loss) per share	\$ 0.60	\$ 0.51	\$ 0.66	\$ 0.25	\$ (0.13)	\$ (0.49)	\$ (0.08)
Weighted average shares outstanding basic	403,911	420,599	417,629	427,376	227,327	185,830	175,025
Weighted average shares outstanding diluted	412,250	430,386	426,972	432,480	227,327	185,830	175,025
	As of			As of			
	June 24, 2005(1)	June 25, 2004(1)	Sept. 24, 2004(1)	Sept. 26, 2003(1)	Sept. 27, 2002	Sept. 28, 2001	Sept. 29, 2000

**Consolidated  
Balance Sheet  
Data:**

Cash, short-term investments and segregated cash and investments	\$ 8,045,213	\$ 7,820,536	\$ 7,957,917	\$ 8,127,044	\$ 5,863,507	\$ 2,068,391	\$ 338,307
Receivable from clients and correspondents, net	3,440,170	3,373,808	3,100,572	2,202,170	1,419,469	971,823	2,926,981
Total assets	16,505,871	15,548,016	15,277,021	14,404,268	9,800,841	3,653,871	3,798,236
Payable to clients and correspondents	10,251,193	10,315,671	10,322,539	9,611,243	6,374,644	2,777,916	2,618,157
Long-term obligations	39,058	37,394	37,803	82,489	47,645	70,145	275,000
Stockholders equity	1,402,123	1,187,452	1,210,908	1,235,774	1,098,399	371,433	264,168

- (1) The Ameritrade financial statements for fiscal years 2004 and 2003 and for the nine months ended June 24, 2005 and June 25, 2004 have been restated to reflect the embedded collars within Ameritrade's prepaid variable forward contracts on its investment in Knight Capital Group, Inc. common stock as non-hedging derivatives. The restatements are discussed further in Note 18 of the Notes to Consolidated Financial Statements included in



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Ameritrade's Form 10-K/A for the fiscal year ended September 24, 2004, which was filed on November 18, 2005, and Note 12 of the Notes to Condensed Consolidated Financial Statements included in Ameritrade's Form 10-Q/A for the fiscal quarter ended June 24, 2005, which was filed on November 18, 2005.

**Table of Contents****Selected Unaudited Pro Forma Combined Condensed Financial Data of TD Ameritrade**

The following describes the pro forma effect of the acquisition of TD Waterhouse on (1) the balance sheet data of Ameritrade and TD Waterhouse as of June 24, 2005 and (2) the statements of operations data of Ameritrade and TD Waterhouse for the fiscal year ended September 24, 2004 and the nine months ended June 24, 2005.

This information is only a summary. You should read the unaudited pro forma combined condensed financial statements and other information and the accompanying notes that are included elsewhere in this document.

You should also read the historical information and related notes of Ameritrade that are incorporated by reference into this document and the historical financial statements and related notes for TD Waterhouse contained elsewhere in this document.

The unaudited pro forma combined condensed balance sheet data and the unaudited pro forma combined condensed statements of operations data show the estimated effects of the acquisition of TD Waterhouse as if it had occurred on June 24, 2005 and September 26, 2003, respectively. We are providing the unaudited pro forma combined condensed financial data for informational purposes only. It does not necessarily represent or indicate what the financial position and results of operations of TD Ameritrade would actually have been had the acquisition of TD Waterhouse and other pro forma adjustments in fact occurred at the dates indicated. It also does not necessarily represent or indicate the future financial position or results of operations TD Ameritrade will achieve after the acquisition of TD Waterhouse.

The pro forma results of operations do not reflect revenue opportunities and cost savings that we expect to realize after the acquisition of TD Waterhouse. No assurance can be given with respect to the estimated revenue opportunities and operating cost savings that are expected to be realized as a result of the acquisition of TD Waterhouse. The pro forma financial information does not reflect restructuring or exit costs that may be incurred by Ameritrade or TD Waterhouse in connection with the acquisition of TD Waterhouse.

**TD Ameritrade Pro Forma**

<b>Fiscal Year Ended September 24, 2004</b>	<b>Nine Months Ended June 24, 2005</b>
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(In thousands, except per share data)

**Statement of Operations Data:**

Net revenues	\$ 1,602,584	\$ 1,334,504
Net income from continuing operations	232,370	233,805
Earnings per share basic	0.38	0.39
Earnings per share diluted	0.37	0.38

**TD Ameritrade  
Pro Forma  
As of June 24,  
2005**

(In thousands)

**Balance Sheet Data:**

Total assets	\$ 22,360,692
Long-term obligations	2,150,843
Stockholders equity	1,135,344



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**RISK FACTORS**

*In addition to the other information included or incorporated by reference in this proxy statement, you should carefully consider the matters described below relating to the proposed acquisition of TD Waterhouse in deciding whether to vote for approval of the proposals presented in this proxy statement. Additional risks and uncertainties not presently known to Ameritrade or that are not currently believed to be material, if they occur, also may adversely affect the proposed acquisition of TD Waterhouse and Ameritrade and TD Waterhouse as a combined company.*

***Although Ameritrade expects that the acquisition of TD Waterhouse will result in benefits to Ameritrade, the combined company may not realize those benefits because of integration difficulties and other challenges.***

The failure of the combined company to meet the challenges involved in integrating the operations of Ameritrade and TD Waterhouse successfully or otherwise to realize any of the anticipated benefits of the acquisition of TD Waterhouse, including anticipated cost savings and additional revenue opportunities, could seriously harm the results of operations of the combined company. Realizing the benefits of the acquisition of TD Waterhouse will depend in part on the integration of technology, operations and personnel. The integration of the companies is a complex, time-consuming and expensive process that, without proper planning and effective and timely implementation, could significantly disrupt the businesses of Ameritrade and TD Waterhouse.

The challenges involved in this integration include the following:

demonstrating to the clients of Ameritrade and to the clients of TD Waterhouse that the acquisition of TD Waterhouse will not result in adverse changes in client service standards or business focus and helping clients conduct business easily with the combined company;

consolidating and rationalizing technology platforms and administrative infrastructures;

combining product offerings;

coordinating sales and marketing efforts to effectively communicate the capabilities of the combined company;

integrating and rationalizing settlement and account and order management systems;

preserving marketing and other important relationships of both Ameritrade and TD Waterhouse and resolving potential conflicts that may arise;

integrating and rationalizing TD Waterhouse's branch operations to serve the combined client base of TD Ameritrade;

minimizing the diversion of management attention from ongoing business concerns; and

combining the corporate cultures, maintaining employee morale and retaining key employees.

The combined company may not successfully integrate the operations of Ameritrade and TD Waterhouse in a timely manner, or at all, and the combined company may not realize the anticipated benefits or synergies of the acquisition of TD Waterhouse to the extent, or in the timeframe, anticipated. The anticipated benefits and synergies include cost savings associated with anticipated restructurings and other operational efficiencies, greater economies of scale and revenue enhancement opportunities. However, these anticipated benefits and synergies assume a successful integration and are based on projections, which are inherently uncertain, and other assumptions. Even if integration is successful, anticipated benefits and synergies may not be achieved. In addition to the integration risks discussed above, the combined company's ability to realize these benefits and synergies could be adversely impacted by practical or legal constraints on its ability to combine operations or implement workforce reductions.

**Table of Contents*****The market price of TD Ameritrade common stock may decline as a result of the acquisition of TD Waterhouse.***

The market price of TD Ameritrade common stock may decline as a result of the acquisition of TD Waterhouse if, among other things, the integration of the Ameritrade and TD Waterhouse businesses is unsuccessful, if the operational cost savings estimates are not realized, if the transaction costs related to the acquisition of TD Waterhouse are greater than expected or if the financing of the special dividend is on unfavorable terms. The market price also may decline if we do not achieve the perceived benefits of the acquisition of TD Waterhouse as rapidly or to the extent anticipated by financial or industry analysts or if the effect of the acquisition of TD Waterhouse on TD Ameritrade's financial results is not consistent with the expectations of financial or industry analysts. In addition, as is typical in such circumstances, we anticipate that the market price of our common stock will decline following the payment of the special dividend.

***TD and the Ricketts holders will exercise significant influence over TD Ameritrade.***

When the acquisition of TD Waterhouse is completed, TD will own approximately 32.6%, and the Ricketts holders will own approximately 18%, of the outstanding voting securities of TD Ameritrade. Following the completion of the acquisition of TD Waterhouse, TD will commence a tender offer with the goal of increasing its ownership to 39.9% of the outstanding shares of Ameritrade common stock. J. Joe Ricketts may elect to participate as a co-bidder in the tender offer with TD or otherwise purchase shares of TD Ameritrade common stock, such that the Ricketts holders own up to 29% of the outstanding shares of Ameritrade common stock. Mr. Ricketts has informed Ameritrade that he does not intend to participate as a co-bidder in the tender offer. TD will be permitted under the terms of the stockholders agreement to acquire up to 39.9% of the outstanding shares of TD Ameritrade common stock during the three years following the closing, 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 Ameritrade following the termination of the stockholders agreement. As a result, TD and the Ricketts holders generally will 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 will designate five of the twelve members of the TD Ameritrade board of directors and the Ricketts holders will 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 generally will be able to significantly influence the outcome of all matters that come before the TD Ameritrade board. As a result of their significant interest 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.***

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. It is expected that after the acquisition of TD Waterhouse a significant number of the directors on the TD Ameritrade board will be 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

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could have materially different implications for TD Ameritrade and for TD. Our post-transaction amended and restated certificate of incorporation will contain provisions relating to avoidance of direct competition between TD Ameritrade and TD. The parties have not established any other formal procedures for TD Ameritrade and TD to resolve potential or actual conflicts of interest between them. There can be no assurance that any of the foregoing conflicts will 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.

***Ameritrade will incur significant indebtedness in connection with the transaction.***

In connection with payment of the special dividend, Ameritrade will be required to borrow approximately \$1.6 to \$2.0 billion. It is a condition to the completion of the transaction that Ameritrade shall have available to it sufficient funds, and shall be permitted under applicable law, to pay the special dividend, and that Ameritrade declares the dividend. Although Ameritrade currently expects that such financing will be available on commercially reasonable terms, there can be no assurance of this. Following the completion of the acquisition of TD Waterhouse, TD Ameritrade's ability to meet its cash requirements, including its debt service obligations, will be dependent upon its future performance, which will be subject to financial, business and other factors affecting its operations, many of which are or may be beyond TD Ameritrade's control. Ameritrade cannot provide assurance that its business will generate sufficient cash flows from operations to fund these cash requirements and debt service obligations. If TD Ameritrade is unable to meet its cash requirements from operations, it would be required to fund these cash requirements by alternative financing. The degree to which it may be leveraged as a result of the indebtedness incurred in connection with payment of the special dividend or otherwise could materially and adversely affect its ability to obtain financing for working capital, acquisitions or other purposes, could make it more vulnerable to industry downturns and competitive pressures or could limit its flexibility in planning for, or reacting to, changes and opportunities in its industry, which may place it at a competitive disadvantage. There can be no assurance that TD Ameritrade would be able to obtain alternative financing, that any such financing would be on acceptable terms or that it would be permitted to do so under the terms of existing financing arrangements, including those entered into in connection with the payment of the special dividend. In the absence of such financing, TD Ameritrade's ability to respond to changing business and economic conditions, make future acquisitions, react to adverse operating results, meet its debt service obligations, or fund required capital expenditures, could be materially and adversely affected.

***Some directors and executive officers of Ameritrade have interests in the acquisition of TD Waterhouse that may differ from the interests of Ameritrade stockholders including, if the acquisition of TD Waterhouse is completed, the receipt of financial and other benefits.***

When considering our board of directors' recommendation to vote in favor of the proposals presented in this proxy statement, you should be aware that Ameritrade's executive officers and directors have interests in the acquisition of TD Waterhouse that may be different from, or in addition to, your interests.

For example, Ameritrade is currently considering a new employment agreement with Mr. Moglia with respect to his continued employment as our Chief Executive Officer. In addition, Ameritrade may negotiate and enter into (after consultation with TD if prior to the closing) new or amended employment agreements with other executive officers.

In connection with the acquisition of TD Waterhouse, directors and executive officers of Ameritrade, who beneficially own approximately 125,438,924 shares of Ameritrade common stock as of November 16, 2005 will receive an aggregate of approximately \$752.6 million as a result of the payment of proposed special dividend of \$6.00 per share assuming the timely exercise of all vested options. The beneficial ownership of directors and executive officers of Ameritrade includes options to purchase 14,910,982 shares of Ameritrade common stock exercisable within 60 days of November 16, 2005. In connection with the proposed special dividend, Ameritrade will adjust outstanding equity awards under its stock option plans to

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preserve the pre-dividend economic value of the awards after payment of the special dividend. As of November 16, 2005, directors and executive officers of Ameritrade collectively held options (vested and unvested) to purchase 16,354,325 shares of common stock with a weighted average exercise price of \$5.98 per share. These options will be adjusted unless exercised prior to the ex-dividend date.

In addition, under the terms of the stockholders agreement, the Ricketts holders will have, among other things, specified rights relating to board representation and the ability to acquire additional Ameritrade common stock to maintain their ownership position. J. Joe Ricketts may also elect, following the closing of the acquisition of TD Waterhouse, to participate in a tender offer with TD, such that upon completion of the tender offer, the Ricketts holders may own up to 29% of the outstanding voting securities of TD Ameritrade. Mr. Ricketts has informed Ameritrade that he does not intend to participate as a co-bidder in the tender offer. In addition, on November 17, 2005, J. Joe Ricketts and his wife entered into a \$65 million credit facility with an affiliate of TD secured by Ameritrade stock.

Further, under the terms of the amended and restated registration rights agreement, the Ricketts holders and some of the other Ameritrade directors or their affiliates will continue to be entitled to registration rights with respect to their securities of TD Ameritrade. See *The Transaction Interests of Ameritrade's Executive Officers and Directors in the Transaction* beginning on page 66.

***The acquisition of TD Waterhouse is subject to the receipt of consents and approvals from government entities that may not be received or that may impose conditions that could have an adverse effect on TD Ameritrade following the completion of the acquisition.***

Ameritrade and TD cannot complete the acquisition of TD Waterhouse unless they receive various consents, orders, approvals and clearances from antitrust and other authorities in the U.S. and Canada. While Ameritrade and TD believe that they will receive the requisite regulatory approvals from these authorities, there can be no assurance of this. In addition, these authorities may impose conditions on the completion of the acquisition of TD Waterhouse or require changes to the terms of the acquisition of TD Waterhouse. For example, the authorities may require divestiture of certain assets as a condition of closing of the acquisition of TD Waterhouse. Neither TD nor Ameritrade is obligated to agree to divest material assets in order to obtain regulatory approval of the proposed acquisition of TD Waterhouse. While TD and Ameritrade do not currently expect that any such conditions or changes would be imposed, there can be no assurance that they will not be, and such conditions or changes could have the effect of delaying completion of the acquisition of TD Waterhouse or imposing additional costs on or limiting the revenues of Ameritrade following the acquisition of TD Waterhouse, any of which may have an adverse effect on Ameritrade following the acquisition of TD Waterhouse. See *The Transaction Regulatory Matters Related to the Acquisition of TD Waterhouse* beginning on page 73 and *Share Purchase Agreement Conditions to the Acquisition of TD Waterhouse* beginning on page 95.

***TD Ameritrade may be required to contribute additional regulatory capital to its broker-dealer subsidiaries.***

TD Ameritrade expects to record an estimated deferred tax liability of approximately \$263 million on the fair value of the acquired client relationship intangible asset resulting from the acquisition of TD Waterhouse. The actual amount of deferred tax liability will be based on an independent valuation of the acquired client relationship intangible asset and may differ materially. The SEC uniform net capital rule does not explicitly allow for a deferred tax liability to be considered in the computation of regulatory net capital. In June 2005, the SEC confirmed that it was appropriate for Ameritrade, in calculating its net capital, to offset the acquired intangible client relationship asset resulting from Ameritrade's acquisition of Datek Online Holdings Corp., or Datek, with its associated deferred tax liability. Ameritrade has not yet received confirmation from the SEC that the deferred tax liability to be recorded in the acquisition of TD Waterhouse will be afforded similar treatment.

Similar to our acquisition of Datek, the acquisition of TD Waterhouse is not a taxable asset purchase, and therefore, Ameritrade believes that the deferred tax liability to be recorded in the acquisition of TD

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Waterhouse should be afforded similar treatment as in the Datek acquisition. Ameritrade is in discussions with the SEC and expects to resolve this issue before the closing of the transaction.

If Ameritrade does not receive confirmation from the SEC that it is appropriate to include the deferred tax liability arising from the acquired client relationship intangible asset in the calculation for regulatory capital purposes, additional capital will need to be contributed to Ameritrade's broker-dealer subsidiaries.

***The adjustment to outstanding grants of employee non-qualified stock options may result in the loss of a tax deduction for certain executives' grants.***

As discussed elsewhere in this proxy statement, Ameritrade intends to adjust outstanding equity awards, including non-qualified stock options that have been granted to employees in prior years in order to preserve the pre-dividend economic value of such options after the payment of the special dividend. Such adjustments could potentially result in the disallowance of the tax deduction Ameritrade would otherwise be entitled to in the future when certain executives of Ameritrade exercise their options.

Ameritrade is currently seeking guidance from the Internal Revenue Service that the proposed adjustments to the outstanding options will not adversely affect Ameritrade's tax deduction in future years. If Ameritrade is unable to obtain a favorable ruling from the Internal Revenue Service regarding such tax deductions, then the future cash flow of Ameritrade could be negatively impacted.

***The Internal Revenue Service may determine that Ameritrade's computation of the taxable portion of the special dividend is incorrect.***

As discussed on page 71 regarding specified material U.S. federal income tax consequences of the special dividend, the taxable portion of the dividend is determined by reference to Ameritrade's earnings and profits, as determined under the Internal Revenue Code, for the calendar year in which the special dividend is paid. The computation could be subject to review by the Internal Revenue Service, which may disagree with Ameritrade's computation. Any adjustment to the computation required by the Internal Revenue Service would result in more or less of the special dividend being considered a qualified dividend with a corresponding adjustment to the amount considered as a return of capital. Such an adjustment could negatively impact the current U.S. federal income tax consequences of the special dividend.



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**CAUTIONARY STATEMENT CONCERNING FORWARD-LOOKING STATEMENTS**

Some of the statements contained or incorporated by reference in this proxy statement, including those relating to Ameritrade's strategies and other statements that are predictive in nature, that depend upon or refer to future events or conditions, or that include words such as expects, anticipates, intends, plans, believes, estimates or similar expressions, are forward-looking statements. Without limiting the generality of the preceding sentence, statements contained in the sections Summary, The Transaction Ameritrade's Reasons for the Transaction, The Transaction Opinion of Ameritrade's Financial Advisors, The Transaction Certain Material U.S. Federal Income Tax Consequences and The Transaction Litigation Relating to the Transaction include forward-looking statements. All statements other than statements of historical fact are statements that could be deemed forward-looking statements. For example, forward-looking statements include projections of earnings, revenues, synergies, accretion or other financial items; any statements of the plans, strategies and objectives of management for future operations, including the execution of integration and restructuring plans and the future management of TD Ameritrade; the tax treatment of the special dividend and estimates of Ameritrade's earnings and profits for tax purposes; approvals relating to, and the closing of, the acquisition of all of the capital stock of TD Waterhouse; any statements regarding future economic conditions or performance; statements of belief and any statement of assumptions underlying any of the foregoing; statements relating to Ameritrade obtaining financing for the special dividend; and the dates on which we anticipate the record date, payable date and ex-dividend date for the special dividend to occur.

These statements are not historical facts, but instead represent only Ameritrade's or TD's expectations, estimates and projections regarding future events.

The forward-looking statements contained or incorporated by reference in this proxy statement are not guarantees of future performance and involve certain risks and uncertainties that are difficult to predict. The future results and stockholder values of Ameritrade and TD Ameritrade may differ materially from those expressed in the forward looking statements contained or incorporated by reference in this proxy statement due to, among other factors, the matters set forth under Risk Factors beginning on page 33 and the risk factors detailed in Ameritrade's filings with the SEC, including Ameritrade's most recent annual and quarterly reports on Forms 10-K and 10-Q. Ameritrade undertakes no obligation to update or release any revisions to these forward-looking statements to reflect events or circumstances after the date of this proxy statement or to reflect the occurrence of unanticipated events, except as required by law.

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**THE SPECIAL MEETING**

**Date, Time and Place**

A special meeting of stockholders of Ameritrade will be held at \_\_\_\_\_, local time, on \_\_\_\_\_, 2005 at \_\_\_\_\_.

**Matters to be Considered**

The purposes of the special meeting are to consider and vote on:

*Proposal No. 1:* a proposal to approve the issuance of 196,300,000 shares of Ameritrade common stock to TD, and/or one or more of TD's affiliates, in accordance with the terms of the share purchase agreement;

*Proposal No. 2:* a proposal to approve the amendment and restatement of the certificate of incorporation of Ameritrade, with the following sub-proposals:

2A a proposal to approve provisions restricting the authority of TD Ameritrade to implement anti-takeover measures that would potentially conflict with the terms of the stockholders agreement entered into in connection with the proposed acquisition of TD Waterhouse;

2B a proposal to approve the increase of the authorized number of shares of common stock, \$0.01 par value per share, of TD Ameritrade from 650,000,000 to 1,000,000,000;

2C a proposal to approve a provision which prohibits action by written consent of stockholders of TD Ameritrade;

2D a proposal to approve a provision increasing the size of the board of directors from nine members to twelve members for so long as the corporate governance provisions of the stockholders agreement entered into in connection with the proposed acquisition of TD Waterhouse remain in effect, and thereafter to allow the size of the board of directors to be determined by the board of directors;

2E a proposal to approve a provision setting forth procedures for the nomination or appointment of outside independent directors to the TD Ameritrade board of directors and the maintenance of an outside independent directors committee and a non-TD directors committee; and

2F a proposal to approve a provision which allocates corporate opportunities between TD Ameritrade and TD and which otherwise modifies the existing corporate opportunities provision of the certificate of incorporation;

*Proposal No. 3:* a proposal to approve an amendment and restatement of the Ameritrade Holding Corporation 1996 Long-Term Incentive Plan to reserve an additional 19,000,000 shares of Ameritrade common stock for future issuance under the 1996 Long-Term Incentive Plan;

*Proposal No. 4:* a proposal to approve an amendment and restatement of the Ameritrade Holding Corporation 1996 Directors Incentive Plan to reserve an additional 1,000,000 shares of Ameritrade common stock for future issuance under the 1996 Directors Incentive Plan; and

*Proposal No. 5:* a proposal to adjourn the special meeting if necessary to permit further solicitation of proxies on all proposals if there are not sufficient votes at the time of the special meeting to approve Proposal No. 1 relating to the issuance of Ameritrade common stock to TD in accordance with the terms of the share purchase agreement or Proposal No. 2 relating to the amendment and restatement of our certificate of incorporation, including each of the related sub-proposals.

**The approval of Proposal No. 1 for the issuance of Ameritrade common stock and Proposal No. 2 for the amendment and restatement of our certificate of incorporation, including each of the related sub-proposals, is a condition to the completion of the acquisition of TD Waterhouse. Accordingly, if**



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**Ameritrade stockholders wish to approve the acquisition of TD Waterhouse, they must approve Proposal No. 1 relating to the approval of the issuance of Ameritrade common stock and Proposal No. 2 relating to the amendment and restatement of our certificate of incorporation, including each of the related sub-proposals.**

At the special meeting, Ameritrade stockholders will also be asked to consider and vote on any other matters that may properly come before the special meeting or any adjournment or postponement of the special meeting.

At this time, the Ameritrade board of directors is unaware of any matters, other than those set forth above, that may properly come before the special meeting.

### **Record Date; Shares Outstanding and Entitled to Vote**

The close of business on November 16, 2005 has been fixed by Ameritrade as the record date for the determination of holders of Ameritrade common stock entitled to notice of and to vote at the special meeting and any adjournment or postponement of the special meeting. At the close of business on the record date for the special meeting, there were 406,341,335 shares of Ameritrade common stock outstanding and entitled to vote. Each share of Ameritrade common stock entitles its holder to one vote at the special meeting on all matters properly presented at the meeting.

### **How to Vote Your Shares**

Stockholders of record may submit a proxy by telephone, via the Internet or by mail or vote by attending the special meeting and voting in person.

*Submitting a Proxy by Telephone:* You can submit a proxy for your shares by telephone until 11:59 p.m. Eastern Standard Time on \_\_\_\_\_, 2005 by calling the toll-free telephone number on your proxy card. Telephone proxy submission is available 24 hours a day. Easy-to-follow voice prompts allow you to submit a proxy for your shares and confirm that your instructions have been properly recorded. Our telephone proxy submission procedures are designed to authenticate stockholders by using individual control numbers. **IF YOU SUBMIT A PROXY BY TELEPHONE, YOU DO NOT NEED TO RETURN YOUR PROXY CARD.**

*Submitting a Proxy via the Internet:* You can submit a proxy via the Internet until 11:59 p.m. Eastern Standard Time on \_\_\_\_\_, 2005 by accessing the web site listed on your proxy card and following the instructions you will find on the web site. Internet proxy submission is available 24 hours a day. As with telephone proxy submission, you will be given the opportunity to confirm that your instructions have been properly recorded. **IF YOU SUBMIT A PROXY VIA THE INTERNET, YOU DO NOT NEED TO RETURN YOUR PROXY CARD.**

*Submitting a Proxy by Mail:* If you choose to submit a proxy by mail, simply mark the enclosed proxy card, date and sign it, and return it in the postage paid envelope provided.

If your shares are held in the name of a bank, broker or other nominee, you will receive instructions from the holder of record that you must follow for your shares to be voted. Please follow their instructions carefully. Also, please note that if the holder of record of your shares is a broker, bank or other nominee and you wish to vote in person at the special meeting, you must request a legal proxy from your bank, broker or other nominee that holds your shares and present that proxy and proof of identification at the special meeting.

### **How to Change Your Vote**

You will have the power to revoke your proxy at any time before it is exercised by:

delivering to the Corporate Secretary of Ameritrade prior to the special meeting a written notice of revocation by mail to 4211 South 102nd Street, Omaha, Nebraska 68127;

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delivering to the Corporate Secretary of Ameritrade prior to the special meeting a properly executed proxy with a later date by mail to 4211 South 102nd Street, Omaha, Nebraska 68127;

submitting a proxy on a later date by telephone or via the Internet (only your last telephone or Internet proxy will be counted); or

attending the special meeting and voting in person.

Attendance at the special meeting will not, in and of itself, constitute revocation of a proxy.

If your shares of Ameritrade common stock are held by a bank, broker or other nominee, you must follow the instructions provided by the bank, broker or other nominee if you wish to change your vote.

**Counting Your Vote**

If you provide specific voting instructions, your shares will be voted as instructed. If you hold shares in your name and sign and return a proxy card or submit a proxy by telephone or via the Internet without giving specific voting instructions, your shares will be voted **FOR** approval of the issuance of Ameritrade common stock to TD in accordance with the terms of the share purchase agreement, **FOR** approval of the amendment and restatement of our certificate of incorporation, including each of the related sub-proposals, **FOR** approval of the amendment and restatement of the 1996 Long-Term Incentive Plan and 1996 Directors Incentive Plan and **FOR** approval of the proposal to adjourn the special meeting if necessary to permit further solicitation of proxies on all matters if there are not sufficient votes at the time of the special meeting to approve the proposals relating to the issuance of Ameritrade common stock to TD in accordance with the terms of the share purchase agreement and the amendment and restatement of our certificate of incorporation, including each of the related sub-proposals.

At this time, we are unaware of any matters, other than set forth above, that may properly come before the special meeting. If any other matters properly come before the special meeting, the persons named as proxies will vote in accordance with their judgment with respect to such matters.

Proxies solicited may be voted only at the special meeting and any adjournment or postponement of the special meeting and will not be used for any other meeting.

**Broker Non-Votes**

Any broker non-votes submitted by brokers or nominees in connection with the special meeting will not be counted for purposes of determining the number of votes cast on a proposal, but will be treated as present for quorum purposes. Broker non-votes are shares held by brokers or nominees as to which voting instructions have not been received from the beneficial owners or the persons entitled to vote those shares and the broker or nominee does not have discretionary voting power under rules applicable to broker-dealers. Under these rules, the proposal to approve the issuance of Ameritrade common stock to TD in accordance with the terms of the share purchase agreement, the proposal to approve the amendment and restatement of our certificate of incorporation, including the related sub-proposals and the proposals to approve the amended and restated stock plans are not items on which brokerage firms may vote in their discretion on behalf of their clients if such clients have not furnished voting instructions within ten days of the special meeting. The proposals to approve the issuance of Ameritrade common stock to TD in accordance with the terms of the share purchase agreement and the amended and restated stock plans are required to be approved by the holders of a majority of the shares of Ameritrade common stock present or represented by proxy and voting on the applicable matter and therefore abstentions and broker non-votes will have no effect on these proposals. Similarly, because of the vote required for the proposal to adjourn the special meeting, abstentions and broker non-votes will have no effect on this proposal. However, the proposal to approve the amendment and restatement of our certificate of incorporation, including each of the related sub-proposals, is required to be approved by the holders of a majority of the outstanding shares of Ameritrade common stock (regardless of whether such holders are present in person or represented by proxy at the special meeting). Therefore, abstentions and broker non-

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votes will have the same effect as a vote against the proposal to approve the amendment and restatement of our certificate of incorporation, including the related sub-proposals, at the special meeting.

**Quorum and Required Votes**

A quorum, consisting of the holders of a majority of the issued and outstanding shares of Ameritrade common stock as of the record date of the special meeting, must be present in person or by proxy before any action may be taken at the special meeting. Abstentions will be treated as shares that are present for purposes of determining the presence of a quorum.

*Proposal No. 1:* The affirmative vote of the holders of a majority of the shares of Ameritrade common stock present in person or represented by proxy and voting on the matter is necessary to approve the issuance of Ameritrade common stock to TD, and/or one or more of TD's affiliates, in accordance with the terms of the share purchase agreement. **The approval of Proposal No. 1 is a condition to completion of the acquisition of TD Waterhouse, and thus a vote against this proposal effectively will be a vote against the acquisition of TD Waterhouse.**

*Proposal No. 2:* The required vote to approve the amendment and restatement of our certificate of incorporation, including each of the related sub-proposals, is the affirmative vote of the holders of a majority of the outstanding shares of Ameritrade common stock entitled to vote at the special meeting. The amendment and restatement of our certificate of incorporation, including all of the related sub-proposals, is an integral part of a single transaction agreed to by TD and Ameritrade and reflected in the share purchase agreement. **The approval of Proposal No. 2 (including each of the related Sub-Proposal Nos. 2A through 2F) is a condition to completion of the acquisition of TD Waterhouse, and thus a vote against this proposal (or against any of Sub-Proposal Nos. 2A through 2F) effectively will be a vote against the acquisition of TD Waterhouse.**

*Proposal No. 3:* The affirmative vote of the holders of a majority of the shares of Ameritrade common stock present in person or represented by proxy and voting on the matter is necessary to approve the amendment and restatement of the 1996 Long-Term Incentive Plan.

*Proposal No. 4:* The affirmative vote of the holders of a majority of the shares of Ameritrade common stock present in person or represented by proxy and voting on the matter is necessary to approve the amendment and restatement of the 1996 Directors Incentive Plan.

*Proposal No. 5:* The affirmative vote of the holders of a majority of the shares of Ameritrade common stock present in person or represented by proxy and voting on the matter is required to approve the proposal to adjourn the special meeting if necessary to permit further solicitation of proxies on all matters if there are not sufficient votes at the time of the special meeting to approve Proposal No. 1 or Proposal No. 2, including each of the related sub-proposals.

The directors and executive officers of Ameritrade and their respective affiliates collectively owned approximately 30% of the outstanding shares of Ameritrade common stock as of November 16, 2005 (inclusive of shares subject to stock options which may be exercised within 60 days following that date). Each member of the board of directors of Ameritrade has advised Ameritrade that he intends to vote all of the shares of Ameritrade common stock held, directly or indirectly, by him in favor of each of the above proposals (including each of the related sub-proposals). See "Stock Ownership of Certain Beneficial Owners and Management of Ameritrade" beginning on page 217.

The Ricketts holders, the TA holders and SLP holders, which collectively own approximately 34% of the outstanding shares of Ameritrade common stock as of November 16, 2005, have agreed to vote their shares in favor of the issuance of Ameritrade common stock to TD and the amendment and restatement of our certificate of incorporation, including each of the related sub-proposals. Several members of our board of directors are affiliated with the Ricketts holders and entities affiliated with Silver Lake Partners.

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As of the close of business on the record date for the special meeting, TD did not beneficially own any shares of Ameritrade common stock and, to the knowledge of TD, none of its directors or executive officers beneficially owned any shares of Ameritrade common stock.

**Solicitation of Proxies**

Ameritrade will pay for all costs incurred by it in connection with the solicitation of proxies from its stockholders on behalf of its board of directors. In addition to solicitation by mail, the directors, officers and employees of Ameritrade, TD and their respective subsidiaries may solicit proxies from stockholders of Ameritrade in person or by telephone, telegram, facsimile or other electronic methods without additional compensation other than reimbursement for their actual expenses.

Ameritrade has retained MacKenzie Partners, Inc., a professional proxy solicitation firm, to assist it in the solicitation of proxies for the special meeting. Ameritrade will pay MacKenzie Partners a fee of approximately \$12,500 for its services, plus reimbursement for reasonable out-of-pocket expenses.

Arrangements also will be made with brokerage firms and other custodians, nominees and fiduciaries for the forwarding of solicitation material to the beneficial owners of stock held of record by such persons, and Ameritrade will reimburse such custodians, nominees and fiduciaries for their reasonable out-of-pocket expenses in connection therewith.

**Recommendation of the Board of Directors**

The Ameritrade board of directors has unanimously approved the issuance of Ameritrade common stock to TD, and/or one or more of its affiliates, in accordance with the terms of the share purchase agreement, and the amendment and restatement of our certificate of incorporation. The compensation committee of the board of directors has unanimously approved the amended and restated stock plans. Based on Ameritrade's reasons for the acquisition of TD Waterhouse described in this proxy statement, the Ameritrade board of directors believes that the issuance of Ameritrade common stock and the transactions contemplated by the share purchase agreement are fair to, and in the best interests of, Ameritrade's stockholders and recommends that you vote **FOR** approval of the issuance of Ameritrade common stock to TD, and/or one or more of TD's affiliates, in accordance with the terms of the share purchase agreement. The Ameritrade board of directors also recommends that you vote **FOR** approval of the amendment and restatement of our certificate of incorporation, or any of the related sub-proposals, **FOR** approval of the amendment and restatement of the 1996 Long-Term Incentive Plan and the 1996 Directors Incentive Plan and **FOR** approval of the proposal to adjourn the special meeting if necessary to permit further solicitation of proxies on all matters if there are not sufficient votes at the time of the special meeting to approve the proposals relating to the issuance of Ameritrade common stock to TD, and/or one or more of TD's affiliates, in accordance with the terms of the share purchase agreement, the amendment and restatement of our certificate of incorporation, or any of the related sub-proposals.

See "The Transaction" Ameritrade's Reasons for the Transaction beginning on page 53.

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**THE TRANSACTION**

**Background of the Transaction**

We regularly assess the competitive position of our products and services, technology and information systems, and of the online brokerage industry. Our industry has experienced significant consolidation in recent years and we believe that to remain competitive and enhance stockholder value it will be necessary for us to increase our scale and client base. To achieve these objectives, we have completed seven acquisitions since September 2001, including our combination with Datek Online Holdings Corp., which we completed in September 2002. We continuously explore and evaluate strategic opportunities and business scenarios as a part of our ongoing evaluation of changes in the marketplace, seeking opportunities to strengthen our business. As part of this process, our board of directors and management periodically consider and evaluate potential acquisition and consolidation opportunities that would further our strategic objectives and provide us with the opportunity to supplement our core business with complementary businesses and product and service offerings.

Beginning in April 2003, we engaged in preliminary discussions with TD to explore a possible strategic combination of Ameritrade and TD Waterhouse. After entering into a confidentiality agreement on May 7, 2003, representatives of each company conducted mutual preliminary due diligence investigations, exchanged term sheets and held meetings to discuss various aspects of a potential transaction. However, these preliminary discussions were concluded in December 2003, without agreement on the economic and other key parameters of a potential transaction.

Beginning in May 2004, J. Joe Ricketts, Chairman and Founder of Ameritrade, and W. Edmund Clark, President and Chief Executive Officer of TD, met on several occasions and had multiple telephone conversations to discuss their perspectives on the online brokerage market, the respective businesses of Ameritrade and TD Waterhouse and the potential for reinitiating discussions regarding a possible strategic combination of the Ameritrade and TD Waterhouse businesses.

From May 2004 to the end of September 2004, J. Joe Ricketts, together with Scot Galliher of SCG Group Corporation, a financial advisor engaged by Mr. Ricketts, met on several occasions with Mr. Clark and representatives of Goldman, Sachs & Co., TD's financial advisor, to discuss basic principles of a transaction in which Ameritrade would acquire TD Waterhouse. During this period, Mr. Ricketts periodically advised individual members of the Ameritrade board of directors regarding his communications with TD.

In October 2004, senior members of Ameritrade management commenced discussions with senior members of TD management regarding a general overview of their respective businesses and potential synergies that might be derived from a potential combination. Following these meetings, on November 7, 2004, we entered into a confidentiality agreement with TD to facilitate further discussions and the related exchange and use of confidential information. On that same date, senior members of our management held a meeting with senior members of TD management, as well as Mr. Galliher and representatives of Goldman, Sachs & Co. At this meeting, the parties discussed economic and valuation concepts and issues relating to a potential business combination, including potential synergy opportunities and integration issues. These discussions continued to be general in nature, but the parties agreed to spend the next several weeks focusing on developing a financial model for valuing the Ameritrade and TD Waterhouse businesses.

From November 2004 through December 2004, senior members of Ameritrade management and TD management continued to exchange preliminary financial information and to discuss potential synergies. In addition, at board meetings on November 18, 2004 and December 10, 2005, J. Joe Ricketts provided the Ameritrade board of directors with updates on the preliminary discussions with TD.

On January 19, 2005, Joseph H. Moglia, Chief Executive Officer of Ameritrade, met with Mitchell H. Caplan, Chief Executive Officer of E\*TRADE Financial Corporation, at an industry conference and discussed consolidation in the online brokerage industry and each of their respective businesses.



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From December 2004 through January 2005, J. Joe Ricketts and Mr. Galliher continued discussions with Mr. Clark and representatives of Goldman, Sachs & Co. regarding terms and conditions of a potential transaction involving Ameritrade and TD in which Ameritrade would acquire the U.S. retail securities brokerage business of TD. These discussions resulted in a draft non-binding term sheet for a potential strategic transaction involving Ameritrade and TD that TD delivered to Mr. Ricketts and his advisors on January 27, 2005. The term sheet proposed a transaction in which Mr. Ricketts and TD would generally appoint all of the members of the board of directors of the combined company, certain of whom would qualify as independent directors under the Nasdaq Marketplace Rules, and have approval rights with respect to significant corporate actions. The term sheet proposed that TD would receive 32% of the equity interest of the combined company in exchange for TD Waterhouse's U.S. brokerage business. TD's ownership would be limited to a 39.9% standstill on ownership for a period of three years, subject to exceptions. Mr. Ricketts subsequently provided that term sheet to the Ameritrade board of directors.

On February 2, 2005, the Ameritrade board of directors held a special meeting to discuss the status of the preliminary discussions with TD, including the draft term sheet which J. Joe Ricketts had provided to the board of directors. Also at the meeting, senior members of Ameritrade management delivered a presentation to the board of directors that included information relating to the draft term sheet, the online brokerage industry, the Ameritrade business, the TD Waterhouse business and the potential merits and risks of entering into a potential transaction with TD. Mr. Clark, a representative of Goldman, Sachs & Co. and Mr. Galliher joined the meeting to answer questions from members of the Ameritrade board of directors.

On February 9, 2005, the Ameritrade board of directors held a special meeting to further discuss structural elements of a potential transaction outlined in the draft term sheet, including strategic benefits of the combination, valuation of the respective entities and post-transaction board composition and governance. At this meeting, the board of directors decided to form an independent special committee. The board of directors appointed Mark L. Mitchell and Michael Fleisher, both of whom the board of directors determined to be independent directors with respect to the potential transaction, to serve as members of the special committee. The board of directors authorized the special committee to review, evaluate, investigate and negotiate the terms of a possible transaction with TD, and any alternative transaction, and to determine whether the transaction with TD, or an alternative transaction, is fair to, and in the best interests of, Ameritrade and its stockholders.

The Ameritrade special committee held meetings on February 10, 2005, February 13, 2005 and February 15, 2005 to discuss the selection of a financial adviser and legal counsel to assist it and the full board of directors in performing their obligations with respect to evaluating the potential transaction with TD, or any alternative transaction. The special committee decided to engage Citigroup Global Markets Inc. to assist Ameritrade and the special committee in their evaluation of the potential transaction with TD and provide a fairness opinion, if requested, and Wilson Sonsini Goodrich & Rosati, Professional Corporation, or WSGR, to provide legal representation to Ameritrade under the direction of its board of directors and the special committee.

Following the Ameritrade 2005 annual meeting of stockholders on February 16, 2005, the Ameritrade board of directors held a regularly scheduled meeting at which it appointed Dan W. Cook, III, a newly elected director who the board of directors determined to be independent with respect to the potential transaction, to the special committee to serve with Messrs. Mitchell and Fleisher.

On February 16, 2005 and February 20, 2005, the Ameritrade board of directors and the special committee held meetings to discuss the draft term sheet of January 27, 2005, as well as various issues relating to the proposed structure and the process for considering the potential transaction with TD. At these meetings, representatives of WSGR advised the board of directors and the special committee on their fiduciary obligations, as well as future processes in connection with the special committee and the board of directors' consideration of the potential transaction and various legal and regulatory issues that might arise in connection with the potential transaction. WSGR also advised the special committee that it

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had contacted Potter Anderson & Corroon LLP to assist the special committee as special Delaware counsel.

On February 23, 2005, Ellen L.S. Koplou, Executive Vice President and General Counsel of Ameritrade, and representatives of Citigroup and WSGR held a telephonic meeting with Mr. Galliher and representatives of Mayer, Brown, Rowe & Maw LLP, legal counsel to J. Joe Ricketts and his affiliates, to discuss the major issues contained in the draft term sheet, including structure of the transaction, relative valuations of Ameritrade and TD Waterhouse, and governance and management of Ameritrade following the completion of the potential transaction, including board representation.

The Ameritrade special committee next met on February 28, 2005, to discuss the governance provisions of the draft term sheet of January 27, 2005, and the effect those terms could have on Ameritrade's ability to enter into future strategic transactions. At this meeting, the special committee focused its analysis on the impact of the transaction outlined in the draft term sheet on Ameritrade's standalone strategy and on other strategic alternatives available to Ameritrade, as well as the views of the committee members on consolidation in the industry and a potential for a future change of control of Ameritrade following the transaction. The special committee also reviewed the proposed rights that would be retained by certain stockholders of Ameritrade and the impact on other stockholders. The special committee discussed potential changes to the governance and economic terms set forth in the draft term sheet in light of these issues. Representatives from Citigroup also reviewed with the special committee their recent discussions with Messrs. Ricketts and Galliher regarding various valuation methodologies and other analyses with respect to the potential transaction. The special committee directed its legal and financial advisors to discuss alternatives to various provisions of the draft term sheet with TD's advisors. Of concern to the special committee were: the creation of separate classes of common stock for each of TD and the Ricketts holders, who together would have the right to elect a majority of the board of directors of the combined company; the ability of TD and the Ricketts holders to vote for the remaining additional independent board members, each of whom would qualify as independent under the Nasdaq marketplace rules, two of whom would be designated by TD, two of whom would be designated by the Ricketts holders and each of whom were to be elected by all holders of common stock of the combined company; the expiration of the ownership standstill for TD generally after three years, or earlier if J. Joe Ricketts sold a portion of his shares or if trading price thresholds were met; and the veto rights of TD and the Ricketts holders, including veto rights over future change of control transactions.

On March 2, 2005, representatives of Citigroup, WSGR, Goldman, Sachs & Co. and Simpson Thacher & Bartlett LLP, legal counsel for TD, held a telephonic meeting at which they discussed principal issues, including structure of the transaction, relative valuation of Ameritrade and TD Waterhouse and governance and management of Ameritrade following the completion of the potential transaction, including board representation, the length and terms of the standstill provisions and rights to approve certain significant corporate actions. Following this meeting, on March 4, 2005, TD sent to Ameritrade a draft purchase agreement containing the proposed terms and conditions of an acquisition of TD Waterhouse by Ameritrade.

On March 8, 2005, the Ameritrade special committee held a meeting at which a representative from Citigroup discussed certain preliminary financial analyses, including the financial effect of synergy opportunities identified by the management of Ameritrade in connection with the potential transaction. Senior members of management presented their strategic views of the potential transaction, as well as their views on other strategic alternatives, including the company's prospects as a standalone business. A representative of WSGR also reviewed with the special committee various business and legal aspects of the potential transaction, including an update on recent discussions with Simpson Thacher with respect to the principal terms being discussed by the parties and their advisors. In addition, a representative of Potter Anderson discussed legal considerations relating to the provisions of the draft term sheet on governance and voting structure. The special committee made a preliminary determination that the financial aspects of the transaction, including the possible synergies, had the potential to be favorable to Ameritrade and its stockholders from a financial standpoint and that its advisors should address refinement of the governance

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structure. The special committee gave instructions to its advisors with regard to continued negotiations and conveying Ameritrade's requirements for due diligence to TD.

On March 11, 2005, representatives of WSGR and Simpson Thacher held a telephonic meeting to discuss governance, voting and other terms related to the potential transaction. WSGR proposed a variety of possible changes to the draft term sheet to address the Ameritrade special committee's concerns regarding governance and management rights issues and the potential for a future change of control of Ameritrade following the transaction. The potential changes included eliminating the separate classes of stock and veto rights, lengthening the stock ownership standstill, increasing the role of independent directors on the board and other mechanisms to ensure protection of unaffiliated stockholders. On March 15, 2005, TD sent to Ameritrade additional comments to the draft term sheet based on the prior discussions. TD proposed to increase the role of independent directors on the board following a termination of its 39.9% ownership standstill until the fifth anniversary of the closing of the transaction by allowing the two independent directors initially designated by the Ricketts holders to remain on the board and by replacing the two directors selected by the Ricketts holders with new independent directors designated by the existing TD independent directors. TD also proposed a 66<sup>2</sup>/<sub>3</sub>% ownership standstill, except for going private transactions, during that period. WSGR reported the results of these discussions to the special committee at a meeting held on March 20, 2005, and the special committee directed its advisors to continue negotiations with TD's advisors, under the direction of the special committee.

During March 2005, J. Joe Ricketts and Mr. Mitchell periodically communicated the status of discussions with TD and consideration of other strategic alternatives to members of the Ameritrade board of directors on an individual basis. On March 22, 2005, the Ameritrade board of directors held a meeting at which Mr. Mitchell, on behalf of the special committee, reported on the status of discussions with TD regarding the potential transaction, including the special committee's preliminary analysis that the transaction had the potential to be favorable from a financial standpoint to Ameritrade and its stockholders, and that the special committee continued to refine the governance structure being discussed by the parties and their advisors. Mr. Mitchell described on behalf of the special committee the proposed changes to the draft term sheet. Mr. Ricketts informed the board of directors that based on his concerns about valuation in light of his views on recent developments in the online brokerage industry, he was not willing to support the transaction as proposed. In addition, with respect to the term sheet, Mr. Ricketts was concerned about changes to the board structure and the selection of directors proposed by the special committee. He advised the board of directors that he had informed TD of his concerns.

On March 25, 2005 and April 3, 2005, the Ameritrade special committee held meetings to discuss with its advisors J. Joe Ricketts's concerns with respect to the revised term sheet and the valuation of the proposed transaction. Mr. Ricketts attended the meeting held on April 3, 2005 to discuss his concerns with the special committee and express his preliminary interest in conducting a tender offer with the approval of the company to increase his ownership in Ameritrade so as to obtain a majority interest in Ameritrade, as an alternative to the proposed transaction with TD. At the meeting, a representative of WSGR discussed various business and legal considerations relating to a transaction in which Mr. Ricketts would increase his ownership in Ameritrade, as well as the special committee's role with respect to its evaluation of such an increase. The special committee determined that the company's senior management should prepare and present to the full board of directors management's plans and assessment of the various strategic alternatives available to Ameritrade.

On April 6, 2005, the Ameritrade board of directors held a special meeting to discuss the potential transaction with TD, J. Joe Ricketts's views on the TD proposal and his ideas regarding alternative transactions in which he would increase his ownership in Ameritrade. At this meeting, senior members of Ameritrade management presented to the board of directors on current market conditions in the brokerage industry and the company's strategic position. As part of this presentation, they reviewed with the board of directors the current strategy and standalone prospects as well as the potential synergies and financial projections under various scenarios, and the likelihood that those projections could be achieved. Mr. Galliher also made a presentation on behalf of Mr. Ricketts summarizing Mr. Ricketts's views

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regarding the proposed transaction with TD and Mr. Ricketts' ideas about increasing his ownership in Ameritrade as an alternative to the potential transaction with TD. At the meeting, a representative of Citigroup discussed with the board of directors financial aspects of the potential transaction with TD, as well as other potential alternatives, and a representative of WSGR outlined the fiduciary duties of the board of directors with respect to considering the various strategic alternatives. The board of directors discussed the current competitive landscape, the company's business and strategy, the possible long-term and short-term effects of the various strategic possibilities and the associated potential risks and rewards posed by those alternatives.

Over the next several weeks, the Ameritrade special committee worked closely with its advisors with respect to the structure of the potential transaction with TD and the preparation of a revised term sheet for the transaction. On April 20, 2005, the Ameritrade board of directors held a special meeting to discuss the proposed transaction with TD. A representative of WSGR presented to the board of directors various revisions to the draft TD term sheet reflecting changes that the special committee viewed as appropriate in order to address the governance and other issues it had previously identified, including ownership and board composition issues, as well as the rights that significant stockholders might have in the combined company. J. Joe Ricketts and Mr. Galliher discussed with the board of directors Mr. Ricketts' concerns with the special committee's proposed revisions and his desire to present alternative strategies to increase stockholder value for consideration by the board of directors. The board of directors discussed the revised term sheet and various strategic alternatives available to Ameritrade, as well as Mr. Ricketts' ideas regarding strategic alternatives. A representative of WSGR also reviewed the fiduciary obligations of the board of directors and other legal considerations with respect to an evaluation of strategic alternatives. In light of the increased pace of negotiations, to facilitate the board being fully informed on a current basis, and in light of the Ameritrade board's view that at least a majority of its members were independent with respect to the negotiation of the potential transaction, the board of directors determined that the full board of directors should undertake direct supervision of the potential transaction with TD, as well as other strategic alternatives available to Ameritrade, and that the work of the special committee would be suspended.

In late April 2005, WSGR discussed with Simpson Thacher the concerns of the special committee and the board of directors with respect to the draft term sheet. On April 26, 2005, WSGR delivered to Simpson Thacher a proposed revised draft term sheet, and on May 1, 2005, TD presented Ameritrade with another revised draft term sheet for a potential transaction involving the two companies. The May 1, 2005 term sheet contained proposed revisions with respect to, among other matters, standstill term, board composition, including independent directors, and stockholder rights. TD's principal changes were as follows. TD eliminated the concept of multiple classes of common stock, and proposed that it would generally be subject to a ten year standstill provision at 47% and it could exceed that amount only with specified independent director or unaffiliated stockholder approvals. In addition, to address concerns of both the special committee and the Ricketts holders, TD proposed that the board of directors would be comprised of two directors designated by the Ricketts holders, one director nominated by the Ricketts holders who would qualify as independent under the Nasdaq marketplace rules, three directors nominated by TD (increasing to four to the extent that TD's ownership exceeded 40% after a period of not more than three years), and three independent directors designated by the Ameritrade board (decreasing to two to accommodate the fourth TD director). The term sheet also introduced a proposal to commence a tender offer at an unspecified price in order to allow Ameritrade stockholders the ability to obtain liquidity and allow TD to increase its ownership.

On May 5, 2005, Mr. Caplan sent a letter to Ameritrade's board of directors and chief executive officer regarding E\*TRADE's desire to explore a business combination with Ameritrade and proposing economic terms for such a transaction, including 47.5% of the equity interests of the combined company to Ameritrade stockholders and approximately \$1.5 billion in cash to Ameritrade stockholders. E\*TRADE indicated that it expected synergies from such a transaction of at least \$650 million.

On May 11, 2005, the Ameritrade board of directors held a meeting to discuss the letter from E\*TRADE dated May 5, 2005, the potential transaction with TD, and the views of J. Joe Ricketts, as well

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as other possible strategic alternatives. At the meeting, Mr. Moglia made a presentation on management's views and analysis of the various proposals. Mr. Ricketts also made a presentation on his views regarding the E\*TRADE and TD proposals, as well as his ideas with respect to possible alternative transactions, including an increase of his ownership. A representative of WSGR reviewed with the board of directors the various terms of the TD and E\*TRADE proposals and discussed the fiduciary duties of the board of directors with respect to evaluating the proposals and considering strategic alternatives. Also at this meeting, representatives of Citigroup discussed with the board of directors a comparison of the January 27, 2005 and May 1, 2005 proposals and certain preliminary valuation analyses of TD Waterhouse. The board of directors instructed its advisors to continue discussions with TD to determine whether or not the parties could reach agreement on the terms and conditions of a strategic transaction. The board of directors also instructed management to issue a press release, which it did on May 12, 2005, stating that the board of directors supported Ameritrade's growth strategy, the company would continue to explore strategic opportunities, the company was not for sale and the board of directors was confident in the Ameritrade management team and its strategy.

On May 12, 2005, Mr. Caplan sent a second letter to Ameritrade's board of directors and chief executive officer advising them of E\*TRADE's continued desire to pursue a business combination on the terms previously outlined in his letter dated May 5, 2005 and indicating a willingness to explore a merger-of-equals transaction structure. On that same date, E\*TRADE publicly announced its proposal for a strategic combination with Ameritrade, as outlined in its letter to Ameritrade dated May 5, 2005.

On May 15, 2005, the Ameritrade board of directors held a meeting to discuss the revised offer from E\*TRADE dated May 12, 2005. The board of directors also discussed with its advisors certain of the proposed terms of the transaction with TD. The board of directors instructed its advisors to continue discussions with TD and present to TD various counterproposals with respect to terms of the potential transaction, and from May 15, 2005 through May 17, 2005, Ameritrade's advisors held telephonic meetings with TD's advisors to discuss the terms of the potential transaction. The Ameritrade board of directors next met on May 17, 2005, to discuss the status of negotiations between Ameritrade and TD, at which representatives of WSGR and Citigroup updated the board of directors regarding their discussions over the prior two days and Citigroup discussed certain preliminary financial analyses regarding the potential transaction with TD. The board of directors decided to continue to pursue negotiations with TD. The board of directors also discussed the recent E\*TRADE proposal and decided that in order to be more fully informed regarding the proposal, Ameritrade should enter into a confidentiality and standstill agreement with E\*TRADE to facilitate further discussions and to provide certain limitations on the ability of each party to make unsolicited offers to the other party's stockholders during the period in which they were in discussions with each other.

On May 18, 2005, Mr. Clark sent a letter to the Ameritrade special committee, which was accompanied by a non-binding term sheet setting out the revised principal provisions of a potential transaction with TD, including modified proposals with respect to ownership, board composition and governance. In response to the concerns raised, the principal changes that TD proposed were that the board be composed of two directors designated by the Ricketts holders, four directors designated by TD, three independent directors designated by Ameritrade's board members prior to the completion of the proposed transaction and Ameritrade's chief executive officer. TD also proposed that it would be subject to a standstill limit at 45% and that the Ricketts holders would be subject to a standstill at their current ownership. TD reiterated its proposal that it would receive 32% of the combined company stock. TD also proposed a tender offer price of \$16 per share for up to 8% of the equity interests of the combined company. On May 20, 2005, based on instructions from the Ameritrade board of directors, representatives of Citigroup and WSGR held a telephonic meeting with representatives of Goldman, Sachs & Co. and Simpson Thacher to discuss Ameritrade's response to TD's revised term sheet of May 18, 2005.

On May 21, 2005, TD sent Ameritrade a revised term sheet regarding the potential transaction. TD revised the provisions of the May 18, 2005 term sheet to reflect the discussions of the parties with respect to ownership and governance, including a 25% ownership standstill for the Ricketts holders, a reduction in TD's board seats from four to three if TD did not commence the tender offer, and a requirement that if

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the TD standstill expires in connection with a third party acquisition proposal to acquire more than 15% of the combined Company's voting securities, TD would, for a period of time, only increase its ownership in Ameritrade through a transaction involving the proposed acquisition of 100% of Ameritrade's shares which is accepted or approved by a majority of the shares held by persons other than TD and the Ricketts holders. The TD proposal also included the ability of Ameritrade to terminate the purchase agreement in the exercise of its board's fiduciary duties prior to the stockholder vote in order to enter into a transaction that constituted a superior proposal from a third party, subject to a breakup fee and a requirement to first negotiate with TD. TD included a provision for the payment of a special cash dividend to Ameritrade stockholders of \$1.00 per share. TD's proposal included the opportunity for J. Joe Ricketts to participate as a co-bidder in the tender offer.

At meetings on May 22 and May 23, 2005, the Ameritrade board of directors discussed the status of negotiations between Ameritrade and TD with respect to the terms of a potential transaction. The board of directors also discussed the status of negotiations between Ameritrade and E\*TRADE with respect to a confidentiality and standstill agreement. The board of directors instructed its advisors to continue discussions with TD and E\*TRADE and authorized its advisors and management to complete their due diligence review of TD Waterhouse. On May 24, 2005, Ameritrade and E\*TRADE entered into a confidentiality and standstill agreement. E\*TRADE subsequently made a presentation to senior members of Ameritrade management to explain the analysis that led to E\*TRADE's proposal on May 5, 2005.

From late May 2005 to mid-June 2005, representatives of each of Ameritrade and TD, together with their respective financial and legal advisors, conducted due diligence investigations, including meetings with their counterpart and the reciprocal exchange of due diligence materials. The due diligence investigations encompassed matters relating to finance, accounting, internal audit, legal and regulatory compliance, technology and information systems, properties, human resources and each company's businesses, including product and service offerings.

On May 27, 2005 and May 30, 2005, TD sent to Ameritrade revised draft agreements containing terms and conditions of a potential transaction involving the two companies. From May 31, 2005 to June 22, 2005, representatives of Ameritrade and WSGR conducted negotiations with representatives of TD and Simpson Thacher concerning the definitive transaction documents relating to the potential transaction with TD. On May 31, 2005, Ameritrade and TD issued a joint press release stating that they were in discussions regarding a potential transaction involving the TD Waterhouse business.

On June 2, 2005, Mr. Caplan sent a letter to Ameritrade confirming E\*TRADE's continued desire to pursue a business combination on the terms previously outlined in his letter dated May 5, 2005, and proposing certain changes to the terms outlined in that letter, including an increase to 50% of the equity interests of the combined company to Ameritrade stockholders and \$2.0 billion in cash to Ameritrade stockholders.

On June 3, 2005, the Ameritrade board of directors held a meeting to discuss the status of negotiations with TD and recent conversations with E\*TRADE that were centered on developing a better understanding of E\*TRADE's proposal. Senior members of management presented comparative analyses of the proposals from TD and E\*TRADE, as well as an update on their discussions with both of those parties. The board of directors discussed the two proposals and the need to conduct due diligence on E\*TRADE's banking business. In June 2005, Ameritrade engaged Promontory Financial Group, a regulatory and consulting services firm, to assist its management team and advisors in conducting the due diligence investigation of E\*TRADE's commercial bank. From June 16, 2005 to June 21, 2005, representatives of Ameritrade, together with Promontory Financial Group, conducted financial due diligence investigations of E\*TRADE, including E\*TRADE's banking business.

On June 10, 2005, E\*TRADE sent to Ameritrade a draft merger agreement setting forth proposed terms and conditions of a business combination of the two companies. On June 11, 2005, Ameritrade and E\*TRADE entered into an expanded confidentiality agreement to allow full due diligence investigations to proceed on both companies, and on June 16, 2005, J. Joe Ricketts, J. Peter Ricketts, and Thomas S. Ricketts met with Mr. Caplan to discuss E\*TRADE's recent proposal.

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On June 17, 2005, the Ameritrade board of directors held a special meeting to discuss the status of discussions with and due diligence investigations of E\*TRADE and TD. At the meeting, representatives of Citigroup provided the board of directors with an overview of E\*TRADE and its businesses and reviewed with the board of directors comparative analyses of the proposals from TD and E\*TRADE and discussed various strategic and financial considerations relating to each of the proposals. Promontory presented its analysis of the banking business of E\*TRADE. Senior members of Ameritrade management also presented at this meeting on the current market conditions in the industry and the company's strategic position and their views on the proposals, which included a discussion regarding expected financial and strategic synergies. In addition, representatives of WSGR discussed with the board of directors various business and legal aspects of the proposals, including the fiduciary duties of the board of directors in connection with its consideration of the proposals and legal and regulatory issues associated with the proposals. In addition, WSGR reviewed the terms of the draft transaction documents relating to the potential TD transaction, including, among other things, the conditions to closing, limitations on solicitation of alternative transactions, termination rights, and restrictions on share ownership and governance provisions. Following the review of the terms of the potential TD transaction, the board of directors discussed E\*TRADE's proposal and compared the terms and conditions of the proposal to those of the potential TD transaction.

On the morning of June 18, 2005, the Ameritrade board of directors reconvened its special meeting to continue its discussions with respect to the proposals from TD and E\*TRADE. J. Joe Ricketts reported to the board of directors regarding his recent conversation with Mr. Caplan on June 16, 2005. The board of directors determined that it was in the best interests of Ameritrade and its stockholders to continue discussions with each of TD and E\*TRADE regarding a potential strategic transaction, and the board of directors directed its advisors and Ameritrade management to pursue that strategy in accordance with guidelines set by the board of directors. The board of directors also instructed Mr. Mitchell and WSGR to contact Mr. Clark and inform him of the board of directors' decision.

On June 18, 2005, immediately following the meeting of the Ameritrade board of directors, Mr. Mitchell and a representative from WSGR telephoned Mr. Clark and discussed with him the Ameritrade board of directors' desire to evaluate E\*TRADE's proposal and complete its due diligence investigation of E\*TRADE.

Later that morning, senior members of Ameritrade management and Ameritrade's advisors held a telephonic meeting with senior members of E\*TRADE management and E\*TRADE's advisors to inform them of the Ameritrade board of directors' decision and to discuss a process and timetable for continued discussions and due diligence investigation.

Later that afternoon, Mr. Mitchell and a representative from WSGR held a telephonic meeting with Mr. Clark and a representative from Simpson Thacher at which Mr. Clark indicated TD's unwillingness to delay the transaction process as Ameritrade had proposed.

Following the telephonic meeting that afternoon, Mr. Clark sent a letter addressed to the Ameritrade board of directors, which was dated June 18, 2005, acknowledging Ameritrade's intention to evaluate E\*TRADE's proposal. In his letter, Mr. Clark informed the Ameritrade board of directors that TD was, subject to certain conditions, including removal of the board's ability to terminate the purchase agreement in the exercise of its fiduciary duties prior to a stockholder vote, willing to delay the transaction process with Ameritrade for two business days.

From June 19, 2005 to June 21, 2005, representatives of WSGR conducted negotiations with E\*TRADE's legal counsel concerning the proposed terms of definitive transaction documents for a combination with E\*TRADE.

On June 19, 2005, Mr. Mitchell and representatives from WSGR held various telephonic meetings with Mr. Clark and representatives from Simpson Thacher to discuss Mr. Clark's letter and address outstanding issues with respect to the terms of Ameritrade's proposed transaction with TD.

On June 19, 2005, the Ameritrade board of directors held a special meeting to discuss the status of discussions with TD and E\*TRADE. Representatives from WSGR provided the board of directors with an

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update with respect to discussions with TD and E\*TRADE. The board of directors decided to continue to pursue discussions with both TD and E\*TRADE.

From June 20, 2005 to June 21, 2005, representatives of Ameritrade and E\*TRADE, together with their respective financial and legal advisors, conducted due diligence investigations, including meetings with their counterparts, and the reciprocal exchange of due diligence materials. The due diligence encompassed matters relating to finance, accounting, internal audit, legal and regulatory compliance, technology and information systems, properties, human resources and each company's businesses, including product and service offerings.

On June 20, 2005, Mr. Mitchell and representatives from WSGR held a telephonic meeting with Mr. Clark and representatives from Simpson Thacher to discuss various outstanding issues with respect to Ameritrade's proposed transaction with TD, including structure, valuation and premium, and governance and management. Following this meeting, the Ameritrade board of directors held a special meeting to discuss the status of discussions with and due diligence investigations of TD and E\*TRADE. Representatives from Citigroup and WSGR provided the board of directors with an update with respect to discussions with TD and E\*TRADE. The board of directors determined to continue to pursue discussions with both TD and E\*TRADE.

On June 21, 2005, J. Joe Ricketts shared with the Ameritrade board of directors further analysis of the TD and E\*TRADE proposals performed by Mr. Galliher. Later that day, Mr. Caplan sent a letter addressed to the Ameritrade board of directors, in which he confirmed E\*TRADE's continued desire to pursue a strategic business combination with Ameritrade and made a revised proposal with respect to specific valuation and ownership terms, including an increase to 51% of the equity interests of the combined company by Ameritrade stockholders and \$2.3 billion in cash to Ameritrade stockholders.

Also on June 21, 2005, Mr. Clark sent a letter addressed to the Ameritrade board of directors which contained a revised and final proposal with respect to valuation and ownership terms in connection with a combination of Ameritrade and TD Waterhouse, and included an increase in the proposed special cash dividend to Ameritrade stockholders to \$6.00 per share.

Also on June 21, 2005, Mr. Caplan called J. Joe Ricketts to discuss E\*TRADE's revised proposal with respect to a business combination with Ameritrade. In addition, Mr. Mitchell and representatives from Citigroup held a telephonic meeting with Mr. Clark and representatives from Goldman, Sachs & Co. to discuss TD's revised proposal and a separate telephonic meeting with representatives of E\*TRADE to discuss its proposal.

On the evening of June 21, 2005, the Ameritrade board of directors held a special meeting to discuss the status of discussions with TD and E\*TRADE and the revised proposals received from each of those parties earlier in the day. All of the members of the board of directors were present at the meeting, along with senior members of management and advisors. Promontory presented its report on its due diligence investigation of E\*TRADE's bank. Senior members of management also reported to the board of directors on Ameritrade's due diligence investigation of E\*TRADE. Representatives from Citigroup and WSGR provided the board of directors with an update with respect to discussions with TD and E\*TRADE and reviewed the revised proposals from those parties. The board of directors discussed the revised proposals from TD and E\*TRADE, including their financial and other terms, the risks and opportunities identified in connection with the proposals and the strategic implications of the proposals. Following these discussions, the board of directors determined that the acquisition of TD Waterhouse, when considered in light of its financial and other terms as well as the risks attendant in each of the proposals, represented the best strategic transaction for Ameritrade and its stockholders. The board of directors determined to approve the TD Waterhouse transaction for the reasons set forth below under Ameritrade's Reasons for the Transaction. The Board determined that, relative to the E\*TRADE proposal, the TD Waterhouse transaction as a whole presented a superior financial and strategic opportunity for Ameritrade stockholders. With respect to the financial aspects of the transaction, the board determined that the present value of the Ameritrade stock to be retained and cash to be received by Ameritrade stockholders, taking into account the timing and realization of expected synergies, the special dividend, the committed tender offer and the operating results of Ameritrade and TD Waterhouse, exceeded the value of the stock and cash to be





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received by Ameritrade stockholders in the proposed transaction with E\*TRADE, taking into account similar factors. With respect to the strategic opportunity, Ameritrade's board of directors believed that a combination with TD Waterhouse provided a better opportunity for future growth, while presenting lower risk related to other areas of the industry. TD Waterhouse's long term investor platform, including its expansive registered investment adviser network and branch locations, aligned with Ameritrade's strategic growth initiatives, including expanding to target long-term investors. The board of directors directed management and its advisors to work with TD and its advisors to complete negotiations and finalize the transaction documents. Following the meeting, J. Joe Ricketts telephoned Mr. Caplan of E\*TRADE to inform him of the board of directors' decision to accept TD's proposal. Mr. Ricketts also telephoned Mr. Clark to advise him that the Ameritrade board had unanimously approved the TD proposal and that the Ricketts holders supported the transaction.

On June 22, 2005, the Ameritrade board of directors held a special meeting to discuss the terms and conditions of the share purchase agreement and related agreements, including the stockholders agreement, the voting agreement and the registration rights agreement and the Canadian purchase agreement that had been negotiated by Ameritrade and TD. At the meeting, representatives of Citigroup reviewed its material financial analyses prepared in connection with the preparation of its opinion. Citigroup then delivered its oral opinion, which was subsequently confirmed in writing, that, as of June 22, 2005, and based on and subject to the matters set forth in its opinion, the 193,600,000 shares of Ameritrade common stock to be paid by Ameritrade in the acquisition of TD Waterhouse pursuant to the original share purchase agreement was fair, from a financial point of view, to Ameritrade. After deliberating on the foregoing, the board of directors determined that the proposed transaction with TD was fair to and in the best interests of the company and its stockholders, approved the share purchase agreement and related agreements, directed that the issuance of Ameritrade common stock to TD in accordance with the terms of the share purchase agreement and the amendment and restatement of the certificate of incorporation be submitted for consideration by Ameritrade stockholders at a special meeting of Ameritrade stockholders, and resolved to recommend that Ameritrade stockholders vote in favor of the issuance of Ameritrade common stock to TD in accordance with the terms of the share purchase agreement and the amendment and restatement of the certificate of incorporation.

Following the meeting of the Ameritrade board of directors on June 22, 2005, Ameritrade and TD entered into the share purchase agreement and related agreements, each dated as of June 22, 2005, and the parties issued a joint press release on June 22, 2005, announcing that the parties had entered into a definitive agreement for Ameritrade to acquire TD Waterhouse.

On October 28, 2005, Ameritrade and TD executed amendment no. 1 to the share purchase agreement, pursuant to which the parties agreed to increase the number of shares of Ameritrade common stock to be issued to TD and its affiliates in connection with the transaction by 2,700,000 shares to 196,300,000 shares in order to correct a calculation error which occurred in the initial purchase agreement as described in the section "The Share Purchase Agreement Consideration to be Paid in the Transaction" on page 78. In connection with the amendment of the share purchase agreement, Ameritrade did not request, and does not currently expect that it will request, an updated opinion from Citigroup. Citigroup has not updated its opinion in connection with the amendment to the purchase agreement to increase the number of shares of Ameritrade common stock to be issued to TD from 193,600,000 shares to 196,300,000 shares.

**Ameritrade's Reasons for the Transaction**

The Ameritrade board of directors has determined that the share purchase agreement, the amendment and restatement of our certificate of incorporation, the other agreements entered into in connection with the share purchase agreement and the transactions contemplated by all of these agreements are fair to, and in the best interests of, Ameritrade and its stockholders. In approving these agreements and the transactions contemplated by them, the Ameritrade board of directors consulted with its financial advisors with respect to the financial aspects and fairness of the acquisition of TD Waterhouse to Ameritrade from a financial point of view and with its legal counsel as to its fiduciary duties and the terms of the share purchase agreement and the other agreements entered into in connection with the share purchase agreement, including the stockholders agreement and the amendment and restatement of our certificate of incorporation. In reaching its determination to approve these agreements and the transactions contemplated



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by these agreements, the Ameritrade board of directors, with advice from the special committee of the Ameritrade board of directors, Ameritrade's executive officers and Ameritrade's financial and legal advisors, considered a number of factors, including the following material factors:

The board of directors' knowledge of Ameritrade's business, operations, financial condition and prospects and of TD Waterhouse's business, operations, financial conditions and prospects, taking into account the results of Ameritrade's due diligence review of TD Waterhouse, discussions with management of TD Waterhouse and TD and the presentations and evaluation of Ameritrade's financial advisor.

The board of directors' knowledge of the current and prospective environment in which Ameritrade and TD Waterhouse operate, including political and economic conditions, the competitive environment, the market for potential acquisitions and the likely effect of these factors on Ameritrade's and TD Waterhouse's potential growth, development, productivity, profitability and strategic options.

The board of directors' assessment that the acquisition of TD Waterhouse is reasonably likely to enhance Ameritrade's strategic goal of increasing the scale of Ameritrade's business and expanding its operations into the long-term investor market, which is expected to reduce volatility in Ameritrade's business, increase Ameritrade's exposure to higher-growth brokerage markets and fill out the suite of services Ameritrade offers to its clients so as to provide a more attractive comprehensive brokerage solution.

The work of the special committee of the board of directors and its views regarding the terms and financial aspects of the transaction provided to the board of directors;

The significant synergy opportunities identified by Ameritrade management in connection with the acquisition of TD Waterhouse, including expected cost savings and increased revenue opportunities, and the timeline for achievement of these synergies projected by Ameritrade management following its due diligence investigation of TD Waterhouse.

The experience of Ameritrade's management in implementing previous acquisitions and substantially achieving or surpassing projected integration and synergy targets and timelines, and the expectation that the combined company following the acquisition of TD Waterhouse would continue to be managed by Ameritrade's experienced senior executives.

The financial terms of the acquisition of TD Waterhouse, including the immediate liquidity to be provided to Ameritrade stockholders through the special dividend and the tender offer to be made by TD (and J. Joe Ricketts at his election), together with the realization of the synergy opportunities projected in connection with the acquisition of TD Waterhouse and the ability of Ameritrade's stockholders to continue to participate in any future growth of Ameritrade.

The premium on the dividend adjusted stock price as of the date of executing the share purchase agreement and possible liquidity provided to Ameritrade stockholders in connection with the tender offer to be made by TD (and J. Joe Ricketts at his election), subject to proration in the event the tender offer is oversubscribed.

The board of directors' understanding of the other strategic alternatives likely to be available to Ameritrade, including the terms of an alternative transaction proposed by E\*TRADE following discussions between Ameritrade and E\*TRADE.

The stockholder and regulatory approvals required in connection with the acquisition of TD Waterhouse and the other terms of the share purchase agreement, and the likelihood that, once the share purchase agreement had been

entered into, the acquisition of TD Waterhouse would be completed if the issuance of Ameritrade common stock in accordance with the terms of the share purchase agreement and the amendment and restatement of our certificate of incorporation were approved by our stockholders and the acquisition of TD Waterhouse were approved by applicable regulatory agencies.

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The terms of the stockholders agreement, including provisions providing for restrictions on the acquisition and transfer of Ameritrade common stock by TD and the Ricketts holders, and the requirements to be followed by TD in seeking to effect certain going private transactions with respect to Ameritrade.

The financial analysis presented by Citigroup, as financial advisor to Ameritrade, and the opinion delivered by Citigroup to the effect that, as of June 22, 2005, and based upon and subject to the assumptions made, matters considered and limitations set forth in the opinion, the 193,600,000 shares of Ameritrade common stock to be paid by Ameritrade pursuant to the original share purchase agreement was fair to Ameritrade from a financial point of view. See The Transaction Opinion of Ameritrade's Financial Advisor beginning on page 56. **The opinion of Citigroup will not reflect any developments that may occur or may have occurred after the date of its opinion and prior to completion of the transaction. Ameritrade did not request, and does not currently expect that it will request, an updated opinion from Citigroup. In particular, Citigroup was not requested to update, and has not updated, its opinion in connection with the amendment to the share purchase agreement to increase the number of shares of Ameritrade common stock to be issued to TD from 193,600,000 shares to 196,300,000 shares.**

In the course of its deliberations, the Ameritrade board of directors also considered a variety of risks and other potentially negative factors concerning the acquisition of TD Waterhouse, including the following:

The fact that TD would hold approximately 32% of the diluted shares outstanding of TD Ameritrade common stock upon consummation of the acquisition of TD Waterhouse and would be permitted to acquire, subject to certain qualifications, up to 39.9% of the outstanding TD Ameritrade common stock during the three years from the closing, up to 45% 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 common stock following the termination of the stockholders agreement. In this regard, the Ameritrade board of directors considered the impact this could have on the willingness of a third party to propose a strategic transaction with Ameritrade in the future.

The terms of the share purchase agreement restricting Ameritrade's solicitation of third party acquisition proposals and providing for Ameritrade's payment of a termination fee to TD in specified events and the terms of the voting agreement entered into by certain Ameritrade stockholders, all of which the Ameritrade board of directors understood, while required by TD as a condition to TD's willingness to enter into the share purchase agreement, could affect the willingness of a third party to propose a competing business transaction with Ameritrade.

The terms of the stockholders agreement imposing restrictions on the board composition and corporate governance of Ameritrade following the acquisition of TD Waterhouse and providing for certain rights of TD and the Ricketts holders to purchase Ameritrade securities to maintain their ownership percentage.

The possibility that the synergies and other financial and strategic benefits expected to be achieved in the acquisition of TD Waterhouse would not be obtained on a timely basis or at all.

The risks and costs that could be borne by Ameritrade if the acquisition of TD Waterhouse is not completed, including the diversion of management and employee attention during the period after the signing of the share purchase agreement, potential employee attrition and the potential effect on Ameritrade's business and client relations. In that regard, under the share purchase agreement, Ameritrade must conduct its business in the ordinary course and is subject to a variety of other restrictions on the conduct of its business prior to completion of the acquisition of TD Waterhouse or termination of the share purchase agreement, which may delay or prevent Ameritrade from undertaking business opportunities that may arise.

The additional debt to be incurred by Ameritrade in connection with financing the special dividend.

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The additional dilution to Ameritrade stockholders as a result of the issuance of Ameritrade common stock to TD in connection the acquisition of TD Waterhouse and the adjustments to outstanding options to reflect the payment of the special dividend.

The foregoing discussion of the information considered by Ameritrade's board of directors is not exhaustive, but includes the material factors that Ameritrade's board of directors considered in approving and recommending the issuance of Ameritrade common stock in accordance with the terms of the share purchase agreement and the amendment and restatement of our certificate of incorporation. In view of the wide variety of factors considered by Ameritrade's board of directors in connection with its evaluation of the acquisition of TD Waterhouse and the complexity of these factors, the Ameritrade board of directors did not consider it practical to, nor did it attempt to, quantify, rank or otherwise assign any specific or relative weights to the specific factors that it considered in reaching its decision. The board of directors discussed the factors described above, including asking questions of Ameritrade's senior management and legal and financial advisor, and unanimously determined that the acquisition of TD Waterhouse was in the best interests of Ameritrade and its stockholders. In considering the factors described above, individual directors may have assigned different weights to different factors. Ameritrade's board of directors relied on the experience and expertise of Ameritrade's financial advisor for quantitative analysis of the financial terms of the acquisition of TD Waterhouse. See below under "The Transaction" "Opinion of Ameritrade's Financial Advisor" beginning on page 56.

The above explanation of the reasoning of Ameritrade's board of directors and all other information presented in this section is forward-looking in nature and, therefore, should be read in light of the factors discussed under "Cautionary Statement Concerning Forward-Looking Statements" beginning on page 38.

**For the reasons set forth above, Ameritrade's board of directors has approved the share purchase agreement, the other agreements entered into in connection with the share purchase agreement and the transactions contemplated by those agreements, has concluded that the transactions are advisable and in the best interests of Ameritrade and its stockholders and unanimously recommends that Ameritrade stockholders vote for the issuance of Ameritrade common stock to TD in accordance with the terms of the share purchase agreement and the amendment and restatement of our certificate of incorporation, including each of the related sub-proposals.**

**Opinion of Ameritrade's Financial Advisor**

Ameritrade and a special committee of the board retained Citigroup to act as financial advisor in connection with the acquisition of TD Waterhouse. Pursuant to Citigroup's engagement letter with Ameritrade and the special committee, Citigroup rendered to the Ameritrade board of directors and the special committee on June 22, 2005 an oral opinion, which was subsequently confirmed by delivery of a written opinion, to the effect that, as of the date of the opinion and based upon and subject to the considerations and limitations set forth in the opinion, Citigroup's work described below and other factors it deemed relevant, the 193,600,000 shares of Ameritrade common stock to be paid by Ameritrade in the acquisition of TD Waterhouse pursuant to the original share purchase agreement was fair, from a financial point of view, to Ameritrade.

**The opinion of Citigroup will not reflect any developments that may occur or may have occurred after the date of its opinion and prior to completion of the transaction. Ameritrade did not request, and does not currently expect that it will request, an updated opinion from Citigroup. In particular, Citigroup was not requested to update, and has not updated, its opinion in connection with the amendment to the share purchase agreement to increase the number of shares of Ameritrade common stock to be issued to TD from 193,600,000 shares to 196,300,000 shares.**

The full text of Citigroup's opinion, which sets forth the assumptions made, general procedures followed, matters considered and limits on the review undertaken, is included as Appendix B to this proxy statement and is incorporated into this proxy statement by reference. The summary of Citigroup's opinion set forth below is qualified in its entirety by reference to the full text of the opinion. **Holder of Ameritrade common stock are urged to read Citigroup's opinion carefully and in its entirety.**

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**Citigroup's opinion was provided for the information of the Ameritrade board of directors and the special committee in their evaluation of the proposed acquisition of TD Waterhouse and was limited solely to the fairness of the consideration to be paid by Ameritrade in the acquisition of TD Waterhouse from a financial point of view as of the date of the opinion. Neither Citigroup's opinion nor its related analyses constituted a recommendation of the acquisition of TD Waterhouse to the Ameritrade board of directors or the special committee. Citigroup makes no recommendation to any stockholder regarding how such stockholder should vote or act on any matters relating to the acquisition of TD Waterhouse, including whether any stockholder should tender shares of Ameritrade common stock in the tender offer to be made by TD following consummation of the acquisition of TD Waterhouse and in which J. Joe Ricketts may participate as a co-bidder.**

In arriving at its opinion, Citigroup reviewed the share purchase agreement, the Canadian purchase agreement, the stockholders agreement and the voting agreement and held discussions with senior officers, directors and other representatives and advisors of Ameritrade and senior officers and other representatives of TD and TD Waterhouse concerning the business, operations and prospects of Ameritrade and TD Waterhouse. Citigroup examined publicly available business and financial information relating to Ameritrade and TD Waterhouse, as well as financial forecasts and other information and data relating to Ameritrade and TD Waterhouse which were provided to or otherwise reviewed by or discussed with Citigroup by the respective managements of Ameritrade, TD and TD Waterhouse, including information relating to the potential strategic implications and operational benefits anticipated by the managements of Ameritrade, TD and TD Waterhouse to result from the acquisition of TD Waterhouse, including adjustments to the forecasts and other information and data relating to TD Waterhouse discussed with Citigroup by the management of Ameritrade. Citigroup reviewed the financial terms of the acquisition of TD Waterhouse as set forth in the share purchase agreement in relation to, among other things:

current and historical market prices and trading volumes of Ameritrade common stock;

the historical and projected earnings and other operating data of Ameritrade and TD Waterhouse; and

the capitalization and financial condition of Ameritrade and TD Waterhouse.

Citigroup considered, based upon publicly available information and information provided by the management of Ameritrade, the financial terms of other transactions that Citigroup considered relevant in evaluating the acquisition of TD Waterhouse and analyzed financial, stock market and other publicly available information relating to the businesses of other companies whose operations Citigroup considered relevant in evaluating those of Ameritrade and TD Waterhouse. Citigroup also evaluated the pro forma financial effects of the acquisition of TD Waterhouse on Ameritrade. In addition to the foregoing, Citigroup conducted such other analyses and examinations and considered such other information and financial, economic and market criteria as Citigroup deemed appropriate in arriving at its opinion.

In rendering its opinion, Citigroup assumed and relied, without independent verification, upon the accuracy and completeness of all financial and other information and data publicly available or provided to or otherwise reviewed by or discussed with it and upon the assurances of the managements of Ameritrade, TD and TD Waterhouse that they were not aware of any relevant information that was omitted or that remained undisclosed to Citigroup. With respect to financial forecasts and other information and data relating to Ameritrade and TD Waterhouse provided to or otherwise reviewed by or discussed with it, and, in the case of potential pro forma effects of, and strategic implications and operational benefits resulting from, the acquisition of TD Waterhouse, Citigroup was advised by the respective managements of Ameritrade, TD and TD Waterhouse that such forecasts and other information and data were reasonably prepared on bases reflecting the best currently available estimates and judgments of the managements of Ameritrade, TD and TD Waterhouse as to the future financial performance of Ameritrade and TD Waterhouse and assumed, with the consent of the Ameritrade board of directors and the special committee, that the financial results (including the potential strategic implications and operational benefits anticipated to result from the acquisition of TD Waterhouse) reflected in such forecasts and other information and data will be realized in the amounts and at the



times projected. Citigroup assumed, with

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the consent of the Ameritrade board of directors and the special committee, that the acquisition of TD Waterhouse will be consummated in accordance with its terms, without waiver, modification or amendment of any material term, condition or agreement and that, in the course of obtaining the necessary regulatory or third party approvals, consents and releases for the acquisition of TD Waterhouse, no delay, limitation, restriction or condition will be imposed that would have an adverse effect on Ameritrade or TD Waterhouse or the contemplated benefits of the acquisition of TD Waterhouse. Citigroup also assumed that the Canadian share purchase will be consummated in accordance with the terms of the Canadian purchase agreement.

Citigroup's opinion relates to the relative values of Ameritrade and TD Waterhouse after giving effect to the Canadian share purchase and the Reorganization. Citigroup did not express any opinion as to the price at which the Ameritrade common stock will trade at any time. Citigroup did not make and was not provided with an independent evaluation or appraisal of the assets or liabilities (contingent or otherwise) of Ameritrade or TD Waterhouse, nor did Citigroup make any physical inspection of the properties or assets of Ameritrade or TD Waterhouse.

Citigroup was familiar with the discussions that the management of Ameritrade engaged in with E\*TRADE regarding a possible merger with E\*TRADE. Citigroup expressed no view as to, and its opinion did not address, the relative merits of the acquisition of TD Waterhouse as compared to any alternative business strategies or transactions that might exist for Ameritrade or the effect of any other transaction in which Ameritrade might engage, including any transaction with E\*TRADE. Citigroup's opinion relates solely to the fairness, from a financial point of view, as of June 22, 2005, of the consideration to be paid by Ameritrade in the acquisition of TD Waterhouse, and does not address any other matter, including the terms of the Canadian share purchase, the stockholders agreement or the tender offer to be made by TD following the consummation of the acquisition of TD Waterhouse and in which J. Joe Ricketts may participate as a co-bidder and Citigroup expressed no view as to the price per share of Ameritrade common stock to be paid pursuant to the tender offer or whether any Ameritrade stockholder should tender shares of Ameritrade common stock in the tender offer. Citigroup's opinion was necessarily based upon information available to it, and financial, stock market and other conditions and circumstances existing, as of the date of its opinion.

In connection with rendering its opinion, Citigroup made a presentation to the Ameritrade board of directors and the special committee on June 22, 2005 with respect to the material financial analyses performed by Citigroup in evaluating the fairness of the consideration to Ameritrade as of the date of Citigroup's opinion. The following is a summary of that presentation. The summary includes information presented in tabular format. In order to understand fully the financial analyses used by Citigroup, these tables must be read together with the text of each summary. The tables alone do not constitute a complete description of the financial analyses. The following quantitative information, to the extent it is based on market data, is, except as otherwise indicated, based on market data as it existed at or prior to June 21, 2005, and is not necessarily indicative of current or future market conditions.

References to fiscal years refer to actual September fiscal years for Ameritrade and references to September fiscal years refer to twelve-month periods ended September 30 for each of TD Waterhouse, The Charles Schwab Corporation and E\*TRADE.

***Indicated Transaction Multiples***

Citigroup calculated various multiples resulting from the acquisition of TD Waterhouse. These calculations were based on financial analyses and forecasts for TD Waterhouse prepared by Ameritrade management after giving pro forma effect to the Reorganization. Citigroup calculated the multiple of the implied transaction value based on the closing price of Ameritrade common stock on May 4, 2005 (the last trading day prior to press reports regarding E\*TRADE's proposal to merge with Ameritrade) and June 21, 2005 to TD Waterhouse's September fiscal 2005 estimated revenue, pre-tax income prior to advertising expense and net income and to TD Waterhouse's September fiscal 2006 estimated net income. Citigroup also calculated the multiple of the implied transaction value to September fiscal 2005 and

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September fiscal 2006 estimated net income assuming fully phased-in pre-tax cost and revenue synergies of \$378 million and \$200 million, respectively.

The following table presents the results of these calculations:

	Closing Price	
	May 4, 2005	June 21, 2005
<b>Stock Price</b>	\$ 10.78	\$ 14.82
<b>Transaction Value (in millions)</b>	\$ 2,091	\$ 2,874
<b>Price as a Multiple of:</b>		
September Fiscal 2005 Estimated Revenue	2.6x	3.6x
September Fiscal 2005 Estimated Pre-Tax, Pre-Advertising Income	8.6x	11.8x
September Fiscal 2005 Estimated Net Income	20.6x	28.3x
September Fiscal 2006 Estimated Net Income	17.9x	24.6x
September Fiscal 2005 Estimated Net Income with Synergies	4.9x	6.7x
September Fiscal 2006 Estimated Net Income with Synergies	4.7x	6.5x

**Comparable Companies Analysis**

Citigroup reviewed market values and trading multiples for the following three publicly held companies in the on-line brokerage industry and compared them with financial data for TD Waterhouse prepared by Ameritrade management, which gave pro forma effect to the Reorganization:

The Charles Schwab Corporation

E\*TRADE; and

Ameritrade.

All multiples were based on closing stock prices on May 4, 2005, the last trading day before press reports regarding E\*TRADE's proposal to merge with Ameritrade. The forecasted financial information used by Citigroup for the selected comparable companies in the course of this analysis was based on information it obtained from Institutional Brokers Estimate System, or IBES, estimates. Given that the multiples derived from this comparable companies analysis for The Charles Schwab Corporation and E\*TRADE were based on Wall Street consensus estimates, the forecasted financial information used by Citigroup for Ameritrade also was based on Wall Street consensus estimates. IBES is a database owned and operated by Thomson Financial, which contains estimated and actual earnings, cash flows, dividends, sales and pre-tax income data for companies in the U.S., Europe, Asia and emerging markets.

For each of the selected comparable companies, Citigroup derived and compared, among other things: the ratio of price to last twelve months earnings, September fiscal 2005 estimated earnings, next twelve months estimated earnings, and September fiscal 2006 estimated earnings;

the ratio of firm value to September fiscal 2005 and September fiscal 2006 estimated revenue; and

the ratio of firm value to September fiscal 2005 and September fiscal 2006 estimated earnings before interest, taxes, depreciation and amortization (EBITDA).

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The following table sets forth the results of this analysis.

	<b>Comparable Companies at May 4, 2005 Closing Price</b>	
	<b>Range</b>	<b>Median</b>
<b>Ratio of Price to:</b>		
Last Twelve Months Earnings	11.5x - 23.0x	14.5x
September fiscal 2005 Estimated Earnings	11.2x - 21.1x	13.6x
Next Twelve Months Estimated Earnings	10.7x - 19.0x	12.7x
September fiscal 2006 Estimated Earnings	10.3x - 17.6x	12.3x
<b>Ratio of Firm Value to:</b>		
September fiscal 2005 Estimated Revenue	2.8x - 4.2x	2.9x
September fiscal 2006 Estimated Revenue	2.6x - 4.0x	2.7x
<b>Ratio of Firm Value to:</b>		
September fiscal 2005 Estimated EBITDA	6.3x - 9.9x	7.6x
September fiscal 2006 Estimated EBITDA	5.4x - 8.7x	7.1x

Based on this analysis, Citigroup derived a reference range for the implied equity value of TD Waterhouse, after giving pro forma effect to the Reorganization, of approximately \$1.3 billion to \$1.5 billion. Citigroup calculated that this range of implied equity value would result in implied equity ownership by TD in the combined company, calculated by dividing the implied equity valuation by the sum of Ameritrade's market capitalization as of May 4, 2005 and the implied equity valuation, of approximately 23% to 25%.

***Precedent Transactions Analysis***

Citigroup reviewed multiples of price paid to last twelve months revenues and number of funded accounts based upon non-public information provided by Ameritrade regarding five acquisition transactions in the on-line brokerage industry. Based upon this information and financial data for TD Waterhouse prepared by Ameritrade management, Citigroup derived a reference range for the implied equity value of TD Waterhouse, after giving pro forma effect to the Reorganization, of approximately \$1.6 billion to \$2.3 billion. Citigroup calculated that this range of implied equity value would result in a range of implied equity ownership by TD in the combined company, calculated by dividing the implied equity valuation by the sum of Ameritrade's market capitalization as of May 4, 2005 and the implied equity valuation, of approximately 26% to 34%. Based upon the transaction multiples for the single precedent transaction Citigroup believed to be most comparable to the acquisition of TD Waterhouse, Citigroup derived a reference range for the implied equity value of TD Waterhouse of approximately \$2.7 billion to \$3.2 billion, which would result in a range of implied equity ownership by TD in the combined company of approximately 38% to 42%. Based upon the transaction multiples for all precedent transactions reviewed by Citigroup, Citigroup derived a reference range for the implied equity value of TD Waterhouse of approximately \$1.6 billion to \$2.3 billion, which would result in a range of implied equity ownership by TD in the combined company of approximately 26% to 34%.

***Discounted Cash Flow Analysis***

Citigroup performed a discounted cash flow analysis to calculate the estimated present value of the standalone unlevered, after-tax free cash flows that TD Waterhouse could generate over September fiscal 2005 through September fiscal 2009 based upon estimated financial data for TD Waterhouse prepared by Ameritrade management, which gave pro forma effect to the Reorganization. Citigroup also performed a discounted cash flow analysis to calculate the estimated present value of the unlevered, after-tax free cash flows that TD Waterhouse could generate over the same period taking into account 100% of approximately \$378 million in annual cost savings synergies estimated by Ameritrade management to result from the acquisition of TD Waterhouse, phased-in at 33.8% in fiscal 2006, 87.5% in fiscal 2007 and 100% in fiscal



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2008. In addition, Citigroup performed a discounted cash flow analysis to calculate the estimated present value of the unlevered, after-tax free cash flows that TD Waterhouse could generate over the same period taking into account 100% of approximately \$378 million in annual cost savings synergies, phased-in as described above, and approximately \$161 million in annual revenue synergies (net of attrition) estimated by Ameritrade management to result from the acquisition of TD Waterhouse, phased-in at 56.6% in fiscal 2006, 97.1% in fiscal 2007 and 100% in fiscal 2008.

In each case, Citigroup calculated a range of estimated terminal values by applying a range of terminal net income multiples of 13.5x - 15.5x to TD Waterhouse's September fiscal 2009 estimated net income. The present value of the cash flows and terminal values were calculated using discount rates ranging from 13.2% to 15.2%. This analysis indicated the following approximate implied equity value reference ranges for TD Waterhouse and implied equity ownership ranges for TD in the combined company as compared to the actual equity ownership of TD following the acquisition of TD Waterhouse.

	<b>Implied Equity Value Reference Range (\$ in millions)</b>	<b>Implied TD Equity Ownership Range</b>	<b>Actual TD Equity Ownership Following Acquisition of TD Waterhouse</b>
TD Waterhouse Standalone	\$ 1,700 - \$1,800	28% - 29%	32%
TD Waterhouse with 100% of Cost Synergies	\$ 3,900 - \$4,300	47% - 49%	32%
TD Waterhouse with 100% of Cost and Revenue Synergies	\$ 4,900 - \$5,400	52% - 55%	32%

**Contribution Analysis**

Based upon historical operating and financial information for the 12 months ended March 2005 and Ameritrade and TD Waterhouse management estimates of future operating and financial information for fiscal 2005 for Ameritrade and September fiscal 2005 for TD Waterhouse, in each case after giving effect to the Canadian share purchase and the Reorganization, respectively, Citigroup reviewed the implied ownership percentages of TD in the combined company based upon the relative contribution of TD Waterhouse to the combined company on a pro forma basis in terms of daily average revenue trades (DARTs), client accounts, revenue, pre-tax income and pre-tax income prior to advertising expense. Citigroup compared the results of this analysis with implied ownership percentages in the combined company for TD derived from the analyses described above under Comparable Companies Analysis, Precedent Transactions Analysis and Discounted Cash Flow Analysis.

Citigroup calculated the overall mean of the implied TD ownership percentages based upon the foregoing analysis, without taking into account any cost savings or revenue synergies. Citigroup also calculated this overall mean applying to TD Waterhouse 50% and 100%, respectively, of the approximate \$3.4 billion estimated present value of the approximately \$378 million in annual cost savings synergies, phased-in at 33.8% in fiscal 2006, 87.5% in fiscal 2007 and 100% in fiscal 2008, and approximately \$161 million in annual revenue synergies (net of attrition) estimated by Ameritrade management to result from the acquisition of TD Waterhouse, phased-in at 56.6% in fiscal 2006, 97.1% in fiscal 2007 and 100% in fiscal 2008, based upon a terminal multiple of 14.5x fiscal 2009 total after-tax synergies and a discount rate of 14.2%.

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The following table presents the results of this analysis:

	<b>Actual Pro Forma Ownership of TD</b>
	32%
	<b>Implied TD Ownership</b>
<b>Contribution to Historical Operating Data 12 Months Ended March 2005</b>	
Daily Average Revenue Trades (DARTs)	31.2%
Client Accounts	38.4%
Revenues	44.9%
Adjusted Pre-Tax Income	15.4%
Adjusted Pre-Tax, Pre-Advertising Income	22.4%
<b>Mean</b>	<b>30.5%</b>
<b>Contribution to Projected Operating Data Fiscal 2005</b>	
DARTs	32.3%
Client Accounts	36.3%
Revenues	45.9%
Pre-Tax Income	25.2%
Pre-Tax, Pre-Advertising Income	29.6%
<b>Mean</b>	<b>33.8%</b>
<b>Relative Valuation</b>	
Comparable Public Companies	24.6%
Precedent Transactions	33.9%
Discounted Cash Flow	25.7%
<b>Mean</b>	<b>28.1%</b>
<b>Overall Mean (Without Synergies)</b>	<b>30.8%</b>
<b>Overall Mean (50% of Synergies to TD Waterhouse)</b>	<b>36.1%</b>
<b>Overall Mean (100% of Synergies to TD Waterhouse)</b>	<b>50.0%</b>

***Pro Forma Merger Analysis***

Citigroup analyzed the pro forma impact of the acquisition of TD Waterhouse on projected earnings per share (EPS) for Ameritrade, based upon earnings estimates prepared by Ameritrade management. The effect on EPS was calculated using various assumptions, including the following:

the transaction closing date is September 30, 2005;

incurrence of approximately \$1.9 billion in indebtedness to pay the special dividend and estimated interest expense to be incurred as a result of such indebtedness;

approximately \$378 million in annual pre-tax cost savings synergies, phased-in at 33.8% in fiscal 2006, 87.5% in fiscal 2007 and 100% in fiscal 2008, and approximately \$161 million in annual pre-tax revenue synergies (net of attrition), phased-in at 56.6% in fiscal 2006, 97.1% in fiscal 2007 and 100% in fiscal 2008;

100% of available cash flow (determined based on Ameritrade management estimates) is used to pay-down indebtedness, and 99% of any remaining cash flow is used to repurchase shares of Ameritrade common stock; and



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amortization expense of approximately \$38.1 million pre-tax per year of purchase price attributed to identifiable intangibles over 20 years.

For each of fiscal years 2006, 2007 and 2008, Citigroup compared the EPS of Ameritrade common stock to the EPS, on both a GAAP basis and a cash basis, of the combined company common stock using the foregoing assumptions. The following table sets forth the results of this analysis:

	<b>GAAP Basis Accretion/ (Dilution)</b>	<b>Cash Basis Accretion/ (Dilution)</b>
2006E EPS	(10.6)%	(6.8)%
2007E EPS	17.8%	20.5%
2008E EPS	25.1%	27.3%

*Internal Rate of Return Analysis*

Based upon estimated financial data for TD Waterhouse, after giving effect to the Reorganization, prepared by Ameritrade management, Citigroup calculated Ameritrade's internal rate of return over the four fiscal years ended 2009 assuming a transaction value of approximately \$2.9 billion based on the closing price of the Ameritrade common stock of \$14.82 on June 21, 2005. Citigroup calculated internal rates of return (IRR) by applying a range of terminal net income multiples of 13.5x to 15.5x to estimated fiscal 2009 net income (1) without synergies, (2) assuming 100% of cost savings synergies, and (3) assuming 100% of cost savings and revenue synergies.

The following table sets forth the results of this analysis:

	<b>IRR Range</b>	
	<b>13.5x Terminal Multiple</b>	<b>15.5x Terminal Multiple</b>
No Synergies	(1.5)%	1.5%
Cost Savings Only	27.9%	31.7%
Cost Savings and Revenue Synergies	36.8%	40.8%

*Current Equity Value Analysis*

Based upon an implied market capitalization of Ameritrade of approximately \$4.4 billion and an implied transaction value of approximately \$2.1 billion, in each case based upon the closing price of Ameritrade common stock of \$10.78 on May 4, 2005, and taking into account the present value of the fully phased-in cost savings and revenue synergies estimated by Ameritrade management described under Contribution Analysis above and assuming that \$5.00 per share of the special dividend will be funded with debt, Citigroup calculated an illustrative value per share of Ameritrade common stock of \$18.93, giving effect to the special dividend and the acquisition of TD Waterhouse. Citigroup also calculated an illustrative value per share of Ameritrade common stock of \$19.28, assuming the acquisition by TD of additional shares of Ameritrade common stock, resulting in TD owning 39.9% of the outstanding shares of TD Ameritrade common stock, pursuant to the contemplated post-closing tender offer.

*Present Value of Potential Stock Price Analysis*

Citigroup calculated an illustrative present value per share of Ameritrade common stock of \$19.57 based upon Ameritrade management's forecast fiscal 2008 earnings per share, Ameritrade's multiple of price to next 12 months earnings per share as of May 6, 2005, a discount rate of 14.5% and an assumed special dividend of \$6.00 per share. Citigroup also calculated an illustrative value per share of \$19.93, assuming the acquisition by TD of additional shares

of Ameritrade common stock, resulting in TD owning 39.9% of the outstanding shares of TD Ameritrade common stock, pursuant to the contemplated post-closing tender offer.

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***Other Factors***

In rendering its opinion, Citigroup also reviewed and considered other factors for informational purposes, including:

the trading volume of Ameritrade common stock at various price ranges during the period from January 2002 through May 2005;

historical stock price returns as of May 4, 2005 for Ameritrade; E\*TRADE; The Charles Schwab Corporation; the S&P Financials Index; a broker/ dealers index comprised of A.G. Edwards Holding, Jefferies Group, Inc, Piper Jaffray Companies, and Raymond James Financial Inc.; a banks index comprised of SunTrust Banks Inc., Fifth Third Bancorp, BB&T Corporation, National City Corporation, The PNC Financial Services Corporation, Regions Financial Corporation, Keycorp, North Fork Bancorp Inc., M&T Bank Corporation, Marshall & Illsley Corporation, Amsouth Bancorp, Zions Bancorp, Compass Bancshares Inc., Huntington Bancshares Inc. and First Horizon National Corp.; and the S&P 500 Index;

stock price returns for the period from May 4, 2005 to June 20, 2005 for Ameritrade, E\*TRADE, The Charles Schwab Corporation, the S&P Financials Index, the broker/ dealers index, the banks index and the S&P 500 Index; and

premiums to market prices per share paid in acquisitions of minority stakes of 21 public companies since 1995, 17 Dutch Auction self-tender offers since 2002 and four fixed price partial tender offers since July, 2003.

Based on the analyses described above, Citigroup determined that the 193,600,000 shares of Ameritrade common stock to be paid by Ameritrade in the acquisition of TD Waterhouse pursuant to the original share purchase agreement was fair, from a financial point of view, as of the date of the opinion, to Ameritrade.

Citigroup's advisory services and opinion were provided for the information of the Ameritrade board of directors and the special committee in connection with their evaluation of the proposed acquisition of TD Waterhouse and did not constitute a recommendation of the acquisition of TD Waterhouse to the Ameritrade board of directors or the special committee or a recommendation to any stockholder regarding how such stockholder should vote or act on any matters relating to the acquisition of TD Waterhouse, including whether any stockholder should tender shares of Ameritrade common stock in the tender offer to be made by TD following consummation of the acquisition of TD Waterhouse and in which J. Joe Ricketts may participate as a co-bidder.

The preceding discussion is a summary of the material financial analyses furnished by Citigroup to the Ameritrade board of directors and the special committee, but it does not purport to be a complete description of the analyses performed by Citigroup or of its presentation to the Ameritrade board of directors and the special committee. The preparation of financial analyses and fairness opinions is a complex process involving subjective judgments and is not necessarily susceptible to partial analysis or summary description. Citigroup made no attempt to assign specific weights to particular analyses or factors considered, but rather made qualitative judgments as to the significance and relevance of all the analyses and factors considered and determined to give its fairness opinion as described above. Accordingly, Citigroup believes that its analyses, and the summary set forth above, must be considered as a whole, and that selecting portions of the analyses and of the factors considered by Citigroup, without considering all of the analyses and factors, could create a misleading or incomplete view of the processes underlying the analyses conducted by Citigroup and its opinion. With regard to the comparable companies and precedent transactions analyses summarized above, Citigroup selected comparable public companies and precedent transactions on the basis of various factors, including size and similarity of the line of business of the relevant entities; however, no company utilized in these analyses is identical to TD Waterhouse and no precedent transaction is identical to the acquisition of TD Waterhouse. As a result, these analyses are not purely mathematical, but also take into account differences in financial and operating characteristics of the

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subject companies and other factors that could affect the acquisition of TD Waterhouse or public trading value of the subject companies to which TD Waterhouse is being compared.

In its analyses, Citigroup made numerous assumptions with respect to Ameritrade, TD, TD Waterhouse, industry performance, general business, economic, market and financial conditions and other matters, many of which are beyond the control of Ameritrade, TD and TD Waterhouse. Any estimates contained in Citigroup's analyses are not necessarily indicative of actual values or predictive of future results or values, which may be significantly more or less favorable than those suggested by these analyses. Estimates of values of companies do not purport to be appraisals or necessarily to reflect the prices at which companies may actually be sold. Because these estimates are inherently subject to uncertainty, none of Ameritrade, TD, TD Waterhouse, the Ameritrade board of directors, the special committee, Citigroup or any other person assumes responsibility if future results or actual values differ materially from the estimates.

Citigroup's analyses were prepared solely as part of Citigroup's analysis of the fairness of the consideration to be paid by Ameritrade in the acquisition of TD Waterhouse and were provided for the information of the Ameritrade board of directors and the special committee in that connection. The opinion of Citigroup was only one of the factors taken into consideration by the Ameritrade board of directors and the special committee in making its determination to approve the purchase agreement and the acquisition of TD Waterhouse. See "The Transaction" Ameritrade's Reasons for the Transaction beginning on page 53.

Citigroup is an internationally recognized investment banking firm engaged in, among other things, the valuation of businesses and their securities in connection with mergers and acquisitions, restructurings, leveraged buyouts, negotiated underwritings, competitive biddings, secondary distributions of listed and unlisted securities, private placements and valuations for estate, corporate and other purposes. Ameritrade and the special committee selected Citigroup to act as their financial advisor in connection with the acquisition of TD Waterhouse on the basis of Citigroup's international reputation and Citigroup's familiarity with Ameritrade and TD Waterhouse.

Pursuant to its engagement letter with Ameritrade and the special committee, Ameritrade agreed to pay Citigroup a fee of \$7.5 million, of which \$240,000 became payable upon execution of the February 13, 2005 engagement letter, \$500,000 became payable upon execution of the May 11, 2005 engagement letter and \$2 million of which became payable upon execution of the share purchase agreement and delivery of Citigroup's opinion. The balance is payable promptly upon consummation of the acquisition of TD Waterhouse. Ameritrade has also agreed to indemnify Citigroup against specific liabilities and expenses relating to or arising out of its engagement, including liabilities under the federal securities laws. Citigroup and its affiliates in the past have provided services to Ameritrade, TD and their respective affiliates unrelated to the acquisition of TD Waterhouse, for which services Citigroup and its affiliates have received compensation including, without limitation, advising Ameritrade on its acquisition of National Discount Brokers Corporation from Deutsche Bank in 2001 and on its acquisition of Datek in 2002, acting as a joint bookrunner on a \$543 million secondary offering of Ameritrade stock in 2003, executing secondary market transactions for selling stockholders of Ameritrade in 2004, executing derivative structures in 2001 and 2003, acting as underwriter in connection with the initial public offering of TD Waterhouse in 1999, and acting as financial advisor to a special committee of the board of directors of TD Waterhouse in connection with the tender offer by TD and Waterhouse Holdings, Inc. for all of the outstanding shares of TD Waterhouse in 2001. Since January 1, 2003, Citigroup has received fees for investment banking and financial advisory services provided to Ameritrade and its affiliates for services related to Ameritrade (excluding fees described below in connection with the merger) of approximately \$14.4 million, in the aggregate and has received fees for such services provided to TD and TD Waterhouse and its affiliates of approximately \$90,000 in the aggregate. Subsequent to Ameritrade's announcement of its proposed acquisition of TD Waterhouse and Citigroup's rendering of its opinion, Ameritrade requested Citigroup to assist it in raising debt financing in connection with the special dividend and for other corporate purposes, and Citigroup is acting as sole bookrunner in connection with the offering by Ameritrade of approximately \$2 billion of debt financing. In the ordinary course of its business, Citigroup and its affiliates may actively trade or hold the securities of Ameritrade and TD for its own account or for



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the account of its clients and, accordingly, may at any time hold a long or short position in such securities. Subsequent to Ameritrade's announcement of its proposed acquisition of TD Waterhouse and Citigroup's rendering of its opinion, Citigroup was approached by TA Associates with respect to a possible forward sale transaction involving shares of our stock held by TA Associates. Ameritrade has approved the participation by Citigroup (or an affiliate of Citigroup) in the execution of any such hedging transaction. In addition, Citigroup and its affiliates (including Citigroup Inc. and its affiliates) may maintain relationships with Ameritrade, TD and their respective affiliates.

**Interests of Ameritrade's Executive Officers and Directors in the Transaction**

When you are considering our board of directors' recommendation to vote in favor of the proposals (and sub-proposals) presented in this proxy statement, you should be aware that Ameritrade's directors and executive officers have interests in the transactions contemplated by the acquisition of TD Waterhouse which may be in addition to, or different from, your interests. The Ameritrade board of directors was aware of these factors and considered them, among other matters, in approving the share purchase agreement, the transactions contemplated thereby and the proposed amendment and restatement of Ameritrade's certificate of incorporation. These interests are described below.

***Indemnification and Insurance***

Ameritrade has agreed to provide the Ameritrade directors with customary indemnification and insurance coverage.

***Voting Agreements***

Our board of directors consists of eight members. J. Joe Ricketts, one of the eight directors, has entered into a voting agreement with TD pursuant to which, among other things, he agreed, solely in his capacity as a stockholder, to vote all of his shares of Ameritrade common stock in favor of the acquisition of TD Waterhouse and the amendment to the Ameritrade certificate of incorporation. In addition, two directors, Michael Bingle and Glenn Hutchins, are affiliated with Silver Lake Partners, L.P. and its affiliated entities, which entered into the voting agreement with TD under which, among other things, the entities agreed to vote all of their shares of Ameritrade common stock in favor of the acquisition of TD Waterhouse and the amendment to the Ameritrade certificate of incorporation. In addition, C. Kevin Landry, a member of Ameritrade's board of directors at the time the share purchase agreement was executed, is affiliated with TA Associates and its affiliated entities, who entered into a voting agreement with TD, pursuant to which, among other things, the entities agreed to vote all of their shares of Ameritrade common stock in favor of the acquisition of TD Waterhouse and the amendment to the Ameritrade certificate of inception.

***New or Amended Employment Agreements***

We expect that Joe Moglia will continue to serve as Chief Executive Officer of TD Ameritrade and that J. Joe Ricketts will continue to serve as Chairman of TD Ameritrade. Ameritrade expects to enter into a new employment agreement with Mr. Moglia to serve as the chief executive officer of TD Ameritrade for an additional period of time. The compensation committee of the board of directors is in the process of deliberating on the terms of an agreement and has retained the services of Mercer Associates, independent compensation consultants, to assist the committee. The committee is also receiving input from TD with respect to the terms of the employment arrangements. The committee has not determined any economic terms of the proposed agreement and has requested Mercer Associates to obtain information as to market and competitive terms. The committee intends that the terms of the employment agreement will be at least as competitive as the compensation terms of the chief executive officers of enterprises in the same industry of the combined company. It is expected that the new agreement will have a term of three to five years and will provide for restricted stock or stock option awards, some of which may be performance based, as well as an annual salary and bonus.

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The compensation committee is also deliberating on the terms of new compensation arrangements and possible new employment agreements for members of the office of the chief executive. The committee similarly intends that these terms will be competitive with the industry and will contain similar incentive structures.

In addition, Ameritrade may negotiate and enter into (after consultation with TD if prior to the closing) new or amended compensation arrangements or employment agreements with other executive officers.

***Existing Employment Agreement, Stockholders Agreement and Registration Rights Agreement***

The Employment Agreement, dated October 1, 2001, between J. Joe Ricketts and Ameritrade provides that Ameritrade will pay the reasonable fees and expenses for legal, financial and certain other advisory services provided to Mr. Ricketts by professionals and consultants selected by him. Mr. Ricketts engaged legal advisor SCG Group Corporation, as a financial advisor, in connection with this transaction.

Under the terms of the stockholders agreement, the Ricketts holders have, among other things, specified rights relating to board representation and the ability to acquire additional TD Ameritrade securities to maintain their share ownership, including the right to purchase up to their respective proportionate share of future issuances of TD Ameritrade common stock, other than in connection with TD Ameritrade common stock issued as consideration in an acquisition by TD Ameritrade and certain other issuances specified in the stockholders agreement. The Ricketts holders also have the right to approve candidates for the outside independent director positions on the TD Ameritrade board of directors.

Furthermore, under the terms of the amended and restated registration rights agreement, specified Ameritrade directors or their affiliates, including J. Joe Ricketts, and the SLP holders, which are affiliated with Glenn H. Hutchins and Michael J. Bingle, will continue to be entitled to registration rights with respect to their securities of TD Ameritrade. In addition, upon the withdrawal of certain of those affiliated entities from the registration rights agreement, the Ricketts holders will receive additional registration rights with respect to their Ameritrade common stock. Ameritrade has also agreed to provide the Ricketts holders and certain entities affiliated with Glenn H. Hutchins and Michael J. Bingle with piggy back registration rights, such that if at any time Ameritrade proposes to file a registration statement with respect to any offering of its securities for its own account or for the account of any stockholder who holds its securities (subject to certain exceptions), then Ameritrade must give written notice of such proposed filing to all holders of registrable securities, and such notice shall offer the holders of such registrable securities the opportunity to register such number of registrable securities as each such holder may request in writing.

***Ownership of Ameritrade Common Stock***

In connection with the acquisition of TD Waterhouse, directors and executive officers of Ameritrade, who beneficially own approximately 125,438,924 shares of Ameritrade common stock as of November 16, 2005 will receive an aggregate of approximately \$752.6 million as a result of the payment of the proposed special dividend of \$6.00 per share assuming the timely exercise of all vested options. The beneficial ownership of directors and executive officers of Ameritrade includes options to purchase 14,910,982 shares of Ameritrade common stock exercisable within 60 days of November 16, 2005. In particular, based on J. Joe Ricketts's beneficial ownership of Ameritrade common stock as of November 16, 2005, Mr. Ricketts will receive approximately \$535.9 million as a result of the payment of the proposed special dividend, assuming timely exercise of all vested options.

In connection with the proposed special dividend, Ameritrade will adjust outstanding equity awards under its stock option plans to preserve the pre-dividend economic value of the award after payment of the special dividend. As of November 16, 2005, directors and executive officers of Ameritrade collectively held options (vested and unvested) to purchase 16,354,325 shares of common stock with a weighted average exercise price of \$5.98 per share. These options will be adjusted unless exercised prior to the ex-dividend date. As a result of their ownership of Ameritrade equity awards, which will be adjusted in connection

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with the payment of such special dividend, the directors have interests in the proposed transaction that may be different from the interests of other stockholders.

In addition, following the closing of the acquisition of TD Waterhouse, J. Joe Ricketts, if he elects to participate as a co-bidder with TD, will commence a tender offer, at a price of at least \$16 per share (on an ex-dividend basis), for a number of shares of TD Ameritrade common stock such that, upon successful completion of the offer, J. Joe Ricketts and his affiliates will collectively own up to 29% of the outstanding TD Ameritrade common stock. Mr. Ricketts has informed Ameritrade that he does not intend to participate as a co-bidder in the tender offer.

Other than as set forth above, no director or executive officer of Ameritrade has any direct or indirect material interest in the acquisition of TD Waterhouse, except insofar as ownership of Ameritrade common stock might be deemed such an interest. See *Stock Ownership of Certain Beneficial Owners and Management of Ameritrade* beginning on page 217.

***Ricketts Credit Facility***

On November 17, 2005, J. Joe Ricketts and his wife, Marlene M. Ricketts, entered into a credit agreement and related documents pursuant to which, on November 18, 2005, they borrowed \$65,000,000 from Toronto Dominion (New York) LLC, an affiliate of TD, secured by a pledge of 5,772,134 shares of Ameritrade common stock that they own. Payment of the loan may be demanded at any time. The credit agreement expires on December 31, 2006 and all then unpaid amounts will be due on that date. The loan currently bears interest at a rate of two-month LIBOR plus 0.45%. Mr. Ricketts has informed Ameritrade that the proceeds of the loan were used for estate planning purposes and to repay margin debt. Mr. Ricketts has also informed Ameritrade that he and his wife intend to repay the loan using a portion of their proceeds from the special dividend.

**Directors and Management of TD Ameritrade Following the Acquisition of TD Waterhouse**

***Composition of TD Ameritrade Board of Directors Following the Completion of the Transaction***

Ameritrade's board of directors is currently comprised of eight directors and divided into three classes, with each class serving a staggered three-year term. Following the completion of the acquisition of TD Waterhouse, the board of directors of TD Ameritrade will continue to be classified into three classes, with each class serving staggered, three-year terms. The board of directors will consist of 12 members, and the persons to be nominated for election as directors of TD Ameritrade will be designated as follows:

the Ricketts holders will have the right to designate three directors, initially J. Joe Ricketts, J. Peter Ricketts and Thomas S. Ricketts (each of whom will be assigned to a different class of directors, as designated by the Ricketts holders);

TD will initially have the right to designate five directors, initially W. Edmund Clark, Fredric J. Tomczyk, Daniel A. Marinangeli, Marshall A. Cohen and Wilbur J. Prezzano (one of whom will be a class I director, two of whom will be class II directors and two of whom will be class III directors, as designated by TD);

the individual serving as chief executive officer of TD Ameritrade, who will initially be Joseph H. Moglia (who will be a class I director); and

three of the directors will be outside independent directors, who will initially be Michael D. Fleisher, Glenn H. Hutchins, and Michael J. Bingle (each of whom will be assigned to a different class of directors, as mutually agreed among themselves prior to the closing of the acquisition of TD Waterhouse).

The right of each of TD and the Ricketts holders to designate directors is subject to their maintenance of specified ownership thresholds of TD Ameritrade common stock as set forth in the stockholders agreement. The stockholders agreement also sets forth procedures by which outside director vacancies will be filled. See *Proposal No. 1: The Issuance of Shares Under the Share Purchase*



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Agreement Certain Agreements Related to the Acquisition of TD Waterhouse Stockholders Agreement beginning on page 101.

***Biographical Information Regarding Directors of TD Ameritrade Following the Completion of the Transaction***

Biographical and other information concerning Michael D. Fleisher, Glenn H. Hutchins, Joseph H. Moglia, J. Joe Ricketts, J. Peter Ricketts and Thomas S. Ricketts is included in Ameritrade's proxy statement for its 2005 annual meeting of stockholders. Biographical and other information concerning Michael J. Bingle is included in Ameritrade's Current Report on Form 8-K filed with the Securities Exchange Commission on September 12, 2005. See *Where You Can Find More Information* beginning on page 221.

The following table sets forth information regarding the other proposed members of the board of directors of TD Ameritrade following the transaction:

<b>Name</b>	<b>Age</b>	<b>Experience</b>
W. Edmund Clark	58	Mr. Clark is currently President and Chief Executive Officer of TD Bank Financial Group. Mr. Clark has served in such position since December 2002. From early 2000 until his current appointment, Mr. Clark served as President and Chief Operating Officer and then Chairman and Chief Executive Officer of TD Canada Trust. Mr. Clark is a director of The Toronto-Dominion Bank, TD Banknorth, Inc. and Banknorth, N.A. It is currently contemplated that Mr. Clark will serve as Vice Chairman of TD Ameritrade.
Fredric J. Tomczyk	50	Mr. Tomczyk is currently Vice Chair of Corporate Operations for TD Bank Financial Group, a position he has held since May 2002. From March 2001 until his current appointment, Mr. Tomczyk served as Executive Vice President of Retail Distribution for TD Canada Trust and from September 2000 until March 2001 served as Executive Vice President and later as President and Chief Executive Officer of Wealth Management for TD Canada Trust. Mr. Tomczyk is a director of Symcor Inc., Meloche Monnex Inc., Primmum Insurance Company, Security National Insurance Company, Truscan Properties Limited, Truscan Property Corporation and Robarts Research Institute.
Daniel A. Marinangeli	55	Mr. Marinangeli was Executive Vice President and Chief Financial Officer of TD Bank Financial Group from June 1999 until October 2005. Since November 1, 2005, Mr. Marinangeli has served as Executive Vice President of Corporate Development for TD Bank Financial Group. Mr. Marinangeli serves as a director of Truscan Properties Limited and Truscan Property Corporation.

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<b>Name</b>	<b>Age</b>	<b>Experience</b>
Marshall A. Cohen	70	Mr. Cohen is Counsel at Cassels Brock & Blackwell LLP, a law firm based in Toronto, Canada. Prior to joining that firm in 1996, from 1988 to 1996, Mr. Cohen served as President and Chief Executive Officer of The Molson Companies Limited. Mr. Cohen is a director of Barrick Gold Corporation, American International Group, Inc., Lafarge North America Inc., The Toronto-Dominion Bank, Metaldyne Corp. and Collins & Aikman Corporation.
Wilbur J. Prezzano	64	Mr. Prezzano was employed with Eastman Kodak Company for over 30 years and served in various positions with such company during that time, including as Vice Chairman of Eastman Kodak Company and Chairman and President of Kodak's Greater China Region, the positions which he held at the time of his retirement in 1996. Mr. Prezzano received a bachelor's degree and Masters in Business Administration from the University of Pennsylvania. Mr. Prezzano serves as a director of The Toronto-Dominion Bank, Lance, Inc., Roper Industries, Inc., TD Banknorth Inc. and Banknorth, N.A.

***Controlled Company Exemption***

Following the completion of the acquisition of TD Waterhouse, we expect that TD Ameritrade will qualify as a controlled company, as that term is defined by Rule 4350(c) of the NASD Marketplace Rules. A controlled company is a company of which more than 50% of the voting power is held by an individual, group or another company. Immediately after the completion of Ameritrade's acquisition of TD Waterhouse, TD and the Ricketts holders will collectively own more than 50% of the voting power of the outstanding common stock of TD Ameritrade. Accordingly, we believe that TD Ameritrade will be exempt from the requirements of NASD Rule 4350(c) that would otherwise require TD Ameritrade to have:

a majority of independent directors;

a compensation committee composed solely of independent directors;

a nominating committee composed solely of independent directors;

compensation of our executive officers determined by a majority of independent directors or a compensation committee composed solely of independent directors; and

director nominees selected, or recommended for the board of directors' selection, either by a majority of the independent directors or a nominating committee composed solely of independent directors.

***Management of TD Ameritrade following the Acquisition of TD Waterhouse***

We expect that Mr. Moglia will continue to serve as Chief Executive Officer of TD Ameritrade, that J. Joe Ricketts will continue to serve as Chairman of TD Ameritrade and that W. Edmund Clark will serve as Vice Chairman of TD Ameritrade.

**Certain Material U.S. Federal Income Tax Consequences**

The following is a summary of the material U.S. federal income tax consequences of the acquisition of TD Waterhouse, including the special dividend, which are applicable to holders of Ameritrade common stock. This summary is based on the provisions of the Code, the Treasury Regulations promulgated thereunder, judicial decisions, administrative rulings and other legal authorities, all as of the date hereof

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and all of which are subject to change, possibly with retroactive effect. This summary does not address all of the U.S. federal income tax consequences that may be relevant to a holder of Ameritrade common stock, including holders who, in light of their particular circumstances, may be subject to special rules, including, without limitation, mutual funds, retirement plans, financial institutions, partnerships or other pass through entities for U.S. federal income tax purposes, tax-exempt organizations, insurance companies, dealers in securities, traders who mark to market, expatriates, stockholders who hold their Ameritrade common stock as part of a straddle, hedge or conversion transaction, corporations that accumulate earnings to avoid U.S. federal income tax, controlled foreign corporations, passive foreign investment companies and stockholders who are subject to the alternative minimum tax. This discussion assumes that stockholders hold their Ameritrade common stock as capital assets within the meaning of Section 1221 of the Code. In addition, the discussion does not address any aspect of state, local, non-U.S. or other federal taxation that may be applicable to a particular holder of Ameritrade common stock.

**EACH HOLDER OF AMERITRADE COMMON STOCK SHOULD CONSULT HIS, HER OR ITS OWN TAX ADVISORS TO DETERMINE THE UNITED STATES FEDERAL INCOME TAX CONSEQUENCES APPLICABLE TO SUCH HOLDER AS A RESULT OF THE ACQUISITION OF TD WATERHOUSE, INCLUDING THE SPECIAL DIVIDEND, AND ANY STATE, LOCAL, NON-UNITED STATES OR OTHER FEDERAL TAX CONSEQUENCES RELEVANT TO SUCH HOLDER AS A RESULT OF THE ACQUISITION OF TD WATERHOUSE, INCLUDING THE SPECIAL DIVIDEND.**

If a partnership holds Ameritrade common stock, the tax treatment of a partner will generally depend on the status of the partners and the activities of the partnership. If you are a partner of a partnership holding Ameritrade common stock, you should consult your tax advisor.

For purposes of the following discussion, a U.S. holder is a holder of Ameritrade common stock who, for U.S. federal income tax purposes, is:

a citizen or resident of the U.S.;

a corporation or other entity taxable as a corporation for U.S. federal income tax purposes, created or organized in or under the laws of the U.S. or of any state or under the laws of the District of Columbia;

an estate, the income of which is subject to federal income taxation regardless of its source; or

a trust (1) whose administration is under the primary supervision of a U.S. court and with respect to which one or more U.S. persons have the authority to control all substantial decisions of the trust or (2) has a valid election in effect under applicable U.S. Treasury Regulations to be treated as a U.S. person.

A non-U.S. holder is a person (other than a partnership) that is not a U.S. holder.

***The Acquisition of TD Waterhouse and the Sale of Ameritrade Canada***

Ameritrade's purchase of all of the capital stock of TD Waterhouse pursuant to the share purchase agreement will not result in the recognition of gain or loss by holders of Ameritrade common stock. Similarly, Ameritrade's sale of all of the capital stock of Ameritrade Canada to TD Waterhouse Canada Inc. pursuant to the Canadian purchase agreement will not result in the recognition of gain or loss by holders of Ameritrade common stock.

***The Special Dividend***

*Taxation of U.S. Holders*

A portion of the special dividend will be treated as qualified dividend income to the extent paid out of Ameritrade's current or accumulated earnings and profits, as determined under the Code, for the calendar year in which the special dividend is paid. The portion of the special dividend that will be taxable as qualified dividend income will not be determined until after December 31 of the year in which the special

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dividend is paid. Because the portion of the special dividend that will be treated as qualified dividend income is dependent on the earnings and profits of Ameritrade through the close of the calendar year in which the special dividend is paid, Ameritrade is unable to project with reasonable accuracy what portion of the special dividend will be treated as qualified dividend income. The final determination of the portion of the special dividend that will be treated as qualified dividend income will be reported to you on a tax information return in early 2007. Any portion of the special dividend in excess of each holder's pro rata share of Ameritrade's earnings and profits will be treated first as a tax-free return of capital up to each holder's basis in its shares of Ameritrade common stock, with any remainder treated as a capital gain.

A non-corporate U.S. holder of Ameritrade common stock may be eligible to be taxed at a 15% (or lower) federal income tax rate on any portion of the special dividend constituting qualified dividend income for U.S. federal income tax purposes, provided that a minimum holding period and other requirements are satisfied. The 15% (or lower) tax rate for qualified dividend income is available only if the shares of Ameritrade common stock have been held for at least 61 days during the 121-day period beginning 60 days before the ex-dividend date.

U.S. holders that are domestic corporations may generally be eligible for a dividends received deduction with respect to the portion of the special dividend constituting a dividend for U.S. federal income tax purposes, subject to certain limitations.

The portion of the special dividend that is treated as a dividend for U.S. federal income tax purposes may also be considered extraordinary depending on the facts and circumstances of the holder. Treatment of the dividend as extraordinary may affect an individual U.S. holder's characterization of the sale of its Ameritrade common stock and a corporate holder's basis in its Ameritrade common stock.

Generally, information reporting requirements will apply to the payment of the special dividend, and the payor of the special dividend will be required to collect backup withholding at a rate of 28%, unless the U.S. holder provides the payor with its correct taxpayer identification number and certifies that such holder is not subject to or is exempt from backup withholding. Certain U.S. holders, including corporations, are generally exempt from backup withholding. Backup withholding is not an additional tax and any amounts withheld under the backup withholding rules from a payment to a U.S. holder will be allowed as a credit against such holder's U.S. federal income tax liability, if any, and may entitle the holder to a refund provided that such holder furnishes the required information to the IRS in a timely manner.

*Taxation of Non-U.S. Holders*

The special dividend will generally be subject to withholding of U.S. federal income tax on a gross basis at a rate of 30% or such lower rate as may be specified by an applicable income tax treaty between the U.S. and the non-U.S. holder's country of tax residence, unless the special dividend is treated as effectively connected with the conduct by the non-U.S. holder of a U.S. trade or business. In order for a lower withholding rate to apply pursuant to an applicable income tax treaty, the non-U.S. holder must provide the payor with certification on IRS Form W-8BEN, Certificate of Foreign Status of Beneficial Owner for U.S. Tax Withholding, establishing such holder's non-U.S. status and beneficial ownership of the Ameritrade common stock and claiming a reduced rate of dividend withholding. The non-U.S. holder must generally include a U.S. taxpayer identification number on the IRS Form W-8BEN. If the special dividend is effectively connected with a U.S. trade or business, the non-U.S. holder will be exempt from withholding and will instead be subject to tax on a net basis (that is, after allowance of deductions) at graduated rates and may also be subject to an additional branch profits tax at a rate of 30% or such lower rate as may be specified by an applicable income tax treaty. In order to claim such an exemption, the non-U.S. holder must provide the payor with certification on IRS Form W-8ECI, Certificate of Foreign Person's Claim for Exemption From Withholding on Income Effectively Connected With the Conduct of a Trade or Business in the U.S.

Non-U.S. holders that are intermediaries or partnerships must provide the payor with IRS Form W-8IMY, Certificate of Foreign Intermediary, Foreign Partnership, or Certain U.S. Branches for U.S. Tax Withholding, certifying that such holder is assuming primary responsibility for withholding and

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reporting pursuant to an agreement with the Internal Revenue Service, or establishing that such holder is not the beneficial owner of the Ameritrade common stock and is using the IRS Form W-8IMY to transmit the appropriate forms of the beneficial owners.

Non-U.S. holders that provide the payor with an IRS Form W-8ECI, IRS Form W-8BEN or IRS Form W-8IMY are generally exempt from the backup withholding requirements applicable to U.S. holders. Such forms may be obtained from the payor or from [www.irs.gov](http://www.irs.gov).

Non-U.S. holders are strongly urged to consult their own tax advisors regarding their eligibility for reduced rates of withholding pursuant to an applicable income tax treaty and the certification requirements for claiming such reduced withholding rates.

### **Anticipated Accounting Treatment**

The acquisition of TD Waterhouse will be accounted for using the purchase method of accounting under Statement of Financial Accounting Standards No. 141, *Business Combinations*. Ameritrade is the acquiring entity. Under the purchase method of accounting, the aggregate cost of the acquired entity, TD Waterhouse, will be allocated to the tangible and intangible assets acquired and liabilities assumed based on their estimated fair values, with any excess being recognized as goodwill. Under Statement of Financial Accounting Standards No. 142, *Goodwill and Other Intangible Assets*, goodwill will not be amortized, but will be subject to an impairment test at least annually.

### **Regulatory Matters Related to the Acquisition of TD Waterhouse**

TD and Ameritrade are required, under the Hart-Scott-Rodino Antitrust Improvements Act of 1976, or the HSR Act, to notify and furnish required information to the Antitrust Division of the U.S. Department of Justice and to the U.S. Federal Trade Commission prior to completing the acquisition of TD Waterhouse. We and TD have made these filings and the waiting period under the HSR Act has expired.

TD and Ameritrade have furnished certain information to the NASD regarding the acquisition of TD Waterhouse in compliance with applicable requirements under NASD Membership and Registration Rules. The change of equity ownership of TD's and Ameritrade's broker-dealer subsidiaries resulting from the acquisition of TD Waterhouse requires NASD approval.

TD and Ameritrade have furnished certain information to the New York Stock Exchange regarding the acquisition of TD Waterhouse in compliance with applicable requirements under New York Stock Exchange Membership Rules. The closing of the acquisition of TD Waterhouse is subject to the furnished information being posted in the New York Stock Exchange's weekly bulletin to members. The furnished information must be posted for two consecutive weeks before the closing of the acquisition of TD Waterhouse can occur.

Under the Canadian Bank Act, TD is required to obtain the prior approval of the Canadian Minister of Finance to acquire beneficial ownership of more than 10% of the voting shares of Ameritrade, or to subsequently acquire any shares that would result in an increase in the size of its investment. TD has received the required approvals.

### **No Appraisal Rights**

Under applicable law, Ameritrade stockholders do not have the right to an appraisal of the value of their shares in connection with the acquisition of TD Waterhouse.

### **Litigation Relating to the Transaction**

In May 2005, four putative stockholder class action lawsuits were filed in the Court of Chancery of the State of Delaware against Ameritrade and the members of its board of directors. The complaints allege that the directors breached their fiduciary duties by, among other things, refusing to consider a business combination proposal from E\*TRADE. The plaintiffs bring the lawsuits on behalf of themselves and other

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stockholders of Ameritrade and seek declaratory and injunctive relief, and unspecified damages. The four cases are captioned: *Judith Friedman v. J. Joe Ricketts, et al.*; *Margaret Carroll v. Ameritrade Holding Corporation, et al.*; *Irgun Shiurai Torah v. Ameritrade Holding Corporation, et al.*; and *Mirfred Partners LLC v. J. Joe Ricketts, et al.* By order entered May 31, 2005, the cases have been consolidated under the caption *In re Ameritrade Holding Corp. Shareholders Litigation*, Consolidated Civil Action No. 1346-N (Del. Ch.). Under the order, plaintiffs are to file a consolidated amended complaint and Ameritrade and its directors are not required to respond to the original complaints. To date, the plaintiffs have not filed a consolidated amended complaint. Ameritrade and the members of its board of directors believe that the lawsuits are without merit and intend to vigorously defend against them.

**Treatment of TD Equity Awards Held by TD Waterhouse Employees**

TD has agreed to retain and continue to expense and administer all outstanding options to acquire TD common shares that TD Waterhouse employees have been granted prior to the closing. However, with respect to restricted stock units relating to TD common shares which are to be settled in cash and which were granted by TD to TD Waterhouse employees, TD has agreed to transfer the vested liability with respect to such restricted stock units, and a corresponding offsetting hedge, to Ameritrade at closing so that Ameritrade will become responsible, up to a specified amount, for the liability associated with the unvested restricted stock units. TD has agreed to continue to administer the restricted stock unit program at its own expense after the closing.

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**THE SPECIAL DIVIDEND**

Under the terms of the share purchase agreement, the Ameritrade board of directors will declare a special dividend of \$6.00 per share if sufficient funds are available for the dividend and such declaration and payment is permitted by applicable law, which will only be payable if the acquisition of TD Waterhouse is completed. The board will declare the special dividend prior to the closing date, and the special dividend will have a record date prior to the closing date of the acquisition of TD Waterhouse. It is a condition to Ameritrade's and TD's obligation to consummate the acquisition of TD Waterhouse that Ameritrade (1) has available to it sufficient funds, and is permitted under applicable law, to pay the special dividend, and (2) has duly declared the special dividend.

The dates described below are the key dates relating to the declaration and payment of the special dividend.

*Declaration date* This is the date on which Ameritrade's board of directors (1) decides that Ameritrade will pay the special dividend and (2) sets the record date and the payable date for the special dividend.

*Record date* This is the date set by Ameritrade for the purpose of determining its stockholders of record and the stock outstanding on the record date. The special dividend will be paid only on shares of Ameritrade common stock outstanding on the record date. Because shares that trade in the market after the record date and on or before the payable date include the right to receive the special dividend, the record date will not be important to you if you trade shares of Ameritrade common stock in the Nasdaq market. If you purchase shares in the market on or before the payable date (whether or not you owned the shares on the record date) and hold those shares until after the market opens on the ex-dividend date, you will receive the special dividend on those shares. The record date will be relevant with respect to stock options held by Ameritrade employees or directors. We expect that the record date for the proposed special dividend will be a date at least 10 calendar days after the declaration date and approximately 10 business days before the expected closing date of the acquisition of TD Waterhouse.

*Payable date* This is the date that Ameritrade will pay the special dividend. Please note that the actual receipt of the dividend by Ameritrade stockholders entitled to the special dividend may take several days following the payable date. We expect that the payable date for the special dividend will be the closing date of the acquisition of TD Waterhouse or the first trading day after the closing date.

*Ex-dividend date or ex-date* This is the date on and after which Ameritrade common stock trades in the Nasdaq National Market without the right to receive the special dividend. We expect that the ex-dividend date will be the first trading day after the payable date.

Because shares of Ameritrade common stock sold in the market after the record date and on or before the payable date include the right to receive the special dividend, if you purchase shares of Ameritrade common stock in the market on or before the payable date (whether or not you owned the shares on the record date) and hold those shares until after the market opens on the ex-dividend date, you will receive the special dividend on those shares.

Accordingly,

If you sell shares of Ameritrade common stock in the market before the ex-dividend date (whether or not you owned the shares on the record date), you will not be entitled to the special dividend with respect to those shares.

If you buy shares of Ameritrade common stock in the market on or after the ex-dividend date, you will not be entitled to the special dividend with respect to those shares.

Your market trade does not need to settle by the payable date in order to receive the special dividend. Rather, if you buy shares of Ameritrade common stock in the market on or before the payable date and hold those shares until after the market opens on the ex-dividend date, you will receive the special dividend on those shares.

Stock options held by Ameritrade employees or directors are not entitled to cash dividends because dividends are paid on shares of stock outstanding as of the record date. Shares of stock underlying stock options that have not been exercised are not outstanding on the record date and therefore would not be





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entitled to the proposed special dividend. However, we believe it is appropriate that holders of outstanding equity awards be treated fairly with respect to the special dividend, and in accordance with the terms of our stock plans, we will adjust equity awards under the plans, outstanding, on the ex-dividend date, to preserve the pre-dividend economic value of the awards after payment of the proposed special dividend. Ameritrade employees or directors who want to exercise their vested stock options and receive the dividend on those shares must exercise the options three trading days prior to the record date and hold the shares until after the market opens on the ex-dividend date.

Stock options held by Ameritrade employees or directors that are not exercised and are outstanding immediately before the ex-dividend date for the special dividend will be adjusted as follows:

The exercise price, if any, will be adjusted downward and the number of shares covered by equity awards will be adjusted upward pursuant to the following formulas, where Average Market Price means the volume weighted average market price of a share of Ameritrade common stock on the last trading day before the ex-dividend date for the special dividend.

The exercise price, if any, of equity awards outstanding immediately before the ex-dividend date will be adjusted downward (but not below the par value per share) to the product of:

$$\begin{array}{rcccl} \text{Pre-dividend Exercise Price} & & (\text{Average Market Price } \$6.00) & & \\ & \times & & = & \text{Post-dividend Exercise Price} \\ & & \text{Average Market Price} & & \end{array}$$

The number of shares covered by each equity award outstanding immediately before the ex-dividend date will be adjusted upward to the product of:

$$\begin{array}{rcccl} \text{Number of Shares} & & \text{Average Market Price} & & \\ \text{Pre-dividend} & \times & & = & \text{Number of Shares} \\ & & (\text{Average Market Price } \$6.00) & & \text{Post-dividend} \end{array}$$

The adjustments will apply to vested and unvested stock options. Additional options outstanding as a result of these adjustments would be vested or unvested in proportion to the number of options covered by an award that are vested or unvested immediately before the adjustment, and the additional unvested options will vest on the remaining vesting dates applicable to such award, in proportion to the number of options that would otherwise vest on each of those dates.

As of November 16, 2005, directors and executive officers of Ameritrade collectively held options (vested and unvested) to purchase 16,354,325 shares of common stock with a weighted average exercise price of \$5.98 per share.

In order to fund the special dividend, Ameritrade is permitted under the terms of the share purchase agreement to incur indebtedness for borrowed money of up to \$5.00 multiplied by the number of outstanding shares of Ameritrade common stock as of the record date for the special dividend. Ameritrade agreed to use all reasonable efforts to obtain adequate and appropriate financing facilities and other debt funding sources to provide the cash necessary to pay that portion of the special dividend not funded by other Ameritrade available excess cash or the TD capital contribution described below, in each case on terms reasonably acceptable to TD. Ameritrade further agreed to use all reasonable efforts to have such committed financing facilities and other debt funding sources available for drawdown by no later than the closing date, satisfy all conditions to such drawdown on a timely basis, and take all other corporate actions as may be necessary under applicable law to pay the special dividend.

TD agreed (1) to cause TD Waterhouse to be capitalized as of the record date for the special dividend with cash in an amount at least equal to the product of \$1.00 multiplied by the number of outstanding shares of Ameritrade common stock as of a date that is within three business days of the record date and (2) to cause TD Waterhouse to maintain that minimum cash capitalization until the closing. TD's obligation to capitalize TD Waterhouse is conditioned upon receipt of notice from Ameritrade at least 10 business days prior to the declaration of the special dividend.



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**PROPOSAL NO. 1  
THE ISSUANCE OF SHARES UNDER THE  
SHARE PURCHASE AGREEMENT**

Under the terms of the share purchase agreement, Ameritrade will acquire the U.S. retail securities brokerage business of TD Waterhouse. In connection with this acquisition, Ameritrade will issue 196,300,000 shares of Ameritrade common stock to TD, and/or one or more of TD's affiliates, in accordance with the terms of the share purchase agreement, subject to adjustment for stock dividends, stock splits or reclassifications (the Ameritrade Stock Issuance), and pay TD \$20,000 in cash in exchange for the outstanding capital stock of TD Waterhouse. Stockholders of Ameritrade are being asked to approve the issuance of Ameritrade common stock to TD in accordance with the terms of the share purchase agreement.

The affirmative vote of the holders of a majority of the shares of Ameritrade common stock present in person or represented by proxy and voting on the matter is required to approve the Ameritrade Stock Issuance. The approval of Proposal No. 1 is a condition to the completion of the acquisition of TD Waterhouse, and thus a vote against Proposal No. 1 effectively will be a vote against the acquisition of TD Waterhouse.

**The Ameritrade board of directors has unanimously approved the Ameritrade Stock Issuance. Based on Ameritrade's reasons for the acquisition of TD Waterhouse described in this proxy statement, the board of directors of Ameritrade believes that the Ameritrade Stock Issuance and the transactions contemplated by the share purchase agreement are in the best interests of Ameritrade and its stockholders and unanimously recommends that you vote *FOR* approval of the Ameritrade Stock Issuance.**

**For a more detailed description of the share purchase agreement and the transactions contemplated thereby, see the sections entitled *The Share Purchase Agreement* beginning on page 78.**

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**THE SHARE PURCHASE AGREEMENT**

The following is a summary of selected provisions of the share purchase agreement, including the effects of those provisions. While Ameritrade and TD believe this description covers the material terms of the share purchase agreement, it may not contain all of the information that is important to you and is qualified in its entirety by reference to the share purchase agreement and the amendment to it which are attached to this proxy as Appendix A-1 and Appendix A-2, respectively, and are, incorporated by reference in this proxy statement. We urge you to read the entire share purchase agreement carefully.

The description of the share purchase agreement in this proxy statement has been included to provide you with information regarding its terms. The share purchase agreement contains representations and warranties made by and to Ameritrade and TD as of specific dates. The statements embodied in those representations and warranties were made for purposes of that contract between the parties and are subject to specified exceptions and qualifications agreed to by the parties in connection with negotiating the terms of that contract. In addition, certain representations and warranties were made as of a specified date and may be subject to contractual standards of materiality different from those generally applicable to Ameritrade or TD, or may have been agreed to for the purpose of allocating risk between the parties rather than establishing matters as facts.

**Consideration to be Paid in the Transaction**

At the time that the share purchase agreement was executed, TD and Ameritrade intended that Ameritrade would purchase from TD all of the capital stock of TD Waterhouse in exchange for a fixed number of shares representing 32% of the diluted shares outstanding of Ameritrade, after giving effect to the share issuance, calculated at the time using the treasury stock method, plus \$20,000 in cash. The original share purchase agreement stated that Ameritrade would issue 193,600,000 shares. However, the calculation of such fixed number of shares omitted the dilutive effect of the adjustment to Ameritrade's outstanding equity awards, contemplated at the time of the original share purchase agreement, to preserve the pre-dividend economic value of such equity awards after the payment of the special dividend. Accordingly, on October 28, 2005, Ameritrade and TD executed an amendment to the share purchase agreement, pursuant to which the parties agreed to increase the number of shares of Ameritrade common stock to be issued to TD and its affiliates in connection with the transaction by 2,700,000 shares to 196,300,000 shares in order to correct the omission. The increase in the number of shares was based on the same calculation that was made at the time of the original share purchase agreement, adjusted only to give effect to the additional options expected to result from the adjustment to equity awards. The shares of Ameritrade common stock issued in connection with the acquisition of TD Waterhouse will represent approximately 32.6% of the outstanding voting securities of TD Ameritrade after giving effect to the acquisition of TD Waterhouse. In connection with the amendment of the share purchase agreement, Ameritrade did not request, and does not currently expect that it will request, an updated opinion from Citigroup. Citigroup has not updated its opinion in connection with the amendment to the purchase agreement to increase the number of shares of Ameritrade common stock to be issued to TD from 193,600,000 shares to 196,300,000 shares.

If, between the date of the share purchase agreement and the closing, Ameritrade pays a dividend in shares of Ameritrade common stock, subdivides, splits or combines the then-outstanding shares of Ameritrade common stock or issues additional shares of Ameritrade common stock by reclassification of such shares, then the number of shares of common stock to be issued to TD will be appropriately adjusted to provide TD the same economic effect as contemplated by the share purchase agreement prior to the relevant event.

**Closing Date Capital Adjustment**

The share purchase agreement contains a closing date capital adjustment mechanism, described below, that is designed to ensure that a specified level of tangible value will be contributed to the combined entity by both TD Waterhouse and Ameritrade upon the closing of the transaction. Pursuant to

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the closing date capital adjustment, Ameritrade may be required to pay TD additional consideration in the event the closing date net tangible book value, as defined below, of Ameritrade is below a specified level or the closing date net tangible book value of TD Waterhouse is above a specified level. Similarly, TD may be required to make capital contributions to Ameritrade in the event the closing date net tangible book value, as defined below, of TD Waterhouse is below a specified level or the closing date net tangible book value of Ameritrade is above a specified level.

Under the terms of the share purchase agreement, within 60 days after the closing date, Ameritrade is required to prepare and deliver to TD balance sheets dated as of the closing date for TD Waterhouse and the following subsidiaries of TD Waterhouse: National Investor Services Corp., TD Waterhouse Investor Services, Inc. and TD Waterhouse Capital Markets, Inc., or collectively, the business subsidiaries, on a consolidated basis (the TD Waterhouse Closing Date Balance Sheet ) and for Ameritrade and its subsidiaries on a consolidated basis (the Ameritrade Closing Date Balance Sheet ). The balance sheets will be prepared in accordance with GAAP, subject to certain exceptions specified in the share purchase agreement. The TD Waterhouse Closing Date Balance Sheet will be accompanied by a statement showing the closing date net tangible book value, and targeted closing date net tangible book value, described below, of TD Waterhouse and the business subsidiaries, in each case calculated in accordance with the terms of the share purchase agreement. The Ameritrade Closing Date Balance Sheet will be accompanied by a statement showing the closing date net tangible book value and targeted closing date net tangible book value of Ameritrade and its subsidiaries, in each case calculated in accordance with the terms of the share purchase agreement. The share purchase agreement provides mechanisms to address any disputes between TD and Ameritrade relating to those closing date balance sheets and accompanying statements.

For purposes of the closing date capital adjustment, the

closing date net tangible book value, with respect to TD Waterhouse or Ameritrade, means the amount equal to (1) total stockholders equity *minus* (2) the sum of (a) goodwill (net of accumulated amortization) and (b) other intangible assets (net of accumulated amortization and, in the case of Ameritrade, the balance of the related deferred tax liability associated with the Datek client relationship intangible asset), in each case of TD Waterhouse and the business subsidiaries (on a consolidated basis) or Ameritrade and its consolidated subsidiaries (on a consolidated basis), as applicable, as of the closing date; and

targeted closing date net tangible book value means,

(1) in the case of TD Waterhouse, an amount equal to 6% of the aggregate debits (calculated for each registered broker-dealer as of any given date on the same basis as the amount set forth in Box 4470 of the Form X-17A-5 that is completed by such entity) as of the closing date, of the business subsidiaries *plus* the product of \$1.00 and the aggregate number of shares of Ameritrade common stock outstanding as of the record date of the special dividend and (2) in the case of Ameritrade, an amount equal to 6% of the aggregate debits (calculated for each registered broker-dealer as of any given date on the same basis as the amount set forth in Box 4470 of the Form X-17A-5 that is completed by such entity), as of the closing date, of each of its subsidiaries that is a registered broker-dealer.

If TD Waterhouse's closing date net tangible book value is less than its targeted closing date net tangible book value, TD will pay to Ameritrade as a contribution to capital an amount in cash equal to the excess of TD Waterhouse's targeted closing date net tangible book value over its closing date net tangible book value, plus an amount calculated as if interest accrued on the excess amount computed at the daily effective fed funds rate as published by the Federal Reserve for the period from the closing date to but excluding the date of such payment. If TD Waterhouse's closing date net tangible book value is greater than its targeted closing date net tangible book value, Ameritrade shall pay TD an amount in cash as additional consideration equal to the excess of TD Waterhouse's closing date net tangible book value over its targeted closing date net tangible book value, plus an amount calculated as if interest accrued on the

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excess amount computed at the fed funds rate for the period from the closing date to but excluding the date of such payment.

If Ameritrade's closing date net tangible book value is less than its targeted closing date net tangible book value, Ameritrade will pay to TD an amount in cash as additional consideration calculated in accordance with the following formula:

$$C = (A/B) \times A$$

where:

- A = the excess of Ameritrade's targeted closing date net tangible book value over its closing date net tangible book value;
- B = 1 minus TD's ownership percentage in TD Ameritrade immediately following the closing, taking into account only the shares issued to TD at the closing (expressed as a decimal); and
- C = cash payment from Ameritrade to TD.

Ameritrade will also pay TD an amount as if interest accrued on the cash payment amount at the fed funds rate for the period from the closing date to but excluding the date of such payment.

If Ameritrade's closing date net tangible book value is greater than its targeted closing date net tangible book value, TD will pay to Ameritrade as a capital contribution an amount in cash calculated in accordance with the following formula:

$$C = (A/B) \times A$$

where:

- A = the excess of Ameritrade's closing date net tangible book value over its targeted closing date net tangible book value;
- B = 1 minus TD's ownership percentage in TD Ameritrade immediately following the closing, taking into account only the shares issued to TD at the closing (expressed as a decimal); and
- C = capital contribution from TD to Ameritrade.

TD will also pay Ameritrade an amount as if interest accrued on the capital contribution amount at the fed funds rate for the period from the closing date to but excluding the date of such payment.

Any amounts to be paid by Ameritrade or TD must be paid within 60 days of the final determination of those amounts.

**Closing**

Unless the parties agree otherwise, the acquisition of TD Waterhouse will close at the offices of Wilson Sonsini Goodrich & Rosati, Professional Corporation, 12 East 49th Street, New York, New York, on the third business day after the satisfaction or waiver of all closing conditions except for the conditions that, by their terms, are to be satisfied at the closing. See The Share Purchase Agreement Conditions to the Acquisition of TD Waterhouse beginning on page 95.

**Representations and Warranties**

The share purchase agreement contains representations and warranties made by TD to Ameritrade relating to a number of matters, including the following:

- corporate organization and similar matters of TD Waterhouse and the business subsidiaries;
- capital structure of TD Waterhouse and the business subsidiaries;
- ownership by TD Waterhouse of capital stock of the business subsidiaries;

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corporate authorization and validity of the share purchase agreement and the other ancillary agreements;

approval by the board of directors of TD of the share purchase agreement, the stockholders agreement, the amended and restated registration rights agreement, the trademark license agreement, the money market deposit account agreement, the services agreement and the transactions contemplated thereby;

absence of conflicts with organizational documents, laws or agreements as a result of entering into and consummating the transactions contemplated by the share purchase agreement;

required consents and filings with governmental entities;

the conformity with GAAP of TD Waterhouse's financial statements;

accuracy of information supplied by TD expressly for inclusion in this proxy statement;

the existence, validity and absence of defaults under material contracts;

the absence of certain material changes or events since October 31, 2004 or April 30, 2005, depending on the nature of the change or event;

title to real and personal property and the validity of and absence of defaults relating to leases for leased property;

ownership and validity of intellectual property rights;

possession of permits, registrations and regulatory approvals required to conduct the businesses of TD Waterhouse and the business subsidiaries and compliance by TD Waterhouse and the business subsidiaries with law;

litigation, investigations and injunctions;

tax matters;

employees and employee benefit plans;

agreements with or directives from regulatory agencies;

the absence of undisclosed liabilities;

environmental matters;

transactions with affiliates;

broker's and finder's fees related to the acquisition of TD Waterhouse;

insurance coverage;

adequacy of accounting controls;

interest rate risk management instruments; and



labor and employment matters.

The share purchase agreement also contains representations and warranties by Ameritrade to TD relating to a number of matters, including the following:

corporate or other organization and similar matters of Ameritrade and its subsidiaries;

capital structure of Ameritrade and its subsidiaries;

ownership by Ameritrade of capital stock of Ameritrade's subsidiaries;

corporate authorization and validity of the share purchase agreement and the other ancillary agreements;

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approval by the Ameritrade board of directors of the share purchase agreement, the stockholders agreement, the trademark license agreement, the money market deposit account agreement, the services agreement, the amendment and restatement of our certificate of incorporation and the amended and restated bylaws of Ameritrade as required by the share purchase agreement (the Post-Transaction Bylaws ) and the transactions contemplated thereby;

the inapplicability of certain state takeover statutes to Ameritrade, the share purchase agreement, the acquisition of TD Waterhouse or the stockholders agreement;

absence of conflicts with organizational documents, laws or agreements as a result of entering into and consummating the transactions contemplated by the share purchase agreement;

required consents and filings with governmental entities;

the conformity with U.S. GAAP and SEC requirements of Ameritrade s financial statements filed with the SEC;

proper filing of documents with the SEC and the accuracy of information contained in those documents and compliance with the Sarbanes-Oxley Act;

accuracy of information supplied by Ameritrade expressly for inclusion in this proxy statement;

the existence, validity and absence of defaults under material contracts;

the absence of certain material changes or events since the date of Ameritrade s last audited financial statements or March 25, 2005, depending on the nature of the change or event;

title to real and personal property and the validity of and absence of defaults relating to, leases for leased property;

ownership and validity of intellectual property rights;

possession of permits, registrations and regulatory approvals required to conduct the business of Ameritrade and its subsidiaries and compliance by Ameritrade and its subsidiaries with law;

litigation, investigations and injunctions;

tax matters;

employees and employee benefit plans;

the absence of agreements with or directives from regulatory agencies;

the absence of undisclosed liabilities;

environmental matters;

transactions with affiliates;

broker s and finder s fees related to the acquisition of TD Waterhouse;

the required vote to approve the acquisition of TD Waterhouse and the amendment and restatement of our certificate of incorporation;

insurance coverage;

adequacy of accounting controls;

absence of interest rate risk management instruments; and

labor and employment matters.

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Some of these representations and warranties are subject to specified exceptions and qualifications. In addition, some of these representations and warranties are qualified as to materiality or material adverse effect. For purposes of the share purchase agreement, a material adverse effect with respect to any entity, means a material adverse effect:

on the condition (financial or otherwise), properties, assets, liabilities, businesses or results of operations of such entity and its subsidiaries taken as a whole (or, in the case of TD Waterhouse, of TD Waterhouse and the business subsidiaries taken as a whole, after giving effect to the Reorganization), but does not include any such effect to the extent resulting from or attributable to:

any change after the date of the share purchase agreement in laws, rules or regulations or interpretations thereof by courts or governmental authorities, or in GAAP (or, in the case of TD Waterhouse, Canadian GAAP) or regulatory accounting principles, in any such case applicable generally to U.S. self-directed retail discount securities brokers,

any changes after the date of the share purchase agreement in general economic, monetary or securities market conditions (including changes in interest rates and market price and trading volume fluctuations),

the announcement of the transactions contemplated by the share purchase agreement,

any outbreak of major hostilities in which the U.S. is involved or any act of terrorism within the U.S. or directed against its facilities or citizens wherever located, or

any action or omission by TD, Ameritrade or any subsidiary of any of them taken with the prior written consent of the other parties to the share purchase agreement or as required by the terms of the share purchase agreement, or

on the ability of such entity (or, in the case of TD Waterhouse, on the ability of TD) to perform its obligations under the share purchase agreement or the related ancillary agreements, and to consummate the transactions contemplated by the share purchase agreement and the related ancillary agreements on a timely basis.

The representations and warranties in the share purchase agreement generally will survive for one year following the closing (other than with respect to tax matters which will survive until 30 days past the expiration of the applicable statute of limitations) at which date they will terminate; and, as described below under Effect of Termination, if the share purchase agreement is validly terminated there will be no liability under the representations and warranties of the parties (other than with respect to broker's and finder's fees related to the Ameritrade Stock Issuances), unless a party willfully breached the share purchase agreement.

### **Covenants and Agreements**

*Conduct of Business of TD Waterhouse Prior to Closing.* TD has agreed that, during the period from the date of the share purchase agreement to the closing, it will cause TD Waterhouse and each business subsidiary to (1) carry on their respective businesses in the usual, regular and ordinary course consistent with past practice and in compliance with all applicable laws and regulations, (2) pay its debts and taxes when due and pay or perform other material obligations when due and (3) use all reasonable efforts to preserve intact the present business organizations of TD Waterhouse and the business subsidiaries, maintain the rights and franchises of, and preserve the relationships with clients, suppliers and others having business dealings with, TD Waterhouse and the business subsidiaries to the end that their goodwill and ongoing businesses shall not be impaired in any material respect at the closing. TD has further agreed that, without limiting the generality of the foregoing, during the period from the date of the share purchase agreement to the closing, except as expressly contemplated or permitted by the share purchase agreement, (a) without the prior written consent of Ameritrade, (i) TD will not permit TD Waterhouse or any of the business subsidiaries to sell any of its seats on the New York Stock Exchange if such sale would result in TD Waterhouse and the business subsidiaries, collectively, not owning any seats on the New York Stock

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Exchange, and (ii) if at any time TD Waterhouse and the business subsidiaries, collectively, own only one seat on the New York Stock Exchange, TD will not permit TD Waterhouse or any of the business subsidiaries to lease such seat and (b) TD will not permit TD Waterhouse or any business subsidiary to, without the prior written consent of Ameritrade, such consent not to be unreasonably withheld, conditioned or delayed:

except as contemplated by the Reorganization, pay any dividends or other distributions on its capital stock, subject to certain exceptions relating to dividends paid by subsidiaries of TD Waterhouse to TD Waterhouse and dividends paid to TD by TD Waterhouse;

except as contemplated by the Reorganization, adjust, split, combine or reclassify any of its capital stock, or repurchase, redeem or otherwise acquire any of its capital stock or the capital stock of any business subsidiary;

issue additional shares of its capital stock, or securities convertible into its capital stock, except:  
as contemplated by the Reorganization; or

issuances by a wholly owned subsidiary of TD Waterhouse of its capital stock to TD Waterhouse;  
except as contemplated by the Reorganization, amend or propose to amend its certificate of incorporation or its bylaws or other organizational documents;

except as contemplated by the Reorganization, enter into a plan of consolidation, merger, share exchange, reorganization or complete or partial liquidation with any person (other than consolidations, mergers or reorganizations solely among wholly owned subsidiaries (other than with respect to a business subsidiary) of TD Waterhouse), or a letter of intent or agreement in principle with respect to a plan of consolidation, merger, share exchange or reorganization or adopt a plan of complete or partial liquidation;

enter into new lines of business or materially change its brokerage policies or practices;

incur or commit to any capital expenditures or any obligations or liabilities in connection therewith other than capital expenditures and related obligations or liabilities incurred or committed to in the ordinary course of business consistent with past practice;

except as contemplated by the Reorganization, make any acquisition of or investment in any other person or of assets of another person, except for:

acquisitions of securities for the account of or for sale to clients in the ordinary course of business; or

foreclosures of securities pledged by clients in the ordinary course of business and other similar acquisitions in connection with securing or collecting debts previously contracted in the ordinary course of business;

sell, lease, encumber or otherwise dispose of any of its assets (including capital stock of subsidiaries of TD Waterhouse), which are material, individually or in the aggregate, to TD Waterhouse, other than:

internal reorganizations, liquidations or consolidations involving existing subsidiaries (other than a business subsidiary) of TD Waterhouse;

as contemplated by the Reorganization;

other activities in the ordinary course of business consistent with past practice; or

in connection with the incurrence of indebtedness (to the extent described in the following bullet point);  
incur any long-term indebtedness for borrowed money or guarantee any such long-term indebtedness or issue or sell any long-term debt securities or warrants or rights to acquire any long-



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term debt securities of TD Waterhouse or any of the business subsidiaries or guarantee any long-term debt securities of others, other than:

in connection with the payment of permitted dividends under the share purchase agreement;

borrowings of any business subsidiary from TD Waterhouse or another business subsidiary;

indebtedness in the ordinary course of business consistent with past practice; or

renewals, replacements or extensions of existing indebtedness;

intentionally take any action that would, or would reasonably be expected to, result in any of the conditions to the completion of the acquisition of TD Waterhouse not to be satisfied;

make any changes in its accounting methods, practices or policies, except as required under applicable law, regulation or GAAP or Canadian GAAP, in each case as concurred with by TD's independent public accountants;

subject to some exceptions,

adopt, amend or terminate any TD Waterhouse employee benefit plan;

increase in any material manner the compensation or fringe benefits of any director, officer or employee of TD Waterhouse or the business subsidiaries or pay or grant any benefit not required by any arrangement as in effect as of June 22, 2005;

enter into or renew any agreement providing for the payment to any director or officer of TD Waterhouse or any of the business subsidiaries of compensation or benefits contingent upon the occurrence of any of the transactions contemplated by the share purchase agreement;

loan or advance any money or other property to any present or former director or officer of TD Waterhouse or any of the business subsidiaries other than pursuant to any plan or arrangement as in effect as of June 22, 2005; or

grant any equity-based compensation;

except as contemplated by the Reorganization, and subject to certain exceptions, enter into, amend, renew or terminate any material contract;

except as contemplated by the Reorganization, engage in any material transaction or incur any material obligation except in the ordinary course of business consistent with past practice;

pay or settle any obligations, including taking any action to settle or compromise any litigation, subject to certain exceptions, in each case:

relating to the share purchase agreement or the transactions contemplated by the share purchase agreement; or

that is otherwise material to TD Waterhouse and the business subsidiaries, other than, the payment or settlement, compromise or satisfaction, in the ordinary course of business consistent with past practice or in accordance with their terms, of liabilities reflected or reserved against in, or contemplated by, the TD Waterhouse financial statements delivered to Ameritrade, or incurred since April 30, 2005 in the ordinary course of business consistent with past practice;

make any material changes to its method of tax accounting (unless required by applicable law), file any material amended return or settle or compromise any material tax liability;

open any new branches, offices or facilities or relocate or close any existing offices or facilities, or file any application with any governmental authority to do any of the foregoing;

change in any material respect the pricing or terms of its client services (except in response to changes in competitive conditions or prevailing market practices);



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enter into any agreement to purchase or sell any interest in real property, grant any security interest in any real property, enter into any lease, sublease or other occupancy agreement with respect to any real property, other than in the ordinary course of business consistent with past practice or materially alter, violate or terminate any of the terms of any lease; or

agree to, or make any commitment to, take any of these restricted actions.

*Conduct of Business of Ameritrade Prior to Closing.* Ameritrade has agreed that, during the period from the date of the share purchase agreement to the closing, Ameritrade will and will cause each of its subsidiaries to (1) carry on its business in the usual, regular and ordinary course consistent with past practice and in compliance with all applicable laws and regulations, (2) pay its debts and taxes when due and pay or perform other material obligations when due and (3) use all reasonable efforts to preserve intact its present business organizations, maintain its rights and franchises and preserve its relationships with clients, suppliers and others having business dealings with them to the end that their goodwill and ongoing businesses will not be impaired in any material respect at the closing. Ameritrade has further agreed that, except as expressly contemplated or permitted by the share purchase agreement, during the period from the date of the share purchase agreement to the closing, Ameritrade will not, and will not permit any of its subsidiaries to, without the prior written consent of TD, such consent not to be unreasonably withheld, conditioned or delayed:

pay any dividends or other distributions on its capital stock, except with respect to (1) the payment of a one-time special dividend in an amount not to exceed \$6.00 per share, and (2) dividends by a wholly owned subsidiary (other than Ameritrade Canada or any of its subsidiaries) to Ameritrade;

adjust, split, combine or reclassify any of its capital stock, or subject to limited exceptions, repurchase, redeem or otherwise acquire any of its capital stock or the capital stock of any subsidiary;

issue additional shares of its capital stock, or securities convertible into its capital stock, except:

the issuance of Ameritrade common stock pursuant to the exercise of stock options outstanding on June 22, 2005;

issuances by a wholly owned subsidiary of Ameritrade of its capital stock to Ameritrade; or

the grant to employees, consultants and directors of Ameritrade, in the ordinary course of business and consistent with past practice, of options to acquire shares of Ameritrade common stock not to exceed options to purchase 750,000 shares of Ameritrade common stock in the aggregate;

use its discretion to accelerate the vesting of any stock options outstanding as of June 22, 2005 or any other rights, warrants or other grant of equity under any Ameritrade benefit plan;

amend or propose to amend its certificate of incorporation or its bylaws or other organizational documents, other than the amendments specifically contemplated by the share purchase agreement;

enter into a plan of consolidation, merger, share exchange, reorganization or complete or partial liquidation with any person (other than consolidations, mergers or reorganizations solely among wholly owned subsidiaries of Ameritrade), or a letter of intent or agreement in principle with respect to a plan of consolidation, merger, share exchange, reorganization or complete or partial liquidation;

enter into new lines of business or materially change its brokerage policies or practices;

incur or commit to any capital expenditures or any obligations or liabilities in connection therewith other than capital expenditures and related obligations or liabilities incurred or committed to in the ordinary course of business consistent with past practice;



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make any acquisition of or investment in any other person or of assets of another person, except for:  
acquisitions of securities for the account of or for sale to clients in the ordinary course of business; or

foreclosures of securities pledged by clients in the ordinary course of business and other similar acquisitions in connection with securing or collecting debts previously contracted in the ordinary course of business;  
sell, lease, encumber or otherwise dispose of any of its assets (including capital stock of subsidiaries), which are material, individually or in the aggregate, to Ameritrade, other than:  
internal reorganizations, liquidations or consolidations involving existing subsidiaries of Ameritrade;

other activities in the ordinary course of business consistent with past practice; and

in connection with the incurrence of indebtedness (to the extent described in the following bullet point);  
incur any long-term indebtedness for borrowed money or guarantee any such long-term indebtedness or issue or sell any long-term debt securities or warrants or rights to acquire any long-term debt securities of Ameritrade or any of its subsidiaries or guarantee any long-term debt securities of others, other than:  
indebtedness of any subsidiary of Ameritrade to Ameritrade or another subsidiary of Ameritrade;

borrowings in the ordinary course of business consistent with past practice;

renewals, replacements or extensions of existing indebtedness; and

indebtedness incurred for the sole purpose of funding the payment of the special dividend, in an amount not in excess of \$5.00 per outstanding share of Ameritrade common stock;  
intentionally take any action that would, or would reasonably be expected to, result in any of the conditions to the completion of the acquisition of TD Waterhouse not to be satisfied;

make any changes in its accounting methods, practices or policies, except as required under applicable law, regulation or GAAP, in each case as concurred with by Ameritrade's independent public accountants;

subject to some exceptions,  
adopt, amend or terminate any Ameritrade employee benefit plan;

increase in any material manner the compensation or fringe benefits of any director, officer or employee of Ameritrade or any of its subsidiaries or pay or grant any benefit not required by any arrangement as in effect as of June 22, 2005;

enter into or renew any agreement providing for the payment to any director or officer of Ameritrade or any of its subsidiaries of compensation or benefits contingent upon the occurrence of any of the transactions contemplated by the share purchase agreement;

loan or advance any money or other property to any present or former director or officer of Ameritrade or any of its subsidiaries other than pursuant to any plan or arrangement as in effect as of June 22, 2005; or

grant any equity-based compensation;  
subject to certain exceptions, enter into, amend, renew or terminate any material contract;

engage in any material transaction or incur any material obligation except in the ordinary course of business consistent with past practice;



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pay or settle any obligations, including taking any action to settle or compromise any litigation, in each case: relating to the share purchase agreement or the transactions contemplated by the share purchase agreement; or

that is otherwise material to Ameritrade or any of its subsidiaries, other than, the payment or settlement, compromise or satisfaction, in the ordinary course of business consistent with past practice or in accordance with their terms, of liabilities reflected or reserved against in, or contemplated by, the Ameritrade financial statements delivered to TD, or incurred since September 24, 2004 in the ordinary course of business consistent with past practice;

make any material changes to its method of tax accounting (unless required by applicable law), file any material amended return or settle or compromise any material tax liability;

open any new branches, offices or facilities or relocate or close any existing offices or facilities, or file any application with any governmental authority to do any of the foregoing;

change in any material respect the pricing or terms of its client services (except in response to changes in competitive conditions or prevailing market practices);

enter into any agreement to purchase or sell any interest in real property, grant any security interest in any real property, enter into any lease, sublease or other occupancy agreement with respect to any real property, other than in the ordinary course of business consistent with past practice or materially alter, violate or terminate any of the terms of any lease; or

agree to, or make any commitment to, take any of these restricted actions.

*Ameritrade Stockholders Meeting and Duty to Recommend.* The share purchase agreement requires Ameritrade to call and hold a special meeting of its stockholders to approve the Ameritrade Stock Issuance and the amendment and restatement of our certificate of incorporation. The Ameritrade board of directors has agreed to recommend that Ameritrade's stockholders vote in favor of approval of the Ameritrade Stock Issuance and the amendment and restatement of our certificate of incorporation, including each of the related sub-proposals, and to not publicly withdraw, modify or qualify in any manner adverse to TD such recommendation (which we refer to in this proxy statement as a change in Ameritrade recommendation), except that Ameritrade's board of directors may effect a change in Ameritrade recommendation if and only to the extent that:

Ameritrade has not materially breached its obligations to (1) promptly (but in no event more than two business days) notify TD following the receipt of any acquisition proposal, or of any inquiry which Ameritrade concludes in good faith has a reasonable possibility of leading to an acquisition proposal, advise TD of the material terms thereof (including the identity of the person making such acquisition proposal or inquiry in respect thereof), (2) keep TD apprised of any related developments and (3) furnish TD with copies of related documents as described in more detail under **No Solicitation** ;

The Ameritrade board of directors, after consultation with outside counsel and acting upon the recommendation of the special committee of the Ameritrade board of directors, determines in good faith that the failure to effect a change in Ameritrade recommendation would be inconsistent with the board's fiduciary duties under applicable law; and

Ameritrade has received, on or after June 22, 2005, an unsolicited bona fide written acquisition proposal (as described below) from a third party which its board of directors concludes in good faith constitutes a superior proposal (as described below), after

giving at least five business days' notice to TD of its intention to effect a change in Ameritrade recommendation, specifying the material terms and conditions of the superior proposal and furnishing TD a copy of the relevant proposed transaction agreement, if any, and all other material documents relating to such

superior proposal; and

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negotiating in good faith with TD during this period of not less than five business days to make such adjustments in the terms and conditions of the share purchase agreement so that the acquisition proposal ceases to be a superior proposal after giving effect to any adjustments which may be offered by TD in connection with these negotiations.

For purposes of the share purchase agreement,

an acquisition proposal means a proposal, offer or transaction (other than a proposal or offer made by TD or its affiliates) relating to, or to effect, (1) a merger, reorganization, share exchange, consolidation, business combination, recapitalization, liquidation, dissolution or similar transaction involving Ameritrade or any of its subsidiaries, other than any such merger, share exchange, consolidation or other business combination resulting in or involving (a) the purchase or other acquisition by, or the sale or issuance to, any person of securities representing (or convertible into or exchangeable for securities that would represent) less than 15% of the total voting power of Ameritrade or any of its subsidiaries or (b) the purchase or sale of assets representing less than 15% of the aggregate fair market value of the consolidated assets (including stock of Ameritrade's subsidiaries) of Ameritrade and its subsidiaries, taken as a whole or (2) any purchase or sale of assets representing 15% or more of the aggregate fair market value of the consolidated assets (including stock of Ameritrade's subsidiaries) of Ameritrade and its subsidiaries, taken as a whole, or (3) any purchase or sale (by merger or otherwise) of, or tender or exchange offer for, securities of Ameritrade that, if consummated, would result in any person beneficially owning securities representing 15% or more of the total voting power of Ameritrade or any of its significant subsidiaries (as defined in Rule 1-02 of Regulation S-X); and

a superior proposal means a bona fide written acquisition proposal which the Ameritrade board of directors (acting upon the recommendation of the special committee) concludes in good faith, after consultation with its outside financial and legal advisors, and taking into account all legal, financial, regulatory and other aspects of the proposal and the person making the proposal (including any break-up fees, expense reimbursement provisions and conditions to consummation), (1) is more favorable to the stockholders of Ameritrade, from a financial point of view, than the transactions contemplated by the share purchase agreement (taking into account the Ameritrade board of directors' good faith assessment of the prospective synergies and cost savings anticipated to be realized from and following the acquisition of TD Waterhouse and the other transactions contemplated thereby) and (2) is fully financed or reasonably capable of being fully financed and otherwise reasonably capable of being completed on the terms proposed; provided that for purposes of this definition of superior proposal, the term acquisition proposal shall have the meaning assigned to such term above, except that in the definition of acquisition proposal above, the reference to 15% in clauses (1)(b) and (2) shall be deemed to be a reference to 70%, the reference to 15% in clauses (1)(a) and (3) shall be deemed to be a reference to 40%, and to qualify as an acquisition proposal under clauses (1)(a) or (3) a transaction must involve voting securities only of Ameritrade and not of its subsidiaries or significant subsidiaries, as the case may be (other than indirectly through the acquisition of voting securities of Ameritrade) (it being understood that an acquisition proposal need only meet any of clauses (1), (2) or (3) of the definition thereof (as modified by the foregoing proviso) in order to be eligible to be determined to be a superior proposal as provided above).

*No Solicitation.* The share purchase agreement precludes Ameritrade and its subsidiaries, and requires Ameritrade to use all reasonable efforts to preclude its and its subsidiaries' respective directors, officers, employees, agents and representatives from, directly or indirectly:

initiating, soliciting or knowingly encouraging or facilitating any inquiries or the making of any proposals or offers from any person relating to, or a transaction to effect, an acquisition proposal;

having any discussions with, or providing any confidential information or data to, any person relating to an acquisition proposal, or engaging in any negotiations concerning an acquisition proposal, or knowingly facilitating any effort or attempt to make or implement an acquisition proposal;

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approving or recommending, or publicly proposing to approve or recommend, any acquisition proposal;

executing or entering into, or approving or recommending, or publicly proposing to approve or recommend, any letter of intent, agreement in principle, merger agreement, asset purchase or share exchange agreement, option agreement or other similar agreement related to any acquisition proposal;

granting any approval pursuant to Section 203(a)(1) or Section or 203(a)(3) of the Delaware General Corporation Law removing the restrictions on business combinations contained therein; or

publicly proposing or agreeing to do any of the foregoing.

However, if Ameritrade receives an unsolicited bona fide acquisition proposal prior to obtaining the required approval of the stockholders of Ameritrade of the Ameritrade Stock Issuance and the amendment and restatement of our certificate of incorporation, Ameritrade may participate in negotiations or discussions with, or provide confidential information or data to, the person making that acquisition proposal if:

Ameritrade's board of directors (acting upon the recommendation of the special committee) concludes in good faith that the acquisition proposal constitutes or is reasonably likely to result in a superior proposal;

Ameritrade's board of directors (acting upon the recommendation of the special committee), after consultation with outside counsel, determines in good faith that the failure to take those actions would be inconsistent with the board's fiduciary duties under applicable law;

prior to providing any confidential information to the person making the inquiry or proposal, Ameritrade enters into a confidentiality agreement with the person making the inquiry or proposal having terms that are no less favorable to Ameritrade than those in the confidentiality agreement between TD and Ameritrade; and

Ameritrade provides TD with a copy of any confidential information or data provided to such person making the inquiry or proposal to the extent not previously provided or made available to TD.

Ameritrade has agreed to, and to cause its subsidiaries to, and will use all reasonable efforts to cause its and their respective directors, officers, employees, agents and representatives to, immediately cease, from and after June 22, 2005, and cause to be terminated, any activities, discussions or negotiations with any persons other than TD with respect to any acquisition proposal and to use all reasonable efforts to enforce any standstill, confidentiality or similar agreement relating to any acquisition proposal, including by requiring other parties to promptly return or destroy any confidential information previously furnished and by using all reasonable efforts if reasonably requested by TD to seek injunctions or other equitable remedies to prevent or restrain any breaches of such agreements and to enforce specifically the terms and provisions of such agreements in a court of competent jurisdiction.

Ameritrade has also agreed to promptly (but in no event more than two business days) following the receipt of any acquisition proposal, or of any inquiry which Ameritrade concludes in good faith has a reasonable probability of leading to an acquisition proposal, advise TD of the material terms of the proposal, including the identity of the person making the proposal, keep TD apprised of any related developments, discussions and negotiations on a current basis (and, in any event, within 48 hours of such developments, discussions or negotiations), and furnish TD with a copy of any proposed transaction agreements and related documents with or from the person making such acquisition proposal or inquiry in respect thereof promptly after the receipt by Ameritrade of such agreements. Ameritrade has further agreed to provide TD with at least 48 hours prior notice (or such lesser prior notice as is provided to the Ameritrade board of directors) of any meeting of the Ameritrade board of directors at which meeting the board of directors is reasonably expected to consider an acquisition proposal.



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*All Reasonable Efforts Covenant.* Ameritrade and TD have agreed to use all reasonable efforts to take, or cause to be taken all actions necessary, to comply with all legal requirements with respect to the transactions contemplated by the share purchase agreement as promptly as practicable and to obtain (and to cooperate with the other party to obtain) any governmental or third-party approvals required in connection with the acquisition of TD Waterhouse and the other transactions contemplated by the share purchase agreement. However, except as described in the following paragraph, neither Ameritrade nor TD is required to dispose or hold separate any material assets or categories of assets of Ameritrade or TD Waterhouse, accept the imposition of any material limitation or restriction on the ability of Ameritrade or TD Waterhouse to freely conduct their business or own such assets, hold separate any of the shares of TD Waterhouse common stock or accept any limitation on the ability of Ameritrade to exercise full rights of ownership of the shares of TD Waterhouse common stock.

In the event that the Commissioner of Competition (Canada) applies, threatens in writing to apply, or advises TD or Ameritrade that it proposes to apply to the Competition Tribunal (Canada) for an order (including an injunction) with respect to the transactions contemplated in the share purchase agreement, TD and Ameritrade have agreed to negotiate in good faith with each other, and confer with the Commissioner of Competition (Canada) to arrange for the consummation of the transactions contemplated by the share purchase agreement subject to the holding separate of Ameritrade Canada by the parties following the closing (and prior to consummation of the transactions contemplated by the Canadian purchase agreement). If the parties are unable to reach agreement with the Commissioner of Competition (Canada) regarding such a hold separate transaction, then Ameritrade has agreed to dispose of Ameritrade Canada prior to the closing on commercially reasonable terms.

*Employee Benefit Plans.* Ameritrade and TD have agreed that, during the period prior to the closing, they will cooperate to ensure the continuity of their workforces and that in particular TD Waterhouse will not terminate, prior to the closing, any of its employees for any reason other than unsatisfactory performance or misconduct. In addition, Ameritrade and TD have agreed that during a specified transition period beginning on the closing (and ending on the later of the first anniversary of the closing or the date thirty days after the clearing conversion of all TD Waterhouse client accounts), Ameritrade will provide each former TD Waterhouse employee retained by Ameritrade through the transition period or any portion thereof with (1) base salary or wage and commission levels and bonus compensation at least equal to that provided by TD Waterhouse prior to the closing, and (2) other employee benefits, including defined contribution pension benefits and equity based compensation, that are no less favorable in the aggregate than such benefits provided by Ameritrade after the closing to similarly situated Ameritrade employees.

Ameritrade has further agreed to assume all liabilities and obligations under certain termination protection agreements entered into between TD, TD Waterhouse and certain key TD Waterhouse employees which provide for severance and additional benefits in the event such employees are terminated after the closing. TD Waterhouse has agreed to terminate, prior to the closing, its formal severance plan and Ameritrade has agreed to adopt and maintain, for the transition period, a severance plan or arrangement, which will provide levels of severance or termination pay and other termination benefits, that are no less favorable than that provided by TD Waterhouse prior to the closing. In addition, during the transition period, any former TD Waterhouse employee that is terminated will be entitled to a pro-rata portion of any applicable TD Waterhouse quarterly or annual bonus then in effect.

We expect that Mr. Moglia will continue to serve as Chief Executive Officer of TD Ameritrade, that J. Joe Ricketts will continue to serve as Chairman of TD Ameritrade and that W. Edmund Clark will serve as Vice Chairman of TD Ameritrade. Ameritrade is currently negotiating a new employment agreement with Mr. Moglia with respect to his continued employment. In addition, Ameritrade may negotiate and enter into, prior to the closing, and after consultation with TD, new or amended employment agreements with other executive officers.

Ameritrade has also agreed to give each former TD Waterhouse employee full credit for service with TD and TD Waterhouse for purposes of eligibility, vesting, benefit entitlement and accrual under the employee benefit plans of Ameritrade after the closing. Ameritrade has also agreed to (1) waive all pre-

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existing conditions, exclusions and waiting periods with respect to participation and coverage requirements under any welfare benefit plan maintained by Ameritrade after the closing, to the extent such former TD Waterhouse employees were not subject to such pre-existing condition, exclusion and waiting period under the comparable TD or TD Waterhouse benefit plan, and (2) provide each former TD Waterhouse employee with credit for any co-payments and deductibles paid prior to the closing in satisfying any applicable deductible or out-of-pocket requirements under any welfare plans that such former TD Waterhouse employees are eligible to participate in after the closing. Ameritrade and TD have agreed to take all actions which are deemed necessary prior to the closing to adopt amendments to each of their respective health care plans to provide that terminated employees who are receiving payments under a severance arrangement sponsored by Ameritrade or TD Waterhouse shall remain eligible for health care benefits during the payment period of such severance benefits.

TD has agreed to retain and continue to expense and administer all outstanding options to acquire TD stock that TD Waterhouse employees have been granted prior to the closing. However, with respect to restricted stock units which are to be settled in cash and which were granted by TD and TD Waterhouse to TD Waterhouse employees, TD has agreed to transfer the vested liability with respect to such restricted stock units, and a corresponding offsetting hedge, to Ameritrade at closing so that Ameritrade will become responsible, up to a specified amount, for the liability associated with the unvested restricted stock units. TD has agreed to continue to administer the restricted stock unit program at its own expense after the closing.

Ameritrade may take such actions as it deems necessary to adjust all outstanding Ameritrade equity compensation awards held by any Ameritrade employee or director in order to ensure that all such equity awards maintain their intrinsic value, as determined prior to the payment of the special dividend, to account for the payment of such special dividend.

All then-active TD Waterhouse employees will be fully vested in their account balances under the TD Waterhouse 401(k)/profit sharing plan as of the closing date. In the event that the TD Waterhouse 401(k)/profit sharing plan is terminated or merged into the Ameritrade 401(k) plan, all former TD Waterhouse employees will be eligible to participate in the Ameritrade 401(k) plan on the first entry date after having satisfied the eligibility requirements under the Ameritrade 401(k) plan.

Ameritrade has also agreed to pay to TD \$300,000 in exchange for TD retaining all liability and responsibility for the administration and provision of retiree medical benefits to any former TD Waterhouse employee who may be entitled to these benefits.

TD has agreed to be responsible for all costs, liabilities and expenses with respect to employee and employee benefits costs of TD Waterhouse employees who work at TD Waterhouse's Canadian call center. However, Ameritrade has agreed to reimburse TD for any costs incurred by TD resulting from the termination pay, severance pay or the employer portion of any payments required for continuation of health benefit coverage to any such terminated Canadian call center employee during the specified transition period after the closing.

*Intercompany Matters.* TD has agreed to take such action as is necessary to ensure that, subject to certain exceptions, any arrangements, or transactions between TD or any of its subsidiaries (other than TD Waterhouse and the business subsidiaries), on the one hand, and TD Waterhouse and the business subsidiaries, on the other hand, may be terminated by Ameritrade upon the closing on not more than 30 days' notice and without the payment of any financial penalty or fee or obligation of further reimbursement.

*Financing and Other Actions for Special Dividend.* Ameritrade has agreed to use all reasonable efforts to arrange for adequate and appropriate financing facilities and other debt funding sources to provide the cash necessary to pay that portion of the special dividend not funded by other Ameritrade available excess cash or by TD's contribution of cash in an amount at least equal to the product of \$1.00 multiplied by the number of outstanding shares of Ameritrade common stock, in each case on terms reasonably acceptable to TD. Ameritrade will use all reasonable efforts to (1) have such committed

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financing facilities and other debt funding sources available for drawdown by no later than the closing date, (2) satisfy all conditions to such drawdown on a timely basis, and (3) take all other corporate actions as may be necessary under applicable law to pay the special dividend. Prior to the closing date, the Ameritrade board of directors will declare the special dividend if sufficient funds are available and such declaration and payment is permitted by applicable law.

*Fees and Expenses.* Except as otherwise expressly provided in the share purchase agreement, Ameritrade and TD have agreed that all costs and expenses incurred in connection with the share purchase agreement and the transaction contemplated by the share purchase agreement shall be paid by the party incurring such expense.

*Notification of Certain Matters.* Ameritrade and TD have each agreed to give prompt notice to the other of any representation or warranty made by it in the share purchase agreement becoming untrue or inaccurate, or any failure to comply with or satisfy in any material respect any covenant, condition or agreement to be complied with or satisfied by it under the share purchase agreement, in each case where the respective party could not satisfy the closing conditions with respect to representations and warranties or performance of obligations.

*Governance of Ameritrade.* Ameritrade has agreed, subject to receipt of the required vote of the stockholders of Ameritrade, to take all action necessary to (1) cause the amended and restated certificate of incorporation of Ameritrade to be duly executed, acknowledged and filed with the Secretary of State of the State of Delaware effective as of the closing, (2) cause the persons designated in accordance with the stockholders agreement to constitute the full board of directors of Ameritrade as of the closing and to be assigned to the applicable class of directors in the manner provided in the stockholders agreement (see *Certain Agreements Related to the Acquisition of TD Waterhouse Stockholders Agreement* beginning on page 101), (3) cause J. Joe Ricketts to be appointed as Chairman, and W. Edmund Clark to be appointed as Vice Chairman, of the Ameritrade board of directors, provided that such individuals are designated as directors in accordance with clause (2), (4) cause Joseph H. Moglia to continue as Chief Executive Officer of Ameritrade, provided that Mr. Moglia has not previously terminated his employment with Ameritrade and (5) cause the bylaws of Ameritrade as of the closing to be amended and restated in the form of the Post-Transaction Bylaws.

*Reorganization.* TD shall use all reasonable efforts to complete the Reorganization prior to or concurrent with the effective time of the closing. TD agreed to prepare and deliver to Ameritrade by September 20, 2005 a written reorganization report setting forth TD's calculation, as of the effective date (or dates) of the Reorganization, of (x) the fair market value of TD Waterhouse Bank, N.A., or TD Waterhouse Bank, CTUSA, Inc., TD Waterhouse Canadian Call Center Inc., TD Waterhouse U.S. Holding Company, Inc., TD Waterhouse Sub Limited, TD Waterhouse Investor Services (Hong Kong) Inc., TD Waterhouse Canada Inc., 1489299 Ontario Limited, BondDesk Canada ULC, Drewmark, Inc., R. J. Thompson Holdings, Inc., InfoComp International, Inc. and TD Waterhouse European Acquisition Corporation, collectively, the excluded subsidiaries, and any other assets transferred to TD, (y) TD Waterhouse's basis in the excluded subsidiaries and the other assets transferred to TD, and (z) an estimate of the anticipated tax liability (including withholding taxes) attributable to the Reorganization. TD has engaged KPMG LLP to prepare a valuation of the excluded subsidiaries and the other assets transferred to TD and has agreed that the tax calculations contained in the reorganization report shall be based upon, and consistent with in all respects, the information contained in such valuation.

*Completion of Ameritrade Canada Transaction.* In the event the Canadian purchase agreement is terminated prior to the consummation of the sale of Ameritrade Canada to TD, then within one year of the closing date of the Ameritrade Stock Issuance, Ameritrade has agreed to use best efforts to dispose of Ameritrade Canada to a person that is not an affiliate of Ameritrade.

*Tax Matters.* TD and Ameritrade have agreed to reasonably cooperate in preparing and filing all returns of TD Waterhouse and the business subsidiaries for all taxable periods ending on or before, or which include periods prior to, the closing date, including maintaining and making available to each other all records necessary in connection with taxes relating to TD Waterhouse and the business subsidiaries and

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in resolving all disputes and audits with respect to taxes relating to TD Waterhouse and the business subsidiaries.

*Sweep Account Services.* Within 60 days after the date of the share purchase agreement, TD has agreed to submit to the NYSE and the NASD for their review the money market deposit account agreement with respect to the TD Waterhouse FDIC-insured sweep product to be provided following the closing.

*No Solicitations by TD.* Provided that Ameritrade has not effected a change in Ameritrade's recommendation, TD and its affiliates have agreed not to solicit or engage in (other than with Ameritrade) any discussions, and will immediately cease any activities, discussions or negotiations with any persons other than Ameritrade, regarding a possible sale of TD Waterhouse and the business subsidiaries or other type of similar transaction, business combination, recapitalization, liquidation, dissolution or similar transaction involving TD Waterhouse or any of the business subsidiaries.

*TD Waterhouse 2004 Audited Financials.* TD has agreed to use all reasonable efforts to cause to be prepared and delivered to Ameritrade, as promptly as practicable and in no event later than the 60th day following the date of the share purchase agreement, the audited consolidated balance sheet, statement of income, statement of retained earnings and statement of cash flows for TD Waterhouse as of October 31, 2004.

*Outsourcing Agreement; Website Matters.* TD and Ameritrade have agreed to commence good faith negotiations, promptly following the date of the share purchase agreement, regarding (1) the terms of a formal outsourcing arrangement to be entered into by TD Waterhouse Investor Services, Inc. and TD Waterhouse Bank, N.A. pursuant to which, as of the closing date or a later date agreed to by TD and Ameritrade, TD Waterhouse Investor Services, Inc. will outsource, and TD Waterhouse Bank, N.A. will perform, various banking services, (2) the re-direction of Internet traffic from the TD address <tdwaterhouse.com> to either the address <tdameritrade.com> or another Internet address chosen by Ameritrade and (3) TD's phase-out of its <tdwaterhouse.com> address, in each case to be effective as of the closing date or as promptly thereafter as practicable.

*Canadian Call Center.* TD has agreed, during the period from the date of the share purchase agreement and continuing until 30 days after the closing, to (1) give Ameritrade and TD Waterhouse access to TD Waterhouse's Canadian Call Center and (2) cause the Canadian Call Center to carry on its business, and provide services, support and information to TD Waterhouse and the business subsidiaries, in substantially the same manner as conducted prior to the date of the share purchase agreement.

*Ameritrade Bank.* Ameritrade has agreed to withdraw or not file, as applicable, any applications for permits or approvals relating to the formation of Ameritrade Bank and shall not take any action to qualify Ameritrade Bank or any other affiliate of Ameritrade as an insured depository institution.

*Available Capital.* As of the record date with respect to the special dividend, TD will effectively fund \$1.00 per share of the special dividend, by means of its agreement to cause TD Waterhouse to be capitalized with cash in an amount at least equal to the product of \$1.00 and the aggregate number of shares of Ameritrade common stock outstanding as of a date that is within three business days of such record date, based on information provided to TD by Ameritrade and shall cause TD Waterhouse to maintain such cash capitalization until the closing.

*Indemnification of Directors and Officers.* From and after the closing, TD has agreed to indemnify, defend and hold harmless current and former officers, directors or employees of TD Waterhouse or any of the business subsidiaries against all losses that are paid in settlement of or in connection with any claim, action or investigation to the extent arising out of the fact that such person is or was a director, officer or employee of TD Waterhouse or any business subsidiary, pertaining to any matter existing or occurring at or prior to the closing and whether asserted or claimed prior to, or at or after, the closing, in each case to the full extent that TD Waterhouse or such business subsidiary would have been permitted under applicable law and its constituent documents to indemnify such person.

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*Certain Other Covenants.* The share purchase agreement contains additional covenants, including covenants relating to the filing of this proxy statement, cooperation regarding filings and proceedings with governmental and other agencies and organizations and obtaining required consents and the sharing of information regarding Ameritrade's and TD's businesses.

**Conditions to the Acquisition of TD Waterhouse**

*Conditions to Each Party's Obligations.* The respective obligations of each of Ameritrade and TD to consummate the acquisition of TD Waterhouse are subject to the satisfaction or waiver on or prior to the closing date of the following conditions:

receipt of the required approval of the Ameritrade stockholders of the Ameritrade Stock Issuance and the amendment and restatement of our certificate of incorporation (including each of the related sub-proposals);

the receipt and continued effectiveness of required regulatory approvals (as described under "The Transaction Regulatory Matters Related to the Acquisition of TD Waterhouse" beginning on page 73);

the absence of any injunction or other legal restraint or prohibition against the acquisition of TD Waterhouse or the consummation of the other transactions contemplated by the share purchase agreement;

the completion of the Reorganization; and

Ameritrade shall have available to it sufficient funds, the ability, under applicable law, to pay the special dividend, and the special dividend shall have been duly declared.

*Conditions to Obligation of Ameritrade.* The obligation of Ameritrade to consummate the acquisition of TD Waterhouse is subject to the satisfaction or waiver on or prior to the closing date of the following conditions:

the representations and warranties of TD being true and correct as of the date of the share purchase agreement and as of the closing date (except that certain representations and warranties will be read without materiality or material adverse effect qualifications), other than, in most cases, those failures to be true and correct that would not result or reasonably be expected to result, individually or in the aggregate, in a material adverse effect on TD Waterhouse;

performance in all material respects by TD of the obligations required to be performed by it at or prior to the closing date;

each of the stockholders agreement, the trademark license agreement, the services agreement and the money market deposit account agreement being in full force and effect (or becoming in full force and effect as of the closing) and the representations and warranties of TD in each such agreement being true and correct in all material respects and TD having performed in all material respects all obligations required to be performed by it thereunder, if any, at or prior to the closing date; and

receipt of a copy of the resolution or resolutions duly adopted by the board of directors (or a duly authorized committee thereof) of TD authorizing the execution, delivery and performance by TD of the share purchase agreement.

*Conditions to Obligation of TD.* The obligation of TD to consummate the acquisition of TD Waterhouse is subject to the satisfaction or waiver on or prior to the closing date of the following conditions:

the representations and warranties of Ameritrade being true and correct as of the date of the share purchase agreement and as of the closing date (except that certain representations and warranties will be read without materiality or material adverse effect qualifications), other than, in most cases,

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those failures to be true and correct that would not result or reasonably be expected to result, individually or in the aggregate, in a material adverse effect on Ameritrade;

performance in all material respects by Ameritrade of the obligations required to be performed by it at or prior to the closing date;

each of the stockholders agreement, the amended and restated registration rights agreement, the trademark license agreement, the services agreement and the money market deposit account agreement being in full force and effect (or will become in full force and effect as of the closing) and the representations and warranties of Ameritrade in each such agreement being true and correct in all material respects and Ameritrade having performed in all material respects all obligations required to be performed by it thereunder, if any, at or prior to the closing date;

all necessary actions having been taken, including the execution, acknowledgement and filing of the amended and restated certificate of incorporation with the Secretary of State of the State of Delaware, such that, as of the closing, (1) the Post-Transaction Bylaws and the amended and restated certificate of incorporation are in effect as the duly adopted bylaws and certificate of incorporation of Ameritrade, and (2) the Ameritrade board of directors shall be constituted in accordance with the terms of the stockholders agreement; and

receipt of a copy of the resolution or resolutions duly adopted by the board of directors (or a duly authorized committee thereof) of Ameritrade authorizing the execution, delivery and performance by Ameritrade of the share purchase agreement.

**Termination**

The share purchase agreement may be terminated at any time prior to the closing, by action taken or authorized by the board of directors of the terminating party or parties, whether before or after approval of the issuance of Ameritrade common stock to TD in accordance with the terms of the share purchase agreement and the amendment and restatement of our certificate of incorporation, including all related sub-proposals, by the Ameritrade stockholders, in any of the following ways:

by mutual written consent of Ameritrade and TD;

by either Ameritrade or TD if:

any governmental entity which must grant a required regulatory approval required to complete the Share Purchase has denied such approval and this denial has become final and nonappealable or a governmental entity has issued a final nonappealable order prohibiting the consummation of the transactions contemplated by the share purchase agreement;

the closing has not occurred on or before March 31, 2006, except that (1) neither TD nor Ameritrade may terminate the share purchase agreement for this reason if its breach of any obligation under the share purchase agreement has resulted in the failure of the closing to occur by that date, and (2) TD may not terminate the share purchase agreement for this reason if as of March 31, 2006 the Reorganization has not been completed but all of the other closing conditions have been satisfied or waived on or prior to such date;

there is a breach by the other party of the share purchase agreement which would prevent satisfaction of a closing condition and the breach cannot be cured prior to the closing or is not cured prior to 30 days after receipt of written notice of the breach, but neither Ameritrade nor TD may terminate the share purchase agreement for this reason if it itself is then in material breach of the share purchase agreement; or

the stockholders of Ameritrade fail to give the necessary approval of the issuance of Ameritrade common stock to TD in accordance with the terms of the share purchase agreement and the amendment and restatement of our certificate of incorporation, including each of the related sub-proposals, at the Ameritrade special meeting;



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by TD, if Ameritrade shall have breached its obligations in any material respect with respect to calling and giving notice of, and using all reasonable efforts to convene and hold, the Ameritrade stockholders meeting, and shall not have cured such breach within five business days following written notice from TD of the breach; and

by TD, if any of the following events occurs, each a Triggering Event:

Ameritrade's board of directors, or any committee thereof, has publicly withdrawn, modified or qualified in any manner adverse to TD its recommendation of the issuance of Ameritrade common stock to TD in accordance with the terms of the share purchase agreement and the amendment and restatement of our certificate of incorporation, or any of the related sub-proposals, or has duly adopted a resolution to do so;

Ameritrade's board of directors fails to make or reaffirm (publicly, if so requested) its recommendation in favor of the issuance of Ameritrade common stock to TD in accordance with the terms of the share purchase agreement and the amendment and restatement of our certificate of incorporation, including each of the related sub-proposals, within five business days after TD requests in writing that such recommendation be made or reaffirmed (except that the five business day time period may be extended if a third party has made an acquisition proposal with respect to Ameritrade);

Ameritrade's board of directors or any committee thereof approves or publicly recommends any acquisition proposal;

Ameritrade executes any agreement or contract accepting any acquisition proposal; or

a third party commences a tender or exchange offer relating to securities of Ameritrade and Ameritrade does not inform its security holders within ten business days after such commencement that the Ameritrade board of directors unconditionally recommends rejection of such tender or exchange offer.

**Effect of Termination**

If the share purchase agreement is validly terminated, the agreement will become void without any liability on the part of any of the parties unless a party is in willful breach of the share purchase agreement. However, the provisions of the share purchase agreement relating to broker's and finder's fees, the payment of fees and expenses (including the termination fee and transaction expense reimbursement provisions discussed below) and the confidentiality obligations of the parties will continue in effect notwithstanding termination of the share purchase agreement.

A termination fee of \$97 million will be paid by Ameritrade to TD as follows:

if TD terminates the share purchase agreement because a Triggering Event has occurred, then Ameritrade will pay TD the termination fee of \$97 million on the second business day following such termination; or

if:

either party terminates the share purchase agreement because the stockholders of Ameritrade reject the Ameritrade Stock Issuance or the amendment and restatement of the certificate of incorporation (including any sub-proposal relating to the amendment and restatement of the certificate of incorporation) at the Ameritrade special meeting; or

TD terminates the share purchase agreement because Ameritrade has breached its obligations in any material respect with respect to calling and giving notice of, and using all reasonable efforts to convene and hold, the Ameritrade stockholders meeting, and has not cured such breach within five business days following written notice of such breach from TD specifying in reasonable detail the nature of such breach; and



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in either such case

an acquisition proposal with respect to Ameritrade has been publicly announced or otherwise communicated or disclosed to the Ameritrade board of directors or one or more of the executive officers of Ameritrade (or any person has publicly announced or otherwise so communicated, disclosed or reiterated an intention, whether or not conditional, to make an acquisition proposal) at any time prior to the date of Ameritrade's stockholders meeting;

then Ameritrade shall reimburse TD for its documented out-of-pocket transaction expenses, not to exceed \$7,500,000, on or before the second business day following such termination, and if within 12 months after such termination Ameritrade or any of its subsidiaries enters into a definitive agreement with respect to, or consummates, an Acquisition (as defined below), then Ameritrade shall pay the termination fee of \$97 million, less the transaction expenses previously paid, on the date of such execution or consummation.

For the purposes of the preceding paragraph only, the term Acquisition, with respect to Ameritrade, shall mean any of the following transactions (other than the transactions contemplated by the share purchase agreement): (1) a merger, reorganization, share exchange, consolidation, business combination, recapitalization or similar transaction involving Ameritrade or any of its subsidiaries in which the holders of Ameritrade common stock immediately preceding such transaction hold less than 65% of the aggregate outstanding voting power or equity interests in (A) the surviving or resulting entity of such transaction and (B) the ultimate parent thereof (if any), (2) a sale or other disposition by Ameritrade of assets representing in excess of 35% of the aggregate fair market value of Ameritrade's consolidated assets (including stock of its subsidiaries) immediately prior to such sale, or (3) the acquisition by any person (including by way of a tender offer or an exchange offer or issuance of securities by Ameritrade to such person), directly or indirectly, of beneficial ownership or a right to acquire beneficial ownership of Ameritrade's securities as a result of which such person beneficially owns, or has the right to acquire, (x) 35% or more of the total voting power or equity interests of Ameritrade (excluding any such voting power or equity interests which such person, or any other person forming a group with such first person, beneficially owned as of June 22, 2005) or (y) 50% or more of the total voting power or equity interests of Ameritrade (without the exclusion referred to in clause (x) above).

**Indemnification**

From and after the closing date, TD has agreed to indemnify Ameritrade for all costs, damages, expenses, taxes or penalties, and reasonable attorney's fees, arising out of or in connection with, resulting from or caused by, among other things: (1) the Reorganization; (2) the excluded subsidiaries (including any actions taken by, or the operations of the business of, or taxes of, any excluded subsidiary); (3) any breach of any of the representations and warranties made by TD to Ameritrade in the share purchase agreement or in any certificate or other writing delivered by TD to Ameritrade pursuant to the share purchase agreement; (4) any breach by TD of any covenant or agreement of TD contained in the share purchase agreement; (5) any pre-closing taxes of TD Waterhouse and (6) other specified matters.

From and after the closing date, Ameritrade has agreed to indemnify TD for all costs, damages, expenses, taxes or penalties, and reasonable attorney's fees, arising out of or in connection with, resulting from or caused by: (1) any breach of any of the representations and warranties made by Ameritrade to TD in the share purchase agreement or in any certificate or other writing delivered by Ameritrade to TD pursuant thereto; (2) any breach by Ameritrade of any covenant or agreement of Ameritrade contained in the share purchase agreement; and (3) any pre-closing taxes of Ameritrade.

Neither Ameritrade nor TD will be liable for any claim for indemnification with respect to any breach of any representation or warranty, unless and until the aggregate amount of indemnifiable losses (taking into account only claims in excess of \$100,000) which may be recovered exceeds \$24,000,000, whereupon the indemnifying party shall be obligated to pay in full all amounts but only to the extent such aggregate damages are in excess of \$15,000,000. Neither Ameritrade nor TD shall be entitled to indemnification with respect to any breach of any representation or warranty for aggregate damages in excess of \$600,000,000. The indemnification provided in the share purchase agreement is generally the exclusive post-closing

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remedy available to any party thereto with respect to any breach of any representation, warranty, covenant or agreement in the share purchase agreement, or otherwise in respect of the transactions contemplated by the share purchase agreement, other than for fraud or intentional breach.

**Amendments, Extension and Waivers**

Any provision of the share purchase agreement may be amended, extended or waived before the closing by a written instrument signed, in the case of an amendment, by each party to the share purchase agreement or, in the case of an extension or waiver, by each party against whom the extension or waiver is to be effective, but after the required approval of the Ameritrade stockholders has been obtained, no amendment may be made that requires the further approval of the stockholders of Ameritrade unless that further approval is obtained.

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**CERTAIN AGREEMENTS RELATED TO THE ACQUISITION OF TD WATERHOUSE**

The following is a summary of selected provisions of the voting agreement, the stockholders agreement, the amended and restated registration rights agreement, the Canadian purchase agreement, the trademark license agreement, the services agreement and the money market deposit account agreement, which Ameritrade has entered or will enter into in connection with the acquisition of TD Waterhouse. While Ameritrade and TD believe this summary covers the material terms of the agreements, it may not contain all of the information that is important to you. The summaries of the voting agreement and the stockholders agreement are qualified in their entirety by reference to those agreements, copies of which are included as Appendices E and F to this proxy statement. We have also filed copies of the amended and restated registration rights agreement, the Canadian purchase agreement and the trademark license agreement as exhibits to a current report on Form 8-K that we filed on September 12, 2005. You should read those agreements because they, and not this proxy statement, are the legal documents that govern the matters described in this section and they will give you a more complete understanding.

**Voting Agreement**

Concurrently with entering into the share purchase agreement, the Ricketts holders, the TA holders and the SLP holders, TD and Ameritrade (solely for purposes of certain sections contained therein) entered into the voting agreement, pursuant to which, among other things, the parties to the voting agreement who are stockholders of Ameritrade agreed, solely in their capacity as stockholders, to vote all of their shares of Ameritrade common stock in favor of the issuance of Ameritrade common stock to TD in accordance with the terms of the share purchase agreement, the amendment and restatement of our certificate of incorporation, including each of the related sub-proposals, and the election of directors designated in accordance with the share purchase agreement and against competing proposals or other actions that would impede the acquisition of TD Waterhouse, unless Ameritrade has effected a change in recommendation with respect to the proposed acquisition of TD Waterhouse as permitted under the share purchase agreement.

The parties to the voting agreement who are stockholders of Ameritrade (other than the Ricketts Grandchildren Trust) have granted specified officers of TD irrevocable proxies to vote or execute written consents with respect to all of the shares of Ameritrade common stock owned by such parties to the voting agreement, in the event that such parties do not vote their shares as required by the voting agreement including additional shares of Ameritrade common stock subsequently acquired by the parties to the voting agreement, unless Ameritrade has effected a change in recommendation with respect to the proposed acquisition of TD Waterhouse as permitted under the share purchase agreement. The proxy is exercisable only in the event that such parties do not vote their shares as required by the voting agreement.

The parties to the voting agreement who are stockholders of Ameritrade have agreed, subject to certain exceptions, they will not:

initiate, solicit or knowingly encourage or facilitate any inquiries or the making of any proposals or offers from any person relating to, or to effect, an acquisition proposal;

participate in any discussions with, or provide any confidential information or data to, any person relating to an acquisition proposal, or engage in any negotiations concerning an acquisition proposal, or knowingly facilitate any effort or attempt to make or implement an acquisition proposal;

approve or recommend, or publicly propose to approve or recommend, any acquisition proposal;

execute or enter into, or approve or recommend, or publicly propose to approve or recommend, any letter of intent, agreement in principle, merger agreement, asset purchase or share exchange agreement, option agreement or other similar agreement related to any acquisition proposal; or

publicly propose or agree to do any of the foregoing.



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In addition, the parties to the voting agreement who are stockholders of Ameritrade have agreed they will not:

agree to release, or release, any person from any obligation under any existing standstill agreement or arrangement relating to Ameritrade; or

unless Ameritrade has effected a change in recommendation with respect to the acquisition of TD Waterhouse as permitted under the share purchase agreement, participate in a solicitation of proxies or powers of attorney or similar rights to vote, or seek to advise or influence any person with respect to the voting of any shares of Ameritrade common stock in connection with any vote or other action on any matter, other than to recommend that Ameritrade stockholders vote in favor of the Ameritrade Stock Issuance and the amendment and restatement of our certificate of incorporation and other matters reasonably requested by TD in connection with the acquisition of TD Waterhouse.

The parties to the voting agreement who are stockholders of Ameritrade have also agreed, subject to certain exceptions, not to sell or otherwise transfer the Ameritrade common stock and options owned or acquired, either directly or indirectly, by them, or their voting rights with respect to such shares, until the earlier of the termination of the share purchase agreement or the completion of the acquisition of TD Waterhouse, unless such transfer is made in compliance with the terms of the voting agreement. However, the parties to the voting agreement are permitted to engage in hedging transactions that have the effect of reducing or eliminating their economic risk with respect to those shares, provided that those shares continue to be voted in accordance with the terms of the voting agreement.

In addition, the voting agreement provides for the termination of an existing stockholders agreement, dated as of April 6, 2002, among Ameritrade and the parties to the voting agreement, which termination becomes effective immediately prior to the completion of the acquisition of TD Waterhouse.

The voting agreement will terminate on the earlier to occur of the termination of the share purchase agreement or the completion of the acquisition of TD Waterhouse.

**Stockholders Agreement**

In connection with the transactions contemplated by the share purchase agreement, Ameritrade, the Ricketts holders and TD entered into a stockholders agreement, which, among other things, contains certain governance arrangements and various provisions relating to board composition, stock ownership, transfers by TD and the Ricketts holders, voting and other matters. The stockholders agreement also contemplates changes to Ameritrade's certificate of incorporation and bylaws to give effect to and facilitate the provisions contained in the stockholders agreement. Other than with respect to certain provisions relating to limitations on acquisitions and restrictions on transfer of Ameritrade securities and the selection of initial outside independent directors of TD Ameritrade, the stockholders agreement does not become effective until the closing of the acquisition of TD Waterhouse.

The following is a summary of selected provisions of the stockholders agreement. The description of the stockholders agreement in this proxy statement has been included to provide you with information regarding its terms. While Ameritrade and TD believe this description covers the material terms of the stockholders agreement, it may not contain all of the information that is important to you and is qualified in its entirety by reference to the stockholders agreement, which is attached as Appendix F to this proxy statement and is incorporated by reference in this proxy statement. We urge you to read the entire stockholders agreement carefully.

***Governance of TD Ameritrade***

Following the completion of the acquisition of TD Waterhouse, the board of directors of TD Ameritrade will continue to be classified into three classes, with each class serving staggered, three-year

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terms. The board of directors will consist of twelve members, and the persons to be nominated for election as directors of TD Ameritrade will be designated as follows:

the Ricketts holders will have the right to designate three of the directors, initially J. Joe Ricketts, J. Peter Ricketts and Thomas S. Ricketts (each of whom will be assigned to a different class of directors, as designated by the Ricketts holders);

TD will initially have the right to designate five of the directors, initially W. Edmund Clark, Frederic J. Tomczyk, Daniel A. Marinangeli, Marshall A. Cohen and Wilbur J. Prezzano (one of whom will be a class I director, two of whom will be class II directors and two of whom will be class III directors, as designated by TD);

the individual serving as chief executive officer of TD Ameritrade, initially Joseph H. Moglia (who will be a class I director); and

three of the directors will be outside independent directors, who will initially be Michael D. Fleisher, Glenn H. Hutchins and Michael J. Bingle (each of whom will be assigned to a different class of directors, as mutually agreed among themselves prior to the closing of the acquisition of TD Waterhouse).

Following the completion of the acquisition of TD Waterhouse, the number of directors designated by the Ricketts holders (which directors we refer to as the Ricketts directors) may increase or decrease from time to time depending on the ownership position of the Ricketts holders. Generally, the number of Ricketts directors relates to the Ricketts holders' ownership as set forth in the table below, subject to specified cure periods in the event of a decrease in ownership from one threshold to another and minimum holding periods in the event of an increase in ownership from one threshold to another. Any vacancy resulting from the reduction of the number of Ricketts directors will be filled with an outside independent director, effective immediately prior to the following annual meeting of TD Ameritrade stockholders. In the event that the number of Ricketts directors increases as a result of an increase in the Ricketts holders' ownership position, the corresponding number of outside independent directors will be removed and replaced with new Ricketts directors.

<b>Ricketts Holders Ownership Level</b>	<b>Total Number of Ricketts Directors</b>
Greater than 20.83%	3
Greater than 12.50% to 20.83%	2
Greater than 4.17% to 12.50%	1
4.17% or less	0

If, on the first anniversary of the date of the closing of the acquisition of TD Waterhouse, the Ricketts holders do not beneficially own at least 20.83% of the outstanding voting securities of TD Ameritrade, and the number of Ricketts directors has not already been reduced, then one of the Ricketts directors must resign from the board of directors of TD Ameritrade, and the resulting vacancy will be filled by an outside independent director, effective immediately prior to the following annual meeting of TD Ameritrade stockholders.

Following the completion of the acquisition of TD Waterhouse, the number of directors designated by TD (which directors we refer to as TD directors) may increase or decrease from time to time depending on the ownership position of TD. Generally, the number of TD directors relates to TD's ownership as set forth in the table below, subject to specified cure periods in the event of a decrease in ownership from one threshold to another and minimum holding periods in the event of an increase in ownership from one threshold to another. Any vacancy resulting from the reduction of the number of TD directors will be filled with an outside independent director, effective immediately

prior to the following annual meeting of TD Ameritrade stockholders. In the event that the number of TD directors increases as a result of an increase

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in TD's ownership position, the corresponding number of outside independent directors will be removed and replaced with new TD directors.

<b>TD Ownership Level</b>	<b>Total Number of TD Directors</b>
Greater than 37.5%	5
Greater than 29.17% to 37.50%	4
Greater than 20.83% to 29.17%	3
Greater than 12.50% to 20.83%	2
Greater than 4.17% to 12.50%	1
4.17% or less	0

If, on the first anniversary of the date of the closing of the acquisition of TD Waterhouse, TD's percentage ownership of the outstanding voting securities of TD Ameritrade is not at least 37.5%, and the number of TD directors has not already been reduced, then one of the TD directors must resign from the board of directors of TD Ameritrade, and the resulting vacancy will be filled by an outside independent director, effective immediately prior to the following annual meeting of TD Ameritrade stockholders.

The stockholders agreement also sets forth procedures by which outside independent directors are selected. A committee of the board of directors of TD Ameritrade comprised solely of all of the outside independent directors, referred to as the outside independent director committee, will have the sole authority on behalf of the board of directors to nominate candidates for election to serve as outside independent directors, except that TD and the Ricketts holders will have the right to reject a director candidate, but not without a reasonable basis for doing so.

Subject to applicable laws and certain conditions, TD Ameritrade will cause each committee of its board of directors (other than the outside independent director committee and a committee of the board of directors comprised solely of all directors who are not TD directors) to initially consist of two TD directors, one Ricketts director, and two outside independent directors. These levels of committee representation are subject to adjustment from time to time based on TD's and the Ricketts holders' maintenance of specified ownership levels.

The parties to the stockholders agreement have agreed to vote their shares of TD Ameritrade common stock in favor of the election of each director nominated for election in the manner provided for in the stockholders agreement and in favor of the removal of each director designated for removal in the manner provided for in the stockholders agreement, and agreed not to vote in favor of any candidate for director who is not nominated in accordance with the stockholders agreement. The Ricketts holders (other than the Ricketts Grandchildren Trust) and TD irrevocably appointed an officer of Ameritrade as their respective proxy and attorney-in-fact to vote in accordance with the terms of the stockholders agreement in the event they fail to comply with its terms. Ameritrade agreed to take all actions within its control to effectuate the corporate governance provisions of the stockholders agreement.

***Tender Offer and Share Ownership***

Following the completion of the acquisition of TD Waterhouse, TD will commence a cash tender offer pursuant to which TD will offer to purchase a number of shares of TD Ameritrade common stock such that, upon successful completion of the offer, TD will own 39.9% of the outstanding voting securities of TD Ameritrade. J. Joe Ricketts may elect to participate in the tender offer, in which case he may offer to purchase up to the number of shares of TD Ameritrade common stock such that, upon successful completion of the tender offer, he and other members of the Ricketts holders collectively own up to 29% of the voting securities of TD Ameritrade. Mr. Ricketts has informed Ameritrade that he does not intend to participate as a co-bidder in the tender offer. The offer price will be no less than \$16 per share and the offer will not be subject to any minimum condition on the number of shares tendered.





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The tender offer will allow TD to increase its percentage ownership of TD Ameritrade without causing additional dilution to Ameritrade stockholders and will offer liquidity to the stockholders of TD Ameritrade, subject to proration in the event that the tender offer is oversubscribed. In addition, the tender offer will allow participating TD Ameritrade stockholders to sell their shares at a premium to the dividend adjusted market price of Ameritrade stock at the time of the execution of the share purchase agreement.

Following the tender offer described above:

TD may acquire additional shares of TD Ameritrade common stock only up to an aggregate beneficial ownership interest of 39.9% of the outstanding voting securities of TD Ameritrade for a period of three years following completion of the acquisition of TD Waterhouse, and up to an aggregate beneficial ownership of 45% for the remaining term of the stockholders agreement; and

the Ricketts holders may acquire additional shares of TD Ameritrade common stock only up to an aggregate beneficial ownership interest of 29% of the outstanding voting securities of TD Ameritrade.

Notwithstanding the limitations on TD's ownership described above, TD may make a non-public proposal to the board of directors of TD Ameritrade to acquire additional shares pursuant to a tender offer, merger or other business combination for 100% of the outstanding shares of TD Ameritrade common stock not owned by TD, and TD may complete such a transaction, subject to the approval of a majority of the outside independent directors and the holders of a majority of the outstanding shares of TD Ameritrade common stock not affiliated with TD. TD will not, subject to certain exceptions, solicit proxies with respect to TD Ameritrade common stock.

If TD Ameritrade receives a bona fide inquiry or proposal from a third party that could result in a proposal with respect to a merger, acquisition or other business combination involving TD Ameritrade or its subsidiaries in which more than 25% of the voting securities or consolidated assets of TD Ameritrade would be acquired or received by the third party, TD Ameritrade must promptly notify TD of receipt of the inquiry or proposal and offer TD the opportunity to participate in parallel discussions with TD Ameritrade, and must consider proposals from TD regarding a comparable transaction.

***Right to Purchase Securities***

TD and the Ricketts holders will have the right to purchase up to their respective proportionate share of future issuances of TD Ameritrade common stock, options, warrants or other debt or equity securities that are convertible into or exchangeable or exercisable for TD Ameritrade common stock, other than issuances of TD Ameritrade common stock as consideration in connection with an acquisition by TD Ameritrade and certain other issuances specified in the stockholders agreement. If TD Ameritrade proposes to issue shares as consideration in an acquisition, TD Ameritrade will discuss in good faith with TD and the Ricketts holders alternative structures in which a portion of such shares would be sold to TD or the Ricketts holders, with the proceeds of such sale used to fund the acquisition. The stockholders agreement also generally requires TD Ameritrade to repurchase its common stock from time to time following consummation of the acquisition of TD Waterhouse to offset dilution from stock option exercises.

***Transfer and Other Restrictions***

In general, absent approval of a majority of the independent directors, TD and the Ricketts holders may not transfer shares of Ameritrade common stock to any holders of 5% or more of the outstanding shares of Ameritrade common stock, subject to certain exceptions.

For so long as TD and TD Ameritrade constitute the same audit client for audit independence purposes under applicable law, TD will not engage the auditor of TD Ameritrade to provide any non-audit services to TD and TD Ameritrade will not engage the auditor of TD to provide specified non-audit services to TD Ameritrade.

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***Information Rights***

TD will be entitled to access to and information regarding TD Ameritrade's business, operations and plans as TD may reasonably require to appropriately manage and evaluate its investment in TD Ameritrade and to comply with its obligations under U.S. and Canadian laws. This access shall be subject to confidentiality and nondisclosure obligations of TD. Likewise, TD is required to provide TD Ameritrade with any information regarding TD that is reasonably required for TD Ameritrade to comply with applicable laws. These information rights terminate on the first date that TD no longer owns at least 15% of the outstanding shares of TD Ameritrade.

***Obligation to Repurchase Shares***

If, at any time after the completion of the acquisition of TD Waterhouse, TD Ameritrade issues shares of its common stock pursuant to any compensation or similar program or arrangement, then TD Ameritrade will, subject to certain exceptions, use its reasonable efforts to repurchase a corresponding number of shares of its common stock in the open market within 120 days after any such issuance.

***Non-Competition Covenants***

Subject to certain exceptions described below, none of J. Joe Ricketts (so long as he is serving as a director of TD Ameritrade), TD or any of their respective affiliates, may participate in or own any portion of a business engaged in the business of providing securities brokerage services in the U.S. (or, solely in the case of Mr. Ricketts and his affiliates, in Canada) to retail traders, individual investors and registered investment advisors. If TD acquires indirectly such a competing business as a result of its acquisition of a non-competing business, TD must offer to sell the competing business to TD Ameritrade at its appraised fair value as determined in accordance with the terms of the stockholders agreement. If TD Ameritrade decides not to purchase the competing business, TD must use commercially reasonable efforts to divest the competing business within two years.

J. Joe Ricketts, TD and their respective affiliates will be permitted under the terms of the stockholders agreement to own a passive investment representing less than 2% of a class of equity securities of a competing business so long as the class of equity securities is traded on a national securities exchange in the U.S. or the Toronto Stock Exchange or quoted on the Nasdaq National Market. In addition, neither TD nor any of its affiliates will be prohibited from engaging in the following activities in the ordinary course of their banking and securities businesses:

securities underwriting, placement, dealing, investment banking, financial structuring, securitization or syndication;

acquiring ownership of any equity interest in any person pursuant to normal course broker/ dealer activity;

originating, arranging, purchasing, selling or dealing in secured or unsecured loans, conditional sales agreements, capital and other leases, debt instruments, or any participation interests and any related liquidity, credit enhancement or hedging facilities;

investments made by hedge funds, investment funds and similar pooled investment vehicles in which TD or its affiliates participate as a limited partner or as a member of a limited liability company and do not control the management of the entity;

actions taken to secure or collect debts or other obligations previously contracted by TD or its affiliates in the ordinary course of their business;

full-service brokerage operations conducted by specified subsidiaries of TD, to the extent that such services are provided solely in support of and as a complement to (and not operated separately from) such subsidiaries' other investment banking and broker-dealer businesses, but in all cases excluding the provision of securities brokerage services to retail investors and investment advisors which services are offered primarily through the internet or other on-line media;

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securities brokerage activities, including offering and selling shares of open and closed end mutual funds (including exchange traded funds, but in all cases excluding the provision of securities brokerage services to retail investors and investment advisors which services are offered primarily through the internet or other on-line media), conducted or carried on by TD Banknorth Inc., any insured depository institution or holding company of which TD Banknorth Inc. or TD acquires control, or any subsidiaries of such entities; and

purchasing, holding, selling or otherwise dealing in securities of other persons in its trust, custodial, investment fund, investment management, brokerage or similar businesses.

In addition, TD Ameritrade may not hold or acquire control of a bank or similar depository institution except: incidentally in connection with the acquisition of an entity not principally engaged in the banking business; or

in the event that TD does not control any bank or similar depository institution which is able to offer money market deposit accounts to clients of TD Ameritrade as a designated sweep vehicle or TD has indicated that it is not willing to offer such accounts to clients of TD Ameritrade through one or more of any banks or similar depository institutions it controls.

***Termination of the Stockholders Agreement***

The stockholders agreement will terminate (1) with respect to the Ricketts holders, when their aggregate ownership of TD Ameritrade common stock falls below approximately 4% of the outstanding voting securities of TD Ameritrade, and (2) upon the earliest to occur of:

the consummation of a merger, tender offer or other business combination pursuant to which TD offers to acquire 100% of the TD Ameritrade common stock not owned by TD;

the 10th anniversary of the consummation of the acquisition of TD Waterhouse;

the date on which TD's ownership of TD Ameritrade common stock falls below approximately 4% of the outstanding voting securities of TD Ameritrade;

the commencement by a third party of a tender offer or exchange offer for not less than 25% of TD Ameritrade common stock unless the TD Ameritrade board recommends against such tender offer or exchange offer and continues to take all reasonable steps to oppose such tender offer or exchange offer (as reasonably determined by TD);

the approval by the TD Ameritrade board of a business combination that would result in another party owning 25% of the voting securities or consolidated assets of TD Ameritrade or which would otherwise result in a change of control of TD Ameritrade; or

the acquisition of 20% of the voting securities of TD Ameritrade by a third party.

For a period of up to one year following a termination due to events described in the fourth, fifth or sixth bullet points above, TD and the Ricketts holders will be prohibited from acquiring shares of TD Ameritrade common stock that would cause TD's aggregate ownership to exceed 45% of the outstanding voting securities of TD Ameritrade (39.9% in the first three years) or the aggregate ownership of the Ricketts holders to exceed 29% of the outstanding voting securities of TD Ameritrade, except that either TD or the Ricketts holders may exceed these thresholds in connection with a merger, tender offer or other business combination for 100% of the outstanding shares of TD Ameritrade common stock approved by the holders of a majority of the outstanding shares of TD Ameritrade common stock (other than the Ricketts holders and TD). Furthermore, during that period of up to one year following such termination, the provisions of the stockholders agreement relating to the designation and election of directors, transfer restrictions and certain other provisions will remain in effect. In the event that TD's beneficial ownership of TD Ameritrade common stock falls below approximately 4% of the outstanding voting securities of



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TD Ameritrade, TD must cause each of the TD directors to immediately resign as directors of TD Ameritrade.

**Amended and Restated Registration Rights Agreement**

Concurrently with entering into the share purchase agreement, Ameritrade, the Ricketts holders, the SLP holders, the TA holders and TD entered into an amended and restated registration rights agreement, or the registration rights agreement, to, among other things, include TD as a party to the existing registration rights agreement among Ameritrade and the Ricketts holders, the SLP holders and the TA holders. The registration rights agreement is substantially the same as the existing registration rights agreement except for the provision of registration rights to TD, the elimination of the term of the registration rights and the potential provision of additional registration rights to the Ricketts holders. The registration rights agreement becomes effective only upon the closing of the acquisition of TD Waterhouse, at which time it will supersede the existing registration rights agreement. The following is a summary of selected provisions of the registration rights agreement.

***Demand Registrations***

Ameritrade has granted the Ricketts holders, the SLP holders, the TA holders and TD, collectively, the right to demand registration of the shares of Ameritrade common stock held by them on 11 separate occasions. Six of the eleven demand rights, including two shelf registrations, are allocated to TD, three of the eleven demand rights, including one shelf registration are allocated to the SLP holders and the TA holders, and two of the eleven demand rights, including one shelf registration, are allocated to the Ricketts holders. In the event that the SLP holders or the TA holders withdraw from the registration rights agreement in accordance with its terms or no longer own any securities of Ameritrade registrable under the registration rights agreement, the Ricketts holders will be allocated one additional demand registration right.

***Piggy Back Registrations***

Ameritrade has also agreed to provide TD, the Ricketts holders, the SLP holders and the TA holders with piggy back registration rights, such that if at any time Ameritrade proposes to file a registration statement with respect to any offering of its securities for its own account or for the account of any stockholder who holds its securities (subject to certain exceptions) then, as expeditiously as reasonably possible (but in no event less than 20 days prior to the proposed date of filing such registration statement), Ameritrade shall give written notice of such proposed filing to all holders of securities subject to registration rights pursuant to the registration rights agreement, or registrable securities, and such notice shall offer the holders of such registrable securities the opportunity to register such number of registrable securities as each such holder may request in writing.

The registration rights granted in the registration rights agreement are subject to customary restrictions such as minimums, blackout periods and limitations on the number of shares to be included in any underwritten offering imposed by the managing underwriter. In addition, the registration rights agreement contains other limitations on the timing and ability of stockholders to exercise demands.

***Expenses***

Ameritrade has agreed to pay all registration expenses, including the legal fees of one counsel for the stockholders exercising registration rights under the registration rights agreement, but excluding underwriting discounts, selling commissions, stock transfer taxes and any other legal fees of such stockholders.

**Ameritrade Canada Purchase Agreement**

Concurrently with entering into the share purchase agreement, Ameritrade, Datek Online Holdings Corp., a wholly owned subsidiary of Ameritrade, or Datek, TD and TD Waterhouse Canada Inc., or TD Waterhouse Canada, entered into the Canadian purchase agreement. Under the Canadian purchase

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agreement, TD Waterhouse Canada agreed to acquire all of the shares of Ameritrade Canada in exchange for \$60,000,000 in cash, subject to adjustments based on the final net tangible book value of Ameritrade Canada. We refer to this transaction as the Canadian share purchase in this proxy statement.

***Regulatory Approvals***

As members of the Investment Dealers Association of Canada (a self-regulatory organization for Canadian registered dealers), TD Waterhouse Canada and Ameritrade Canada are required to provide notice to the Secretary of the Investment Dealers Association and obtain approval for the various steps relating to the acquisition of Ameritrade Canada by TD Waterhouse Canada.

Ameritrade Canada and TD Waterhouse Canada are registered in all Canadian provinces and territories as investment dealers. Pursuant to the securities laws and regulations of certain provinces of Canada, TD Waterhouse Canada and Ameritrade Canada are required to provide notice to, or obtain approval from, a number of the applicable provincial securities commissions regarding the acquisition of Ameritrade Canada by TD Waterhouse Canada.

***Representations and Warranties***

The Canadian purchase agreement contains customary representations and warranties made by Ameritrade and Datek, on the one hand, to TD and TD Waterhouse Canada, on the other hand, regarding aspects of the business, financial condition and structure of Ameritrade Canada.

Certain of these representations and warranties are qualified as to materiality or material adverse effect. In addition, Ameritrade and Datek on the one hand and TD and TD Waterhouse Canada on the other hand have each agreed to indemnify the other parties for any damages incurred as a result of breaches of their respective representations and warranties. However, the parties will not be entitled to further indemnification for any claims already made under the indemnification provisions set out in the share purchase agreement.

***Conditions to Closing***

The respective obligations of each party to the Canadian purchase agreement are subject to the satisfaction by the closing date of certain customary closing conditions.

***Termination***

The Canadian purchase agreement may be terminated at any time before the completion of the Canadian share purchase by mutual written consent of TD Waterhouse Canada and Datek. Either TD Waterhouse Canada or Datek may terminate the Canadian purchase agreement if:

any governmental entity which must grant requisite regulatory approval has denied an approval required to consummate the transactions contemplated by the Canadian purchase agreement and such denial has become final and nonappealable;

any governmental authority of competent jurisdiction shall have issued a final nonappealable order enjoining or otherwise prohibiting the consummation of the transactions contemplated by the Canadian purchase agreement; and

the closing shall not have occurred on or before the earlier of March 31, 2006 and within 90 days following the completion of the acquisition of TD Waterhouse.

Any party may terminate the Canadian purchase agreement: (1) in the event of a breach by another party of its representations, warranties or covenants contained in the Canadian purchase agreement, which breach either is not cured within 30 days after the giving of written notice or is of a nature which cannot be cured prior to closing; or (2) if the share purchase agreement is terminated in accordance with its terms prior to completion of the acquisition of TD Waterhouse.

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**Trademark License Agreement**

Concurrently with entering into the share purchase agreement, Ameritrade and TD entered into a trademark license agreement, which requires Ameritrade to use the TD trademark and logo as part of Ameritrade's corporate identity, TD Ameritrade, following the completion of the acquisition of TD Waterhouse. The following is a summary of selected provisions of the trademark license agreement.

***The TD Ameritrade Name***

Pursuant to the terms of the trademark license agreement, Ameritrade is required to use the TD Ameritrade name in the U.S. as its exclusive corporate entity name and to use the TD logo in connection with the TD Ameritrade name in the U.S. in corporate identity and marketing materials. Ameritrade has further agreed to use the TD Ameritrade name and, in conjunction with it, the TD logo, in other countries unless Ameritrade reasonably determines such use would not be consistent with or to the benefit of Ameritrade's business in a particular country.

The trademark license agreement grants Ameritrade a worldwide (except in Canada) license to use the name and trademark TD as part of the trademark, service mark, trade name, corporate name or domain name

TD AMERITRADE in connection with Ameritrade's business of providing securities brokerage services to retail traders, individual investors and registered investment advisers. Pursuant to the terms of the trademark license agreement, TD has agreed not to use the TD mark or any trademarks, service marks, trade names, corporate names and domain names incorporating the TD mark in connection with any business or activity providing securities brokerage services to retail traders, individual investors and registered investment advisers in the U.S.

***Ownership and Protection of the TD Ameritrade Name***

Pursuant to the terms of the trademark license agreement, TD and Ameritrade will jointly own the TD Ameritrade name. Ameritrade has agreed to be responsible for the registration, maintenance and prosecution of any trademark applications and registrations for the TD Ameritrade name. Ameritrade has further agreed to use commercially reasonable efforts to keep TD informed and to allow TD to provide reasonable input as to the registration, maintenance and prosecution strategy in connection with the TD Ameritrade trademark. Pursuant to the terms of the trademark license agreement, Ameritrade and TD have each agreed to be responsible for 50% of the costs and expenses associated with the registration, maintenance and prosecution of the TD Ameritrade trademark.

***Indemnification***

Pursuant to the terms of the trademark license agreement, Ameritrade has agreed to indemnify TD for liability incurred by TD as a result of Ameritrade's (and any of its sublicensees') breach of its obligations under the trademark license agreement. TD has agreed to indemnify Ameritrade for liability incurred by Ameritrade so long as Ameritrade's actions are in accordance with the terms of the trademark license agreement and Ameritrade's use of the TD Ameritrade name or the TD logo, as the case may be, is in a jurisdiction where TD has trademark applications or registrations or is using or has used the TD trademark or logo, as the case may be.

***Term; Termination***

The term of the trademark license agreement is 10 years, and is automatically renewable for additional periods of 10 years each, unless earlier terminated. Under the terms of the trademark license agreement, Ameritrade and TD can each terminate the trademark license agreement upon any of the following events: if the other party becomes insolvent, makes an assignment for the benefit of creditors, a trustee or receiver is appointed for a material part of the other party's assets, or a proceeding in bankruptcy is not dismissed within 90 days; if the other party fails to cure a material breach within 60 days of the initial notice of material breach; if the other party is subject to a decree dissolving such other party which has been in effect for more than 30 days; if there is a change of control of the other



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party that results in such other party being controlled by a competitor; if TD beneficially owns voting securities representing 4.17% or less of the total voting power of TD Ameritrade; if a third party bona fide tender or exchange offer for not less than 25% of the outstanding shares of common stock of TD Ameritrade is consummated; if the Ameritrade board of directors consummates a takeover proposal from a third party; or if the TD trademark or logo becomes materially damaged by the other party.

***Effects of Termination***

Upon termination of the trademark license agreement, Ameritrade has agreed to stop all new uses of the TD mark within six months and discontinue all use of the TD mark within 12 months. Neither Ameritrade nor TD shall be entitled to use the TD Ameritrade name after the trademark license agreement terminates, and all trademark applications and registrations for the TD Ameritrade trademark shall be expressly abandoned.

**Money Market Deposit Account Agreement**

Concurrently with entering into the share purchase agreement, Ameritrade, TD and certain subsidiaries of TD Waterhouse agreed to enter into a money market deposit account agreement, or the MMDA agreement, pursuant to which money market deposit accounts will be made available as designated sweep vehicles to clients of TD Ameritrade through TD Waterhouse Bank. One of the subsidiaries of TD Waterhouse will provide marketing and support services with respect to the money market deposit accounts. In exchange for providing marketing services relating to the money market deposit accounts, TD Waterhouse Bank will pay TD Ameritrade a marketing fee calculated in accordance with the terms of the MMDA agreement. Subject to limited exceptions, the MMDA agreement has an initial term of two years and is automatically renewable for successive two year terms, provided that following the first anniversary of the agreement, the agreement may be terminated by any party upon one year's notice. TD Ameritrade may terminate the MMDA agreement upon 90 days notice if:

the stockholders agreement terminates because TD's ownership percentage of TD Ameritrade falls below a specified level;

TD breaches certain of the representations or covenants it made in the MMDA agreement;

TD Waterhouse Bank fails to maintain certain levels of capitalization; or

TD Waterhouse Bank breaches any of the covenants, obligations or other agreements it made in the MMDA agreement and fails to cure such breaches within the time periods allocated in the MMDA agreement.

The MMDA agreement will not be executed or become effective until the closing of the acquisition of TD Waterhouse.

**Services Agreement**

Concurrently with entering into the share purchase agreement, Ameritrade, an affiliate of TD and certain subsidiaries of TD Waterhouse agreed to enter into a services agreement, pursuant to which certain funds will be made available as money market sweep or direct purchase options to TD Ameritrade clients, and TD Ameritrade will perform marketing support services with respect to those funds. In consideration for offering the funds and performing the marketing support services, an affiliate of TD will compensate TD Ameritrade in accordance with the provisions of the services agreement. Pursuant to the terms of the services agreement, TD Ameritrade will assume and perform certain services for the applicable funds pursuant to certain preexisting agreements. In exchange for assuming and performing these obligations, TD Ameritrade will receive the fees set forth in those agreements. The services agreement has an initial term of two years and is automatically renewable for successive two year terms (so long as certain related agreements are in effect), provided that following the first anniversary of the agreement, the agreement may be terminated by any party thereto upon one year's prior written notice. TD Ameritrade may

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terminate the services agreement upon 120 days notice if it does not earn monthly fees greater than a specified level.

The services agreement will not be executed or become effective until the closing of the acquisition of TD Waterhouse.

**Post-Transaction Bylaws of TD Ameritrade**

In connection with the transactions contemplated by the share purchase agreement, Ameritrade and TD have agreed to a number of governance rights and restrictions relating to TD's investment in Ameritrade, as set forth in the stockholders agreement. The proposed form of bylaws that will govern Ameritrade following the completion of the proposed acquisition of TD Waterhouse, or the Post-Transaction Bylaws, contains provisions necessary to implement some of the terms of the stockholders agreement and other governance terms agreed to by TD and Ameritrade, as well as other changes approved by the board of directors of Ameritrade, and accordingly differs in material respects from Ameritrade's existing bylaws.

The following is a summary of selected provisions of the post-transaction bylaws. While Ameritrade and TD believe that this description covers the material terms of the Post-Transaction Bylaws which differ materially from Ameritrade's existing bylaws, it may not contain all of the information that is important to you and is qualified in its entirety by reference to the Post-Transaction Bylaws, which are attached as Appendix D to this document and are incorporated by reference in this document. We urge you to read the entire Post-Transaction Bylaws carefully.

***Article II Stockholders***

Article II of the Post-Transaction Bylaws has been amended to (1) provide the Ameritrade board of directors with the discretion to determine that any meeting of stockholders may be held solely by means of remote communication, (2) provide that special meetings of the stockholders may only be called in accordance with Article 5 of the amended and restated certificate of incorporation following the proposed acquisition of TD Waterhouse, and (3) provide that at all meetings of stockholders for the election of directors at which a quorum is present, a plurality of the votes cast shall be sufficient to elect.

***Article III Directors***

Article III of the Post-Transaction Bylaws has been amended to (1) provide for the appointment of an Outside Independent Directors Committee consisting of such members as may be required by the stockholders agreement, (2) provide for the appointment of a Non-TD Directors Committee consisting of such members as may be required by the stockholders agreement, (3) eliminate the concept of an Executive Committee, (4) provide for consents and waivers by the board of directors to be conveyed by electronic transmission and (5) eliminate the nine member board provisions in a manner consistent with the amended and restated certificate of incorporation following the proposed acquisition of TD Waterhouse.

***Article IV Officers***

Article IV of the Post-Transaction Bylaws has been amended to (1) provide that, so long as the corporate governance provisions of the stockholders agreement remain in effect, any new Chief Executive Officer of TD Ameritrade may be appointed only with the approval of at least two-thirds of all of the directors then serving on the board of directors, and (2) provide for the following additional positions: Vice Chairman of the board of directors, a President, a Chief Operating Officer, one or more Executive Vice Presidents and one or more Senior Vice Presidents.

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***Article VII Nomination of Directors and Presentation of Business at Stockholder Meetings***

Article VII of the Post-Transaction Bylaws has been amended to provide that, so long as the corporate governance provisions of the stockholders agreement remain in effect, any stockholder then entitled to designate or nominate one or more directors of Ameritrade under the terms of the stockholders agreement may nominate persons for election as directors at any meeting of the stockholders without complying with the advance notice provisions. This right is currently granted under Ameritrade's existing certificate of incorporation to the Ricketts holders and certain entities affiliated with the TA holders and the SLP holders. This amendment incorporates in the bylaws the provision that appears in the proposed amendment and restatement of our certificate of incorporation, which is substantially the same as the provision in Ameritrade's existing certificate of incorporation, and extends this right to TD.

***Article IX Amendments***

Article IX of the Post-Transaction Bylaws has been amended to provide that the Chief Executive Officer appointment provision (discussed above under Article IV) may only be amended by (1) the unanimous vote of the Board of Directors or (2) the affirmative vote of the holders of at least 80% in voting power of the shares of capital stock of the corporation issued and outstanding and entitled to vote thereon.

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**PROPOSAL NO. 2,  
INCLUDING SUB-PROPOSAL NOS. 2A-2F  
THE POST-TRANSACTION CERTIFICATE OF INCORPORATION**

In connection with TD's investment in Ameritrade under the share purchase agreement, Ameritrade and TD agreed that Ameritrade would amend and restate its certificate of incorporation and bylaws to implement a number of governance and other changes. We refer to the amended and restated certificate of incorporation in this section as the Post-Transaction Certificate of Incorporation. At the special meeting you will be asked to consider and vote to approve the Post-Transaction Certificate of Incorporation. In order to comply with applicable rules of the SEC relating to proxy statements, we are also presenting Sub-Proposal Nos. 2A through 2F to Ameritrade stockholders as separate proposals for approval. As a matter of state law, only the approval of the Post-Transaction Certificate of Incorporation, as a whole, is required. **However, because we are required to present the sub-proposals separately and because all of the revisions to Ameritrade's existing certificate of incorporation that are reflected in the Post-Transaction Certificate of Incorporation are considered by Ameritrade and TD to be integral parts of the overall transaction, the approval of Proposal No. 2 and each of the Sub-Proposals 2A through 2F is a condition to completion of the acquisition of TD Waterhouse. Accordingly, a vote against Proposal No. 2 or any of the related Sub-Proposal Nos. 2A through 2F is effectively a vote against the acquisition of TD Waterhouse.**

***Sub-Proposal No. 2A: Proposal to approve provisions restricting the authority of TD Ameritrade to implement anti-takeover measures that would potentially conflict with the terms of the stockholders agreement.***

Article 3 of the Post-Transaction Certificate of Incorporation prohibits TD Ameritrade from adopting a stockholder rights plan or other similar anti-takeover measure unless it both expressly excludes TD and its affiliates and the Ricketts holders from its operation to the extent any of their actions would be permitted under the stockholders agreement as well as does not impair any of their rights under the stockholders agreement. By its terms, this provision of the Post-Transaction Certificate of Incorporation will terminate upon the termination of the stockholders agreement or, if the stockholders agreement is terminated before the tenth anniversary of the completion of the acquisition of TD Waterhouse as a result of the commencement of certain tender or exchange offers by a third party, the approval of certain business combinations by the TD Ameritrade board or directors or the acquisition of a significant amount of TD Ameritrade common stock by a third party (as described in the fourth, fifth and sixth bullet points under "Certain Agreements Related to the Acquisition of TD Waterhouse" Stockholders Agreement Termination of the Stockholders Agreement beginning on page 106) upon the expiration of the post-termination period of up to one year following such termination. This provision will also terminate, with respect to the Ricketts holders, upon the earlier occurrence of the date on which Ameritrade directors designated by them are required to resign from the Ameritrade board of directors. This provision is intended to reflect the terms of the stockholders agreement, which contains specific negotiated terms and procedures that TD and the Ricketts holders must comply with if they wish to acquire additional shares of TD Ameritrade common stock.

***Sub-Proposal No. 2B: Proposal to approve the increase of the authorized shares of common stock, \$0.01 par value per share, of TD Ameritrade from 650,000,000 to 1,000,000,000.***

Article 4.a. of the Post-Transaction Certificate of Incorporation increases the authorized shares of common stock, \$0.01 par value per share, from 650,000,000 to 1,000,000,000. As of November 16, 2005, there were approximately 406,341,335 shares of Ameritrade common stock issued and outstanding and approximately 51,253,163 shares reserved for issuance under Ameritrade's stock benefit plans and agreements, leaving only 192,405,502 authorized shares available for future issuance. The share purchase agreement requires Ameritrade to issue 196,300,000 shares of its common stock. Therefore, unless Ameritrade's certificate of incorporation is amended to authorize additional shares of common stock, the acquisition of TD Waterhouse cannot be consummated.

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In addition, if this proposal to increase the authorized shares of common stock were approved, additional shares of common stock would be available for issuance in the future for such corporate purposes as the board of directors deems advisable from time to time without further action by the stockholders, unless such action is required by applicable law or by the rules of The Nasdaq Stock Market or of any stock exchange upon which the TD Ameritrade shares may then be listed. Ameritrade may need to have such shares available to provide additional flexibility to use its capital stock for business and financial purposes in the future. The additional shares may be used, without further stockholder approval in certain circumstances, for various purposes including, without limitation, raising capital, providing equity incentives to employees, officers or directors, establishing strategic relationships with other companies and expanding TD Ameritrade's business through the acquisition of other businesses or products. Ameritrade has no present oral or written agreement, commitment, plan or intent to issue any of the additional shares provided for in this proposal beyond issuances under stockholder approved equity incentive plans and the Ameritrade Stock Issuance.

***Sub-Proposal No. 2C: Proposal to approve a provision which prohibits action by written consent of stockholders of TD Ameritrade.***

The Post-Transaction Certificate of Incorporation would require any action to be taken by Ameritrade's stockholders to be taken at a duly called annual or special meeting of stockholders. Ameritrade's current certificate of incorporation permits Ameritrade stockholders to also act by written consent in lieu of a meeting but the Post-Transaction Certificate of Incorporation prohibits stockholder actions by written consent. The effect of this change is to require the convening of a stockholders meeting for any action to be taken by TD Ameritrade stockholders, thereby eliminating the ability of TD Ameritrade stockholders holding sufficient shares to take action on behalf of the stockholders from taking such action other than at a duly called stockholders meeting.

Because TD Ameritrade will have several significant stockholders following the transaction holding in the aggregate a majority of the outstanding shares of TD Ameritrade, our board of directors determined that it would be in the best interest of our stockholders to require that any corporate action requiring a stockholder vote be considered at an annual or special meeting at which all of our stockholders may participate.

***Sub-Proposal No. 2D: Proposal to approve a provision increasing the size of the TD Ameritrade board of directors from nine members to twelve members during certain periods specified in the stockholders agreement.***

The stockholders agreement provides for a twelve-member board of directors following the completion of the acquisition of TD Waterhouse. The current certificate of incorporation of Ameritrade provides for a nine-member board of directors. Accordingly, the Post-Transaction Certificate of Incorporation provides that the board of directors of TD Ameritrade will be comprised of twelve members. The Post-Transaction Certificate of Incorporation further provides that, following the occurrence of a Termination Event (or, if such Termination Event is a Specified Termination Event, following the expiration of the Post-Termination Period (as such terms are defined below)), the Ameritrade board of directors may fix and change the size of the Ameritrade board. See Articles 6.a.(i) and 6.b. of the Post-Transaction Certificate of Incorporation.

For purposes of the Post-Transaction Certificate of Incorporation,

(1) a Termination Event is generally defined as the earliest to occur of:

the consummation of a merger, tender offer or other business combination pursuant to which TD offers to acquire 100% of the TD Ameritrade common stock not owned by TD;

the tenth anniversary of the consummation of the acquisition of TD Waterhouse;

the date on which TD's ownership of TD Ameritrade common stock falls below approximately 4% of the outstanding voting securities of TD Ameritrade;

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the commencement by a third party of a tender offer or exchange offer for not less than 25% of TD Ameritrade common stock unless the TD Ameritrade board recommends against such tender offer or exchange offer and continues to take all reasonable steps to oppose such tender offer or exchange offer (as reasonably determined by TD);

the approval by the TD Ameritrade board of a business combination that would result in another party owning 25% of the voting securities or consolidated assets of TD Ameritrade or which would otherwise result in a change of control of TD Ameritrade; or

the acquisition of 20% of the voting securities of TD Ameritrade by a third party;

(2) a Specified Termination Event is generally defined as a Termination Event of the type specified in the fourth, fifth and sixth bullet points above, and

(3) the Post-Termination Period is generally defined as the shortest of:

the period from the date of a Specified Termination Event until the first anniversary thereof;

the period from the date of a Specified Termination Event to the occurrence of a Termination Event of the type described in the first, second or third bullet points above; and

the period from the date of a Specified Termination Event until the consummation by TD or its affiliates or by the Ricketts holders of a merger, tender offer or other business combination for 100% of the outstanding shares of TD Ameritrade common stock (not owned by TD and its affiliates or the Ricketts holders, as applicable).

In addition, the Post-Transaction Certificate of Incorporation makes conforming changes to the provisions of the Ameritrade certificate of incorporation providing for the division of the Ameritrade board into three classes. Specifically, it provides that, rather than having each such class consist of three directors, each such class will consist as nearly as possible of one-third of the total number of directors constituting the entire TD Ameritrade board. Further, it specifies that the term of office of class I directors will expire at the first annual meeting of stockholders following the effectiveness of the Post-Transaction Certificate of Incorporation and every third succeeding annual meeting thereafter, the term of office of class II directors will expire at the second annual meeting of stockholders following the effectiveness of the Post-Transaction Certificate of Incorporation and every third succeeding annual meeting thereafter and the term of office of class III directors will expire at the third annual meeting of stockholders following the effectiveness of the Post-Transaction Certificate of Incorporation and every third succeeding annual meeting thereafter. See Articles 6.c. and 6.d. of the Post-Transaction Certificate of Incorporation.

***Sub-Proposal No. 2E: Proposal to approve a provision setting forth procedures for the nomination or appointment of outside independent directors to the TD Ameritrade board of directors and the maintenance of an outside independent directors committee and a non-TD directors committee.***

The stockholders agreement provides that the Ameritrade board will form an outside independent directors committee composed solely of all of the outside independent directors on the TD Ameritrade board which committee, among other things, will have the authority at certain times to nominate or appoint new outside independent directors to the TD Ameritrade board. Article 6.g.(i) of the Post-Transaction Certificate of Incorporation requires the TD Ameritrade board of directors to maintain such a committee prior to the occurrence of a Termination Event (and, following a Specified Termination Event, during any Post-Termination Period).

Article 6.a.(ii) of the Post-Transaction Certificate of Incorporation provides that, whenever this committee is authorized to nominate or appoint an outside independent director, the committee will prepare and provide to TD and a representative of the Ricketts holders (initially J. Joe Ricketts), a list of candidates for the position. Article 6.a.(ii) of the Post-Transaction Certificate of Incorporation further provides that, within ten business days of receipt of this list, each of TD and the representative of the parties to the stockholders agreement affiliated with the Ricketts holders may notify the outside independent directors committee of any candidates included on the list which they reject from



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consideration, provided that they may not reject a candidate without a reasonable basis for doing so. Article 6.a.(ii) of the Post-Transaction Certificate of Incorporation further provides that the outside independent directors committee will nominate or appoint for outside independent director positions, only candidates included on such a list and not rejected by TD or the representative of the Ricketts holders. Article 6.a.(ii) of the Post-Transaction Certificate of Incorporation also provides that the outside independent directors committee will take all action available to it to ensure that, at all times, at least three outside independent directors qualify to serve as members of the audit committee of the TD Ameritrade board under Section 4350(d) of the Nasdaq National Marketplace Rules or any successor or comparable requirement.

In addition, the stockholders agreement contemplates that the TD Ameritrade board will form a committee composed of all of the directors on the Ameritrade board not designated by TD for purposes of making determinations relating to any acquisition by TD Ameritrade of a competing business held by TD. Accordingly, Article 6.g.(ii) of the Post-Transaction Certificate of Incorporation provides that, prior to a Termination Event, the Ameritrade board of directors will maintain a committee of the board comprised solely of all of the members of the TD Ameritrade board other than directors designated by TD under the stockholders agreement.

***Sub-Proposal No. 2F: Proposal to approve a provision which allocates corporate opportunities between TD Ameritrade and TD.***

Article 8.b. of the Post-Transaction Certificate of Incorporation expands upon an existing provision of the certificate of incorporation of Ameritrade to specifically allocate corporate opportunities between TD Ameritrade and TD until such time as TD no longer beneficially owns voting securities of Ameritrade representing at least 4.17% of the total voting power of all outstanding Ameritrade voting securities. These provisions were negotiated and agreed to by the parties because Ameritrade and TD currently engage in, and in the future may engage in, similar activities or lines of business and as a result may have an interest in the same areas and types of corporate opportunities.

The procedure for allocating corporate opportunities set forth in Article 8.b. of the Post-Transaction Certificate of Incorporation provides that if a TD Ameritrade director or officer who is also a director or officer of TD acquires knowledge of a potential transaction, matter or opportunity which may be a corporate opportunity for both TD Ameritrade and TD, the director or officer will have fully satisfied and fulfilled his or her fiduciary duty to TD Ameritrade and its stockholders with respect to such corporate opportunity if he or she acts in a manner consistent with the following agreed upon policy for the allocation of corporate opportunities:

A corporate opportunity offered to any person who is a TD Ameritrade officer and who is also a director but not an officer of TD will belong to TD Ameritrade;

A corporate opportunity offered to any person who is a director but not an officer of TD Ameritrade and who is also a director or officer of TD, will belong to TD Ameritrade if the opportunity is expressly offered to that person in writing solely in his or her capacity as a director of TD Ameritrade and otherwise will belong to TD; and

A corporate opportunity offered to a person who is an officer of both TD Ameritrade and TD will belong to TD Ameritrade if the opportunity is expressly offered to the person in writing solely in his or her capacity as an officer of TD Ameritrade, and otherwise will belong to TD.

The Post-Transaction Certificate of Incorporation provides that TD Ameritrade renounces any interest or expectancy in, or in being offered the opportunity to participate in, any corporate opportunity covered by, but not allocated to it pursuant to, the foregoing.

For purposes of this provision of the Post-Transaction Certificate of Incorporation, a TD Ameritrade director who is Chairman or Vice Chairman of the Ameritrade board of directors is not deemed to be an TD Ameritrade officer unless the director is an employee of TD Ameritrade. In addition, these provisions of the Post-Transaction Certificate of Incorporation do not limit or eliminate duties, responsibilities and



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obligations with respect to TD Ameritrade's proprietary information and do not amend or modify any written contractual arrangements between TD Ameritrade stockholders or their affiliates and TD Ameritrade or its affiliates.

This provision for allocating corporate opportunities may only be amended by the affirmative vote of the holders of at least 80% of the voting power of Ameritrade's issued and outstanding capital stock that is entitled to vote on that matter, and any such amendment (or any adoption of any inconsistent provision in our certificate of incorporation) will not apply to any matter occurring prior to such amendment or adoption.

***Vote Required and Board of Directors Recommendation***

The required vote to approve Proposal No. 2, including Sub-Proposal Nos. 2A through 2F, is the affirmative vote of the holders of a majority of outstanding shares of Ameritrade common stock entitled to vote at the special meeting. The approval of Proposal No. 2, including Sub-Proposal Nos. 2A through 2F, is a condition to completion of the acquisition of TD Waterhouse, and thus a vote against Proposal No. 2, or any of Sub-Proposal Nos. 2A through 2F, effectively will be a vote against the acquisition of TD Waterhouse.

**Ameritrade's board of directors has unanimously approved the Post-Transaction Certificate of Incorporation, has concluded that it is advisable and in the best interests of Ameritrade and its stockholders and unanimously recommends that Ameritrade stockholders vote *FOR* Proposal No. 2, including each of Sub-Proposal Nos. 2A-2F.**

**Additional Changes to the Certificate of Incorporation**

In addition to the amendments to the certificate of incorporation in Sub-Proposal Nos. 2A-F, if Proposal No. 2 is approved, Ameritrade's current certificate of incorporation will also be amended to (1) change the corporate name of Ameritrade to TD Ameritrade Holding Corporation, (2) to make changes to the provisions relating to the calling of special meetings of stockholders, and (3) conform certain procedures for the nomination and removal of directors to the terms of the stockholders agreement. These amendments are described in detail below.

We are not asking for separate approval of these additional amendments to our certificate of incorporation because these changes do not represent material changes in the rights of Ameritrade stockholders. According to applicable SEC rules, corporations are only required to seek separate stockholder approval for amendments to their charter documents that materially affect the rights of their stockholders. While we are not required to obtain separate stockholder approval for these additional amendments to the certificate of incorporation, these amendments are part of the changes that are proposed to be made to Ameritrade's certificate of incorporation under Proposal No. 2, and stockholders may find the following summary of these additional amendments to be informative and relevant in evaluating that proposal.

***Amendment to change the corporate name of Ameritrade to TD Ameritrade Holding Corporation.***

Ameritrade's current certificate of incorporation provides that the name of Ameritrade is Ameritrade Holding Corporation. The Post-Transaction Certificate of Incorporation provides that the name of Ameritrade will be TD Ameritrade Holding Corporation. See Article 1 of the Post-Transaction Certificate of Incorporation.

***Amendment to the provisions relating to the calling of special meetings of stockholders.***

Under Ameritrade's current certificate of incorporation, a special meeting of stockholders may be called by holders of 25% or more of the outstanding shares of Ameritrade common stock, by the chairman of the board of directors of Ameritrade, by the chief executive officer of Ameritrade or by a majority of the members of the board of directors of Ameritrade. The Post-Transaction Certificate of Incorporation

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eliminates the right of the chairman of the board of directors or the chief executive officer to call a special meeting of stockholders. Accordingly, a special meeting of stockholders may be called only by the holders of record of 25% or more of the outstanding shares of Ameritrade common stock or by a majority of the members of the board of directors of Ameritrade. In addition, the Post-Transaction Certificate of Incorporation specifies that business transacted at special meetings shall be confined to the purpose or purposes stated in the notice of meeting for that meeting. See Article 5 of the Post-Transaction Certificate of Incorporation.

***Amendments to conform certain procedures for the nomination and removal of directors to the terms of the stockholders agreement.***

Ameritrade's current certificate of incorporation provides that, until certain dates specified in the current Ameritrade stockholders agreement (which agreement will be superseded by the stockholders agreement to be entered into in connection with the acquisition of TD Waterhouse), members of the Ameritrade board of directors may be removed without cause. The Post-Transaction Certificate of Incorporation conforms these time periods to the terms of the new stockholders agreement and, accordingly, specifies that prior to a Termination Event (and, following a Specified Termination Event, during any Post-Termination Period), members of the Ameritrade board may be removed without cause by the holders of a majority of the outstanding shares of Ameritrade common stock. See Article 6.e. of the Post-Transaction Certificate of Incorporation.

Similarly, Ameritrade's current certificate of incorporation provides that provisions in Ameritrade's certificate of incorporation or bylaws requiring advance notice for the designation or nomination of members of Ameritrade's Board of directors will not apply at certain times to Ameritrade stockholders entitled to nominate directors under Ameritrade's current stockholders agreement. The Post-Transaction Certificate of Incorporation conforms these provisions to the terms of the new stockholders agreement. Accordingly, Article 6.f. of the Post-Transaction Certificate of Incorporation provides that prior to a Termination Event (and, following a Specified Termination Event, during any Post-Termination Period), any stockholder entitled to designate or nominate one or more TD Ameritrade directors under the stockholders agreement may do so without complying with any advance notice provisions in TD Ameritrade's certificate of incorporation or bylaws.

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**PROPOSAL NO. 3  
APPROVAL OF THE AMENDMENT AND RESTATEMENT OF THE  
1996 LONG-TERM INCENTIVE PLAN**

At the special meeting, the stockholders will be asked to approve an amendment and restatement of the Ameritrade Holding Corporation 1996 Long-Term Incentive Plan. We refer to this plan as the 1996 Plan in this proxy statement. The board of directors originally adopted the 1996 Plan effective as of October 1, 1996 and amended and restated the 1996 Plan as of September 9, 2002.

The board of directors believes that Ameritrade must offer a competitive equity incentive program if it is to continue to successfully attract and retain the best possible candidates for positions of responsibility within Ameritrade. The board of directors expects that the 1996 Plan will continue to be an important factor in attracting, retaining and rewarding the high caliber employees essential to our success and in motivating these individuals to strive to enhance our growth and profitability.

The board of directors of Ameritrade has determined, contingent upon stockholder approval, to increase the share reserve under Ameritrade's 1996 Long-Term Incentive Plan by 19,000,000 shares, as requested in this Proposal No. 3, to increase the share reserve under Ameritrade's 1996 Directors Incentive Plan by 1,000,000 shares, as requested in Proposal No. 4, and to decrease the share reserve under Ameritrade's 1998 Stock Option Plan by a total of 20,000,000 shares. This will help ensure that Ameritrade (1) has a reasonable number of shares available to grant incentive awards under the 1996 Long-Term Incentive Plan and the 1996 Directors Incentive Plan and (2) has the most flexibility with respect to the types of incentive awards which may be granted.

To enable Ameritrade to continue to offer a competitive equity incentive program, the Compensation Committee of the board of directors (or the Committee) approved this amendment and restatement, subject to stockholder approval, to reserve an additional 19,000,000 shares for issuance under the 1996 Plan. Accordingly, the share reserve increase of 19,000,000 shares under the 1996 Plan will consist entirely of shares previously authorized for issuance under the 1998 Plan. This share increase under the 1996 Plan and the corresponding reduction in the 1998 Plan share reserve will therefore result in no net additional shares being reserved for issuance under Ameritrade stock plans.

As of November 16, 2005, there were 20,000,000 shares reserved for issuance under the 1996 Plan, and only 4,540,173 shares remained available for the future grant of awards under the 1996 Plan, a number that the board of directors believes to be insufficient to meet Ameritrade's anticipated needs. Therefore, the board of directors has unanimously adopted, subject to stockholder approval, this amendment and restatement of the 1996 Plan and the corresponding reduction in the share reserve under the 1998 Plan.

**Summary of the 1996 Plan**

The following summary is qualified in its entirety by the specific language of the 1996 Plan, a copy of which is attached to this Proxy Statement and which may also be accessed from the SEC's website at <http://www.sec.gov>. In addition, a copy of the 1996 Plan, as amended and restated, may be obtained upon written request to Ameritrade.

*General.* The purpose of the 1996 Plan is to advance the interests of Ameritrade by providing an incentive program that will enable Ameritrade to attract and retain employees upon whose judgment, interest and efforts Ameritrade's success is dependent and to provide them with an equity interest in the success of Ameritrade in order to motivate superior performance. These incentives are provided through the grant of stock options (including discounted stock options), stock appreciation rights, restricted stock awards and performance units.

*Authorized Shares.* Prior to the approval by stockholders of this amendment and restatement, 20,000,000 shares of our common stock, subject to adjustment as described below, have been reserved for the granting of awards. These shares may be currently authorized but unissued or currently held or subsequently acquired by Ameritrade as treasury shares, including shares purchased in the open market or in private transactions. If any award expires, lapses or otherwise terminates for any reason without having been exercised or settled in full, or if shares subject to forfeiture or repurchase are forfeited or repurchased

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by Ameritrade, any such shares that are reacquired or subject to such a terminated award will again become available for issuance. After the approval by stockholders of this amendment and restatement, the share reserve will be increased in an amount equal 19,000,000 shares such that the share reserve will be increased from 20,000,000 shares to 39,000,000 shares. In addition, after the approval by stockholders of this amendment and restatement, the Committee will also take such action as is necessary to amend the share reserve under the 1998 Plan to reduce its share reserve by 19,000,000 shares.

*Adjustments to Shares Subject to the 1996 Plan.* In the event of any merger, consolidation, reorganization, spinoff, stock dividend, stock split, reverse stock split, exchange or other distribution with respect to shares of Ameritrade common stock or other change in the corporate structure or capitalization affecting Ameritrade common stock, the number of shares of stock reserved, the type and number of shares of stock which are subject to outstanding awards and the terms of any such outstanding awards (including the price at which shares of stock may be issued pursuant to an outstanding award) shall be equitably adjusted by the board of directors or the Committee, in its sole discretion, to preserve the value of benefits awarded or to be awarded to participants. The Committee has previously authorized that all outstanding awards under the 1996 Plan, and the 1996 Plan share reserve (to the extent necessary to give effect to the adjustment to such outstanding awards), will be adjusted to preserve the economic value of such outstanding awards as determined immediately prior to the special dividend distribution which is discussed elsewhere in this Proxy Statement.

*Administration.* The 1996 Plan will be administered by the Committee. In the case of awards intended to qualify for the performance-based compensation exemption under Section 162(m) of the Code, administration must be by a compensation committee comprised solely of two or more outside directors within the meaning of Section 162(m). Subject to the provisions of the 1996 Plan, the Committee determines in its discretion the persons to whom and the times at which awards are granted, the types and sizes of such awards, and all of their terms and conditions. The Committee may, subject to certain limitations on the exercise of its discretion required by Section 162(m), amend, cancel, renew, or grant a new award in substitution for, any award, waive any restrictions or conditions applicable to any award, and accelerate, continue, extend or defer the vesting of any award. However, the 1996 Plan forbids, without stockholder approval, the cancellation or modification of any outstanding stock option for the purpose of reissuing an additional stock option to the option holder at a lower exercise price. The Committee will interpret the 1996 Plan and awards granted thereunder, and all determinations of the Committee will be final and binding on all persons having an interest in the 1996 Plan or any award.

*Eligibility.* Awards may only be granted to employees of Ameritrade or any present or future parent or subsidiary corporations of Ameritrade. Incentive stock options may be granted only to employees who, as of the time of grant, are employees of Ameritrade or any parent or subsidiary corporation of Ameritrade. As of August 26, 2005, Ameritrade had approximately 2,026 employees, including nine executive officers, who would be eligible for awards.

*Stock Options.* Each option granted must be evidenced by a written agreement between Ameritrade and the optionee specifying the number of shares subject to the option and the other terms and conditions of the option, consistent with the requirements of the 1996 Plan.

The exercise price of each incentive stock option may not be less than the fair market value of a share of common stock on the date of grant. However, any incentive stock option granted to a person who at the time of grant owns stock possessing more than 10% of the total combined voting power of all classes of stock of Ameritrade or any parent or subsidiary corporation of Ameritrade (a Ten percent Stockholder ) must have an exercise price equal to at least 110% of the fair market value of a share of common stock on the date of grant. The exercise price of each nonstatutory stock option will be determined by the Committee in its sole discretion at the time of grant and may be less than the current fair market value of a share of Ameritrade common stock on the date of grant, however, in no event shall such exercise price be less than 75% of such fair market value on the date of grant. Generally, the fair market value of the common stock is the closing market composite price per share on the date of grant as quoted on the Nasdaq National Market. On November 16, 2005, the closing price of Ameritrade s

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common stock on the Nasdaq National Market was \$22.17 per share. Ameritrade has never granted discounted stock options pursuant to the 1996 Plan.

An option's exercise price may be paid in cash, by check, by the assignment of the proceeds of a sale with respect to some or all of the shares being acquired upon the exercise of the option (a cashless exercise), to the extent legally permitted, by tender of shares of Ameritrade common stock owned by the optionee having a fair market value not less than the exercise price, or by any combination of these. No option may be exercised unless the optionee has made adequate provision for federal, state, local and foreign taxes, if any, relating to the exercise of the option.

Options will become vested and exercisable at such times or upon such events and subject to such terms, conditions, performance criteria or restrictions as specified by the Committee. The maximum term of any option is ten years, provided that an incentive stock option granted to a Ten percent Stockholder must have a term not exceeding five years. The Committee will specify in each written option agreement, and solely in its discretion, the period of post-termination exercise applicable to each option.

Stock options are nontransferable by the optionee other than by will or by the laws of descent and distribution, and are exercisable during the optionee's lifetime only by the optionee.

*Stock Appreciation Rights.* Each stock appreciation right must be evidenced by a written agreement between Ameritrade and the participant specifying the number of shares subject to the award and the other terms and conditions of the award, consistent with the requirements of the 1996 Plan.

A stock appreciation right gives a participant the right to receive the appreciation in the fair market value of Ameritrade common stock between the date of grant of the award and the date of its exercise. Ameritrade may pay the appreciation either in cash or in shares of common stock. The Committee may grant stock appreciation rights in tandem with a related stock option or as a freestanding award. A tandem stock appreciation right is exercisable only at the time and to the same extent that the related option is exercisable, and its exercise causes the related option to be canceled. Freestanding stock appreciation rights vest and become exercisable at the times and on the terms established by the Committee. Stock appreciation rights are generally nontransferable by the participant other than by will or by the laws of descent and distribution, and are generally exercisable during the participant's lifetime only by the participant. Ameritrade has not granted any stock appreciation rights pursuant to the 1996 Plan.

*Restricted Stock Awards.* Each restricted stock award granted must be evidenced by a written agreement between Ameritrade and the participant specifying the number of shares subject to the award and the other terms and conditions of the award, consistent with the requirements of the 1996 Plan. Restricted stock awards may be subject to vesting conditions based on such service or performance criteria as the Committee specifies, and the shares acquired may not be transferred by the participant until vested. Unless otherwise provided by the Committee, a participant will forfeit any shares of restricted stock as to which the restrictions have not lapsed prior to the participant's termination of service. Participants holding restricted stock will have the right to vote the shares and to receive any dividends paid, except that dividends or other distributions paid in shares will be subject to the same restrictions as the original award. Ameritrade has not granted any restricted stock awards pursuant to the 1996 Plan.

*Performance Units.* The Committee may grant performance units which represent a right to receive value for the units at the end of a performance period to the extent provided under the award. Each performance unit must be evidenced by a written agreement between Ameritrade and the participant specifying the terms and conditions of such award, consistent with the requirements of the 1996 Plan. The number of units earned, and the value received for the awards, will be contingent on the degree to which the performance measures established at the time of grant of the award are met. The Committee determines the terms and conditions of performance unit awards. The Ameritrade Executive Deferred Compensation Program may award performance units and such awards under that deferred compensation program will be issued from under this 1996 Plan.

*Individual Award Limitations.* The maximum aggregate number of shares of Ameritrade common stock that may be granted, subject to any award under the 1996 Plan, to any employee for any calendar

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year shall be 6,000,000 and the maximum aggregate cash payment to any covered employee as defined in Section 162(m) of the Code which may be made under the 1996 Plan with respect to any award for any calendar year shall be \$2,500,000.

*Termination or Amendment.* The 1996 Plan will continue in effect until the first to occur of (1) its termination by the Committee, or (2) the date on which all shares available for issuance have been issued and all restrictions on such shares have lapsed. However, no incentive stock option may be granted on or after October 1, 2006. The Committee may terminate or amend the 1996 Plan at any time, provided that no amendment may be made without stockholder approval if the Committee deems such approval necessary for compliance with any applicable tax or securities law or other regulatory requirements, including the requirements of any stock exchange or market system on which the common stock of Ameritrade is then listed. No termination or amendment may affect any outstanding award unless expressly provided by the Committee, and, in any event, may not adversely affect an outstanding award without the consent of the participant unless necessary to comply with any applicable law, regulation or rule.

**Summary of U.S. Federal Income Tax Consequences**

The following summary is intended only as a general guide to the U.S. federal income tax consequences of participation in the 1996 Plan and does not attempt to describe all possible federal or other tax consequences of such participation or tax consequences based on particular circumstances.

*Incentive Stock Options.* An optionee recognizes no taxable income for regular income tax purposes as a result of the grant or exercise of an incentive stock option qualifying under Section 422 of the Code. Optionees who do not dispose of their shares within two years following the date the option was granted or within one year following the exercise of the option will normally recognize a capital gain or loss equal to the difference, if any, between the sale price and the purchase price of the shares. If an optionee satisfies such holding periods upon a sale of the shares, Ameritrade will not be entitled to any deduction for federal income tax purposes. If an optionee disposes of shares within two years after the date of grant or within one year after the date of exercise (a disqualifying disposition), the difference between the fair market value of the shares on the determination date (see discussion under Nonstatutory Stock Options below) and the option exercise price (not to exceed the gain realized on the sale if the disposition is a transaction with respect to which a loss, if sustained, would be recognized) will be taxed as ordinary income at the time of disposition. Any gain in excess of that amount will be a capital gain. If a loss is recognized, there will be no ordinary income, and such loss will be a capital loss. Any ordinary income recognized by the optionee upon the disqualifying disposition of the shares generally should be deductible by Ameritrade for federal income tax purposes, except to the extent such deduction is limited by applicable provisions of the Code.

The difference between the option exercise price and the fair market value of the shares on the determination date of an incentive stock option (see discussion under Nonstatutory Stock Options below) is treated as an adjustment in computing the optionee's alternative minimum taxable income and may be subject to an alternative minimum tax which is paid if such tax exceeds the regular tax for the year. Special rules may apply with respect to certain subsequent sales of the shares in a disqualifying disposition, certain basis adjustments for purposes of computing the alternative minimum taxable income on a subsequent sale of the shares and certain tax credits which may arise with respect to optionees subject to the alternative minimum tax.

*Nonstatutory Stock Options.* Options not designated or qualifying as incentive stock options will be nonstatutory stock options having no special tax status. An optionee generally recognizes no taxable income as the result of the grant of such an option. Upon exercise of a nonstatutory stock option, the optionee normally recognizes ordinary income in the amount of the difference between the option exercise price and the fair market value of the shares on the determination date (as defined below). If the optionee is an employee, such ordinary income generally is subject to withholding of income and employment taxes. The determination date is the date on which the option is exercised unless the shares are subject to a

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substantial risk of forfeiture (as in the case where an optionee is permitted to exercise an unvested option and receive unvested shares which, until they vest, are subject to Ameritrade's right to repurchase them at the original exercise price upon the optionee's termination of service) and are not transferable, in which case the determination date is the earlier of (1) the date on which the shares become transferable or (2) the date on which the shares are no longer subject to a substantial risk of forfeiture. If the determination date is after the exercise date, the optionee may elect, pursuant to Section 83(b) of the Code, to have the exercise date be the determination date by filing an election with the Internal Revenue Service no later than 30 days after the date the option is exercised. Upon the sale of stock acquired by the exercise of a nonstatutory stock option, any gain or loss, based on the difference between the sale price and the fair market value on the determination date, will be taxed as capital gain or loss. No tax deduction is available to Ameritrade with respect to the grant of a nonstatutory stock option or the sale of the stock acquired pursuant to such grant. Ameritrade generally should be entitled to a deduction equal to the amount of ordinary income recognized by the optionee as a result of the exercise of a nonstatutory stock option, except to the extent such deduction is limited by applicable provisions of the Code.

*Stock Appreciation Rights.* In general, no taxable income is reportable when a stock appreciation right is granted to a participant. Upon exercise, the participant will recognize ordinary income in an amount equal to the amount of cash received and the fair market value of any shares of our common stock received. Any additional gain or loss recognized upon any later disposition of the shares would be capital gain or loss.

*Restricted Stock Awards.* A participant acquiring restricted stock generally will recognize ordinary income equal to the fair market value of the shares on the determination date (as defined above under *Nonstatutory Stock Options*). If the participant is an employee, such ordinary income generally is subject to withholding of income and employment taxes. If the determination date is after the date on which the participant acquires the shares, the participant may elect, pursuant to Section 83(b) of the Code, to have the date of acquisition be the determination date by filing an election with the Internal Revenue Service no later than 30 days after the date the shares are acquired. Upon the sale of shares acquired pursuant to a restricted stock award, any gain or loss, based on the difference between the sale price and the fair market value on the determination date, will be taxed as capital gain or loss. Ameritrade generally should be entitled to a deduction equal to the amount of ordinary income recognized by the participant on the determination date, except to the extent such deduction is limited by applicable provisions of the Code.

*Performance Units Awards.* A participant generally will recognize no income upon the grant of a performance units award. Upon the settlement of such awards, participants normally will recognize ordinary income in the year of receipt in an amount equal to the cash received and the fair market value of any cash or nonrestricted shares received. If the participant is an employee, such ordinary income generally is subject to withholding of income and employment taxes. If the participant receives shares of stock, the participant generally will be taxed in the same manner as described above (see discussion under *Restricted Stock Awards*). Upon the sale of any shares received, any gain or loss, based on the difference between the sale price and the fair market value on the determination date (as defined above under *Nonstatutory Stock Options*), will be taxed as capital gain or loss. Ameritrade generally should be entitled to a deduction equal to the amount of ordinary income recognized by the participant on the determination date, except to the extent such deduction is limited by applicable provisions of the Code.

**Table of Contents****Historical Plan Benefits**

*Options Granted to Certain Individuals and Groups.* The number of options or other awards (if any) that an individual may receive under the 1996 Plan is in the discretion of the Committee and therefore cannot be determined in advance. The following table sets forth the total number of shares of the Company's common stock subject to options or other awards (if any) granted under the 1996 Plan to the listed persons and groups since the beginning of fiscal year 2004 through November 16, 2005 and the average per share exercise price of the options.

**Options and Restricted Stock Granted to Certain Individuals and Groups  
From the Beginning of Fiscal Year 2004 through November 16, 2005**

Name and Position	Number of Options Granted	Weighted Average Per Share Exercise Price of Options(1)	Number of Shares of Restricted Stock Granted
Joseph H. Moglia Chief Executive Officer	0		0
J. Joe Ricketts Chairman and Founder	750,000	\$ 10.90	0
John R. MacDonald Executive Vice President, Chief Financial Officer and Chief Administrative Officer	0		0
J. Peter Ricketts(2) Vice Chairman	0		0
Michael R. Feigeles(3)	0		0
Asiff S. Hirji Executive Vice President and Chief Operating Officer	0		0
All current executive officers, as a group	750,000	\$ 10.90	0
All current directors who are not executive officers, as a group (7 persons)	0		0
All employees, including all current officers who are not executive officers, as a group	186,500	\$ 12.63	0

- (1) All options were granted with an exercise price equal to 100% of the fair market value on the date of grant.
- (2) Mr. Ricketts resigned his positions as Executive Vice President, Chief Operating Officer and Corporate Secretary of Ameritrade in August 2005.
- (3) Mr. Feigeles resigned his position as Executive Vice President in March 2005.

**Required Vote and Board of Directors Recommendation**

The affirmative vote of the holders of a majority of the shares of Ameritrade common stock present in person or represented by proxy and voting on the matter is required to approve this amendment and restatement of the 1996 Plan. If you hold your shares in your own name and abstain from voting on this matter, your abstention will have no effect on the vote. If you hold your shares through a broker and you do not instruct the broker on how to vote on this



proposal, your broker will not have authority to vote your shares. Abstentions and broker non-votes will each be counted as present for purposes of determining the presence of a quorum but will not have any effect on the outcome of the proposal.

The board of directors believes that the amendment and restatement of the 1996 Plan is in the best interests of Ameritrade and its stockholders for the reasons stated above. **THE BOARD OF DIRECTORS UNANIMOUSLY RECOMMENDS A VOTE FOR APPROVAL OF THE AMENDMENT AND RESTATEMENT OF THE 1996 PLAN.**

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**PROPOSAL NO. 4  
APPROVAL OF THE AMENDMENT AND RESTATEMENT OF THE  
1996 DIRECTORS INCENTIVE PLAN**

At the special meeting, the stockholders will be asked to approve an amendment and restatement of the Ameritrade Holding Corporation 1996 Directors Incentive Plan. We refer to this plan as the Director Plan in this proxy statement. The board of directors originally adopted the Director Plan effective as of March 4, 1997, amended and restated the Director Plan as of September 9, 2002 and again as of February 12, 2003.

The board of directors believes that Ameritrade must offer a competitive equity incentive program if it is to continue to successfully attract and retain as members of the board of directors individuals who are not employees of Ameritrade or of any subsidiary or parent of Ameritrade ( Outside Directors ) whose abilities, experience and judgment can contribute to the continued progress of Ameritrade and its subsidiaries and to facilitate the Outside Directors ability to acquire a proprietary interest in Ameritrade. The board of directors expects that the Director Plan will continue to be an important factor in attracting, retaining and rewarding the high caliber Outside Directors.

As described above in Proposal No. 3, the board of directors has determined that in order to ensure that Ameritrade has a reasonable number of shares available to grant incentive awards under the Director Plan that the share reserve under the 1998 Plan will be reduced by 20,000,000 shares, contingent upon stockholder approval of the share reserve increases to the 1996 Plan, as requested in Proposal No. 3, and the Director Plan, as requested in this Proposal No. 4.

Specifically, in order to enable Ameritrade to continue to offer a competitive equity incentive program to its Outside Directors, the Committee approved this amendment and restatement, subject to stockholder approval, to reserve an additional 1,000,000 shares for issuance under the Director Plan. Accordingly, the share reserve increase of 1,000,000 shares under the Director Plan will consist entirely of shares previously authorized for issuance under the 1998 Plan. This share increase under the Director Plan and the corresponding reduction in the 1998 Plan share reserve will therefore result in no net additional shares being reserved for issuance under Ameritrade stock plans.

As of November 16, 2005, there were 1,460,000 shares reserved for issuance under the plan, and only 546,161 shares remained available for the future grant of awards under the Director Plan, a number that the board of directors believed to be insufficient to meet Ameritrade s anticipated needs particularly in light of the planned increase of the size of the board of directors from nine members to twelve members. Therefore, the board of directors has unanimously adopted, subject to stockholder approval, this amendment and restatement of the Director Plan and the corresponding reduction in the share reserve under the 1998 Plan.

**Summary of the Director Plan**

The following summary is qualified in its entirety by the specific language of the Director Plan, a copy of which is attached to this Proxy Statement and which may also be accessed from the SEC s home page ([www.sec.gov](http://www.sec.gov)). In addition, a copy of the Director Plan, as amended and restated, may be obtained upon written request to Ameritrade.

*General.* The Director Plan provides to Outside Directors the (1) grant of nonstatutory stock options upon such Outside Directors initial election to the board of directors, (2) grant of restricted stock upon such Outside Directors initial election to the board of directors, (3) discretionary grant of nonstatutory stock options which may be granted other than upon initial election to the board of directors, (4) grant of cash or stock based retainer awards, in such amounts as determined in the sole discretion of the board of directors, and (5) discretionary ability to defer cash director retainers and other fees into either stock based director fee awards or a deferred cash account.

*Authorized Shares.* Prior to this amendment and restatement, 1,460,000 shares of our common stock have been reserved for the granting of awards. If any award expires, lapses or otherwise terminates for any

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reason without having been exercised or settled in full, or if shares subject to forfeiture or repurchase are forfeited or repurchased by Ameritrade, any such shares that are reacquired or subject to such a terminated award will again become available for issuance. After the approval of stockholders of this amendment and restatement, the share reserve shall be increased in an amount equal to 1,000,000 shares such that the share reserve shall be increased from 1,460,000 shares to 2,460,000 shares. In addition, after the approval of stockholders of this amendment and restatement, the Committee will also take such action as is necessary to amend the share reserve under the 1998 Plan to reduce its share reserve by 1,000,000 shares.

*Adjustments to Shares Subject to the Director Plan.* In the event of any merger, consolidation, reorganization, spinoff, stock dividend, stock split, reverse stock split, exchange or other distribution with respect to shares of stock or other change in the corporate structure or capitalization affecting Ameritrade common stock, the number of shares of stock reserved, the type and number of shares of stock which are subject to outstanding awards and the terms of any such outstanding awards (including the price at which shares of stock may be issued pursuant to an outstanding award) shall be equitably adjusted by the Committee, in its sole discretion, to preserve the value of benefits awarded or to be awarded to Outside Directors. The Committee has previously authorized that all outstanding awards under the Director Plan, and the Director Plan share reserve (to the extent necessary to reflect the adjustment to such outstanding awards), will be adjusted to preserve the value of such outstanding awards as determined immediately prior to the special dividend distribution which is discussed elsewhere in this Proxy Statement.

*Administration.* The Director Plan will be administered by the board of directors to the extent provided by the terms of the Director Plan and by the Committee for all other purposes. The Director Plan will be administered in a manner intended to permit awards to be exempt from Section 16(b) of the Securities Exchange Act of 1934, or the Exchange Act, in accordance with Rule 16b-3 thereunder. The Committee will approve forms of award agreements for use under the Director Plan, determine the terms and conditions of awards consistent with the requirements of the Director Plan, and construe and interpret the terms of the Director Plan and awards granted under it.

*Eligibility.* Only members of the board of directors of Ameritrade who are Outside Directors at the time of grant are eligible to participate in the Director Plan. Currently, Ameritrade has seven Outside Directors.

*Initial Grant of Stock Options.* Stock options will be granted to each Outside Director upon his or her initial election to the board of directors. The number of shares subject to this initial stock option will be determined by the Chairman of the Board of directors and approved by the board of directors.

*Discretionary Grant of Stock Options.* Outside Directors may also be awarded stock options other than upon their initial election to the board of directors as determined from time to time by the members of the board of directors.

*Terms and Conditions of Stock Options.* Each stock option will be evidenced by a written agreement specifying the number of shares subject to the option and the other terms and conditions of the option, consistent with the provisions of the Director Plan.

The per-share exercise price for each option will be equal to the fair market value of a share of our common stock on the date of grant. Generally, the fair market value of the common stock is the closing composite price per share on the date of grant as quoted on the Nasdaq National Market. The closing price of our common stock as reported on the Nasdaq National Market on November 16, 2005 was \$22.17 per share.

An option's exercise price may be paid in cash, by check or by tender of shares of common stock owned by the Outside Director having a fair market value not less than the exercise price, or by any combination of these.

Stock options will generally become vested and exercisable in three equal annual installments beginning on the first anniversary of the date of grant, subject to the Outside Director's continuous service

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on our board of directors. Notwithstanding an Outside Director's termination of service on the board of directors, stock options shall continue to vest over a period of three years unless the Outside Director was terminated for cause. If an Outside Director's service as a director terminates for cause, stock options shall continue to vest for a period of one year following such termination. Unless earlier terminated under the terms of the option agreement, each option will have an expiration date which will be the earlier of the 10-year anniversary of the date of grant or the one-year anniversary of the date on which the Outside Director's service as a director terminates for cause.

Stock options are nontransferable by the Outside Director other than by will or by the laws of descent and distribution, and are exercisable during the Outside Director's lifetime only by the Outside Director.

*Initial Grant of Restricted Stock.* An award of restricted stock will be granted to each Outside Director upon his or her initial election to the board of directors. The number of shares subject to this initial restricted stock award will be determined by the Chairman of the board of directors and approved by the board of directors, however, the fair market value of such award shall equal approximately \$20,000 or such other amount as determined by the board of directors from time to time.

*Terms and Conditions of Restricted Stock.* Each award of restricted stock will be evidenced by a written agreement specifying the number of shares subject to the award and the other terms and conditions of the award, consistent with the provisions of the Director Plan.

An award of restricted stock will generally become vested in three equal annual installments beginning on the first anniversary of the date of grant, subject to the Outside Director's continuous service on our board of directors. All shares of restricted stock which are not vested on the earlier of the 10-year anniversary of the date of grant or the one-year anniversary of the date on which the Outside Director's service as a director terminates for cause shall be forfeited.

Restricted stock may not be sold or otherwise transferred or pledged until the stock has vested. Outside Directors holding restricted stock will have the right to vote the shares and to receive all dividends and other distributions, except that any dividends or other distributions paid in shares will be subject to the same restrictions as the original award. An Outside Director may elect, in accordance with the terms of the Director Plan, to defer receipt of an award of restricted stock. If any Outside Director elects to defer receipt of any restricted stock, the deferred portion of such award will be deemed an award of deferred stock units (as discussed below) and the Outside Director will not be entitled to receive any other compensation, whether in cash or common stock, from Ameritrade in lieu of such deferral.

*Director Fee Awards.* Ameritrade may award Outside Directors contributions to the Director Plan in the form of cash retainers or stock award retainers in such amounts as determined from time to time by the board of directors. In addition to these board of directors determined retainer contributions, Outside Directors may also elect whether to receive their retainers and other fees in cash or in shares of Ameritrade common stock and may elect to defer receipt of all or a portion of such retainer and other fees otherwise payable to the Outside Director, including those amounts that would otherwise be payable to the Outside Director in the form of Ameritrade common stock. Amounts deferred pursuant to an Outside Director's election are credited to a bookkeeping account which consists of a Cash Subaccount reflecting amounts that would otherwise have been payable to the Outside Director in cash and a Stock Subaccount reflecting amounts that would have otherwise been payable to the Outside Director in Ameritrade common stock. Outside Director compensation not deferred will be paid in cash in accordance with Ameritrade's normal payment procedures.

As of the first day of each fiscal quarter, the Cash Subaccount is adjusted to reflect contributions and distributions during the preceding fiscal quarter and is credited with interest computed at the prime rate as reported by the Wall Street Journal for that date (or, if that day is not a business day, the next preceding business day). The Stock Subaccount is credited with stock units as of each day that a deferred amount would otherwise have been payable to the Outside Director in Ameritrade common stock, is charged with stock units as of each day on which amounts are distributed from the Stock Subaccount and is credited with stock units as of each record date to reflect dividends paid on the common stock. A stock unit is an



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unfunded bookkeeping entry representing a right to receive one share of our common stock in accordance with the terms and conditions of the Director Plan. Outside Directors are not required to pay any additional cash consideration in connection with the settlement of a stock unit award.

Deferred amounts are payable to Outside Directors as of a distribution date elected by the Outside Director at the time of deferral. If no distribution date is specified, payments begin as of the first business day of January of the year following the date on which the Outside Director ceases to be a member of the board of directors of Ameritrade for any reason. Distributions of deferred amounts can be made in ten annual installments commencing on the distribution date elected. An Outside Director may also elect to have payments made in a single lump sum or in any number of annual payments not exceeding 10. If an Outside Director dies prior to the full payment of his or her deferral account, the balance will be paid in a lump sum to a beneficiary designated by the Outside Director.

Stock unit awards may be either (1) fully vested upon grant if such award results from the Outside Director's deferral of compensation or (2) subject to such vesting terms and conditions, as determined in the sole discretion of the board of directors, if an Ameritrade contribution, and every stock unit will be settled by distribution to the Outside Director of a number of whole shares of common stock equal to the number of stock units subject to the award. A holder of stock unit has no voting rights or other rights as a stockholder until shares of common stock are issued to the Outside Director in settlement of the stock unit. Prior to settlement, no stock units award may be assigned or transferred other than by will or the laws of descent and distribution.

*Change in Control.* The Director Plan defines a *Change in Control* of Ameritrade as the occurrence of any of the following: (1) any person (as such term is used in Sections 13(d) and 14(d) of the Exchange Act, as amended) becomes the beneficial owner (as defined in Rule 13d-3 under said Act), directly or indirectly, of securities of Ameritrade representing 30% or more of the total voting power of Ameritrade; or (2) any tender offer (for which a filing has been made with the SEC) is made for the stock of Ameritrade, which has not been negotiated and approved by the board of directors; or (3) individuals who were nominees of the board of directors for election as directors of Ameritrade immediately prior to a meeting of the stockholders involving a contest for the election of directors shall not constitute a majority of the board of directors following the election.

If a Change in Control occurs, all stock options, restricted stock and deferred stock units will be 100% vested and settled, as applicable, prior to the effective date of any Change in Control.

*Termination or Amendment.* The Director Plan will continue in effect until the earlier of its termination by the board of directors or the date on which all of the shares of common stock available for issuance have been issued and all restrictions on such shares have lapsed. The board of directors may terminate or amend the Director Plan at any time, provided that no amendment may be made without stockholder approval if the board of directors deems such approval necessary for compliance with any applicable tax or securities law or other regulatory requirements, including the requirements of any stock exchange or market system on which the common stock of Ameritrade is then listed. No termination or amendment may affect any outstanding award unless expressly provided by the board of directors, and, in any event, may not adversely affect an outstanding award without the consent of the Outside Director unless necessary to comply with any applicable law.

**Summary of U.S. Federal Income Tax Consequences**

The following summary is intended only as a general guide to the U.S. federal income tax consequences of participation in the Director Plan and does not attempt to describe all possible federal or other tax consequences of such participation or tax consequences based on particular circumstances.

*Nonstatutory Stock Options.* All stock options shall be nonstatutory stock options having no special tax status. An Outside Director generally recognizes no taxable income upon receipt of such an option. Upon exercising a nonstatutory stock option, the Outside Director normally recognizes ordinary income equal to the difference between the exercise price paid and the fair market value of the shares on the date

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when the option is exercised or such later date as the shares become vested and free of any restrictions on transfer (the later of such dates being referred to as the determination date ). Upon the sale of stock acquired by the exercise of a nonstatutory stock option, any gain or loss, based on the difference between the sale price and the fair market value of the shares on the determination date, will be taxed as capital gain or loss. Ameritrade generally should be entitled to a tax deduction equal to the amount of ordinary income recognized by the Outside Director as a result of the exercise of a nonstatutory stock option, except to the extent such deduction is limited by applicable provisions of the Code.

*Restricted Stock.* Acquisitions of restricted stock receive tax treatment that is similar to that of exercises of nonstatutory stock options. An Outside Director acquiring restricted stock normally recognizes ordinary income equal to the difference between the amount, if any, the Outside Director paid for the restricted stock and the fair market value of the shares on the determination date. The Outside Director may elect, pursuant to Section 83(b) of the Code, to treat the acquisition date as the determination date by filing an election with the Internal Revenue Service. Upon the sale of restricted stock, any gain or loss, based on the difference between the sale price and the fair market value of the shares on the determination date, will be taxed as capital gain or loss. Ameritrade generally should be entitled to a tax deduction equal to the amount of ordinary income recognized by the Outside Director as a result of the acquisition of restricted stock, except to the extent such deduction is limited by applicable provisions of the Code.

*Director Fee Awards.* An Outside Director generally will recognize no income upon the grant of a stock unit award or deferred cash award. Upon the settlement of such awards, the Outside Directors normally will recognize ordinary income in the year of settlement in an amount equal to the cash received and the fair market value of any unrestricted shares received. Upon the sale of any shares received, any gain or loss, based on the difference between the sale price and the fair market value on the determination date, will be taxed as capital gain or loss. Ameritrade generally should be entitled to a deduction equal to the amount of ordinary income recognized by the Outside Director on the determination date, except to the extent such deduction is limited by applicable provisions of the Code.

**Table of Contents****Historical Plan Benefits**

*Awards Granted to Outside Directors.* The number of options or other awards (if any) that an Outside Director may receive under the Director Plan is in the discretion of the Committee and therefore cannot be determined in advance. The following table sets forth the total number of shares of the Company's common stock subject to options or other awards (if any) granted under the Director Plan to the listed persons and groups since the beginning of fiscal year 2004 through November 16, 2005 and the average per share exercise price of the options.

**Options and Restricted Stock Granted to Certain Individuals and Groups  
From the Beginning of Fiscal Year 2004 through November 16, 2005**

Name and Position	Number of Options Granted	Weighted Average Per Share Exercise Price of Options(1)	Number of Shares of Restricted Stock Granted
Joseph H. Moglia Chief Executive Officer	0		0
J. Joe Ricketts Chairman and Founder	0		0
John R. MacDonald Executive Vice President, Chief Financial Officer and Chief Administrative Officer	0		0
J. Peter Ricketts(2) Vice Chairman	0		0
Michael R. Feigeles(3)	0		0
Asiff S. Hirji Executive Vice President and Chief Operating Officer	0		0
All current executive officers, as a group	0		0
All current directors who are not executive officers, as a group (7 persons)	20,000	\$ 16.72	2,677
All employees, including all current officers who are not executive officers, as a group	0		0

- (1) All options were granted with an exercise price equal to 100% of the fair market value on the date of grant.
- (2) Mr. Ricketts resigned his positions as Executive Vice President, Chief Operating Officer and Corporate Secretary of Ameritrade in August 2005.
- (3) Mr. Feigeles resigned his position as Executive Vice President in March 2005.

**Required Vote and Board of Directors Recommendation**

The affirmative vote of the holders of a majority of the shares of Ameritrade common stock present in person or represented by proxy and voting on the matter is required to approve this amendment and restatement of the Director Plan. If you hold your shares in your own name and abstain from voting on this matter, your abstention will have no effect on the vote. If you hold your shares through a broker and you do not instruct the broker on how to vote on this



proposal, your broker will not have authority to vote your shares. Abstentions and broker non-votes will each be counted as present for purposes of determining the presence of a quorum but will not have any effect on the outcome of the proposal.

The board of directors believes that the amendment and restatement of the Director Plan is in the best interests of Ameritrade and its stockholders for the reasons stated above. **THE BOARD OF DIRECTORS UNANIMOUSLY RECOMMENDS A VOTE FOR APPROVAL OF THE AMENDMENT AND RESTATEMENT OF THE DIRECTOR PLAN.**

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**PROPOSAL NO. 5  
ADJOURNMENT OF THE SPECIAL MEETING**

In the event that there are not sufficient votes to constitute a quorum or approve the Ameritrade Stock Issuance, the Post-Transaction Certificate of Incorporation or the related sub-proposals at the time of the special meeting, these proposals could not be approved unless the meeting was adjourned to a later date or dates in order to permit further solicitation of proxies. Under Ameritrade's bylaws, written notice of an adjourned meeting need not be given to stockholders if the date, place and time of the adjourned meeting are announced at the special meeting before adjournment and a new record date is not fixed for the adjourned meeting, provided the adjournment is for not more than 30 days.

The affirmative vote of the holders of a majority of shares of Ameritrade common stock present in person or represented by proxy and voting on the matter at the special meeting is required to approve the proposal to adjourn the special meeting if necessary to permit further solicitation of proxies on any of the foregoing proposals if there are not sufficient votes at the time of the special meeting to approve the proposals relating to the issuance of Ameritrade common stock to TD, and/or one or more of TD's affiliates, and the amendment and restatement of our certificate of incorporation (or any of the related sub-proposals).

In order to allow proxies that have been received by Ameritrade at the time of the special meeting to be voted for an adjournment, if necessary, Ameritrade has submitted the question of adjournment to its stockholders as a separate matter for their consideration. **THE BOARD OF DIRECTORS OF AMERITRADE UNANIMOUSLY RECOMMENDS A VOTE *FOR* THE ADJOURNMENT PROPOSAL.**

**Table of Contents****TD WATERHOUSE BUSINESS DESCRIPTION**

TD Waterhouse focuses on the securities brokerage needs of independent-minded investors who are looking for an alternative to higher-priced brokers. TD Waterhouse specializes in providing financial services through a broad offering of brokerage, mutual fund, banking and other consumer financial products and services. Customers are able to utilize TD Waterhouse's services through a variety of delivery channels, including the Internet and other electronic channels, as well as its branch network. TD Waterhouse had approximately 2.9 million active customer accounts (active is defined as having funds, a security or activity in the most recent month) as of July 31, 2005 in the U.S. and Canada, of which 2.1 million are in the U.S.

Through its U.S. broker-dealer subsidiary, TD Waterhouse Investor Services, Inc., TD Waterhouse offers a comprehensive online platform for self-directed investors, offering a range of investment products, retirement and college investment vehicles, cash management tools and online services. TD Waterhouse also offers customers, who may want more investment guidance, the personal touch of over 140 nationwide branches with professional investment consultants available to provide guidance and support. Complementing its branch network, TD Waterhouse also has three investment centers that offer product expertise on various investment vehicles from alternative investments and mutual funds to fixed income products. For those investors who seek discretionary advice on their investment portfolios, TD Waterhouse's AdvisorDirect program can refer customers to a nationwide network of independent financial advisors. In addition, TD Waterhouse, through its Institutional Services Division, provides comprehensive brokerage and other services to independent financial advisors and their customers. TD Waterhouse Institutional Services has serviced advisors for over 10 years, currently providing approximately 2,600 advisors and their customers with world-class service, cutting-edge technology and a comprehensive offering of products and services. The Institutional Services Division offers a range of products and services that have been individualized to meet the needs of financial advisors, including block trading and trade allocation, management fee processing, customer account information downloads, and consolidated monthly customer account statements.

TD Waterhouse's clearing firm, National Investor Services Corp., a U.S. broker-dealer, performs clearing services for all customer transactions. These services include providing custodial services for securities and cash held in customer accounts, settling and transferring payment for securities on the settlement date, issuing trade confirmations and performing related clearing functions. TD Waterhouse's subsidiary, TD Waterhouse Capital Markets, Inc., operates as a market maker in over-the-counter equity securities, primarily focusing on those securities traded on The Nasdaq Stock Market and the OTC Bulletin Board.

Through TD Waterhouse Bank, N.A., TD Waterhouse provides its customers access to a variety of banking services, including check writing and debit card access to funds in their brokerage accounts, as well as deposit products, certificates of deposit and credit cards.

TD Waterhouse's Canadian subsidiary, TD Waterhouse Canada Inc., a member of the Investment Dealers Association of Canada, is Canada's leading provider of discount brokerage services, affording customers access to a full range of investment information, guidance and other resources through a variety of delivery channels.

TD Waterhouse Bank, N.A. and TD Waterhouse Canada Inc., will not be acquired by Ameritrade as part of the transaction.

TD Waterhouse's marketing strategy has remained focused on building brand awareness, attracting new customers, and retaining and cross-selling to existing customers value-added products and services. The firm pursues these goals through a combination of marketing through its branch office network, media, advertising, marketing on the firm's website, public relations and co-marketing programs.

***Products and Services***

TD Waterhouse offers a broad range of products and services to meet its customers' varying investment and financial needs, as well as access to extensive investment news and information. The firm's

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products and services are tailored to meet the needs of self-directed individual investors and independent fee-based investment advisors.

*Brokerage Services for Individual Investors.* TD Waterhouse customers are able to buy and sell all U.S. and major foreign exchange-listed, Nasdaq-listed and other equity securities, options, mutual funds, unit investment trusts, variable annuities and fixed income investments, including U.S. Treasuries, zero-coupon bonds, listed and over-the-counter corporate bonds, municipal bonds, GNMA's and CDs. The firm offers both margin accounts and cash accounts to its customers.

*Mutual Funds.* Through TD Waterhouse's extensive mutual fund network, customers have access to one of the most comprehensive mutual fund selections available to individual investors—over 10,000 from more than 400 well-respected fund families, including more than 1,300 funds with no transaction fees. Self-directed investors are able to select from among the wide array of fund choices by speaking with a branch investment consultant or using the firm's online mutual fund screener. Customers seeking mutual fund advice may also utilize the services of one of TD Waterhouse's investment centers.

*Retirement Services.* TD Waterhouse offers a variety of no-fee, no-minimum balance retirement plan products for both individuals and businesses. These products include various IRAs for individuals, as well as SEP plans, profit sharing plans, 401(k) plans and other retirement plans for businesses and self-employed individuals. Customers are afforded access to the firm's Retirement Plans customer service group, as well as to a variety of online planning tools to assist in determining retirement needs.

*Tools and Resources.* TD Waterhouse provides access to a broad spectrum of free investment information and research tools to assist self-directed investors with their investment decisions. These include printed research materials, quote information, charting, portfolio tracking and stock and mutual fund performance and screening tools. The firm has also established alliances with leading online content providers to facilitate its online investors' ability to make informed investment decisions.

TD Waterhouse is headquartered at 100 Wall Street, New York, New York.

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**Report of Independent Auditors**

To the Board of Directors  
and Stockholders of  
TD Waterhouse Group, Inc.:

In our opinion, the accompanying consolidated statements of financial condition and the related consolidated statements of income, changes in stockholders' equity and cash flows present fairly, in all material respects, the financial position of TD Waterhouse Group, Inc. and its subsidiaries at October 31, 2004 and October 31, 2003, and the results of their operations and their cash flows for each of the three years in the period ended October 31, 2004 in conformity with accounting principles generally accepted in the United States of America. These financial statements are the responsibility of the Company's management. Our responsibility is to express an opinion on these financial statements based on our audits. We conducted our audits of these statements in accordance with auditing standards generally accepted in the United States of America. Those standards require that we plan and perform the audit to obtain reasonable assurance about whether the financial statements are free of material misstatement. An audit includes examining, on a test basis, evidence supporting the amounts and disclosures in the financial statements, assessing the accounting principles used and significant estimates made by management, and evaluating the overall financial statement presentation. We believe that our audits provide a reasonable basis for our opinion.

As discussed in Note 3 to the consolidated financial statements, the Company has restated its consolidated financial statements as of October 31, 2003 and October 31, 2002 and for the years then ended.

PricewaterhouseCoopers LLP  
New York, New York

August 18, 2005, except for the fifth, sixth, and seventh paragraphs of Note 3,  
as to which the date is September 10, 2005

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**TD WATERHOUSE GROUP, INC.**  
**CONSOLIDATED STATEMENTS OF FINANCIAL CONDITION**  
**At October 31**

	2004	2003
	(Restated)	
	(In thousands of dollars, except share data)	
<b>ASSETS</b>		
Cash and cash equivalents	\$ 222,716	\$ 420,825
Investment securities		
Held to maturity (market value of \$2,830,814 and \$1,249,960)	2,831,595	1,249,852
Available for sale, at market value	6,940,966	5,335,376
Trading	1,873,353	1,573,351
Restricted investment securities, at cost	32,695	22,610
Receivables from customers	5,069,332	4,438,506
Securities purchased under agreements to resell	1,515,855	1,492,896
Receivables from brokers and dealers	79,140	67,726
Deposits paid for securities borrowed	91,845	82,172
Deposits with clearing organizations	54,872	66,627
Loans, net of allowance for loan losses of \$600 and \$1,702	24,479	41,805
Receivable from affiliates	8,526	
Furniture, equipment and leasehold improvements, at cost, less accumulated depreciation and amortization of \$98,055 and \$98,238	123,933	118,315
Capitalized software, net of accumulated amortization of \$67,263 and \$52,660	30,637	29,649
Intangible assets	12,409	14,827
Goodwill	859,289	852,978
Deferred tax assets	34,569	17,600
Other assets	112,246	114,594
<b>Total assets</b>	<b>\$ 19,918,457</b>	<b>\$ 15,939,709</b>
<b>LIABILITIES, MINORITY INTEREST AND STOCKHOLDERS EQUITY</b>		
<b>Liabilities</b>		
Bank loans and overdrafts	\$ 43,309	\$ 49,762
Interest bearing deposits	8,631,570	5,807,827
Deposits received for securities loaned	1,081,561	909,460
Securities sold, not yet purchased	5,136	3,588
Payables to brokers and dealers	176,119	186,243
Payables to customers	5,391,422	5,337,499
Swap contracts with affiliate, at fair value	726,837	528,962
Payables to affiliates	544,151	64,681
Non interest bearing deposits	351	206
Taxes payable	27,144	19,153

Deferred tax liabilities	75,583	42,039
Accrued compensation and other liabilities	229,541	207,641
<b>Liabilities qualifying as risk based capital</b>		
Subordinated debt with affiliate	30,000	30,000
<b>Total liabilities</b>	<b>16,962,724</b>	<b>13,187,061</b>
Minority interest	61,277	51,813
Commitments and contingent liabilities (Note 15)		
<b>Stockholders Equity</b>		
Preferred stock of subsidiary, Cdn\$1,000 par value, unlimited shares authorized, 17,100 shares issued and outstanding	11,829	11,829
Common stock, Class A, \$0.01 par value, 355 million shares authorized, 352,944,959 shares issued and outstanding	3,530	3,530
Common stock, Class B, \$0.01 par value, 18 million shares authorized, 17,724,648 shares issued and outstanding	177	177
Additional paid-in capital	1,785,631	1,784,032
Retained earnings	1,024,776	867,122
Accumulated other comprehensive income	68,513	34,145
<b>Total stockholders equity</b>	<b>2,894,456</b>	<b>2,700,835</b>
<b>Total liabilities, minority interest and stockholders equity</b>	<b>\$ 19,918,457</b>	<b>\$ 15,939,709</b>

The accompanying notes are an integral part of these consolidated financial statements.



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**TD WATERHOUSE GROUP, INC.**  
**CONSOLIDATED STATEMENTS OF INCOME**  
**For the Year Ended October 31**

	2004	2003	2002
		(Restated)	(Restated)
	(In thousands of dollars)		
<b>REVENUES</b>			
Interest income			
Margin loans	\$ 209,047	\$ 153,901	\$ 153,083
Investment securities	195,219	163,707	164,258
Other	73,856	67,206	55,271
<b>Total interest income</b>	478,122	384,814	372,612
Interest expense			
Interest bearing deposits	70,367	34,253	54,082
Deposits received for securities loaned	9,381	11,533	10,335
Customer deposits	43,248	55,574	31,852
Bank loans and overdrafts	275	134	143
Subordinated debt	1,992	1,992	32
<b>Total interest expense</b>	125,263	103,486	96,444
<b>Net interest income</b>	352,859	281,328	276,168
Non-interest income			
Commissions and fees	681,944	653,154	573,638
Gain on principal transactions	33,973	21,116	
Net loss on sale of available for sale securities	(231)	(840)	(1,425)
Mutual fund and related revenue	202,735	144,713	113,734
Fees from affiliates	48,217	29,976	19,201
Other	76,987	61,017	151,982
<b>Total non-interest income</b>	1,043,625	909,136	857,130
<b>Net revenue</b>	1,396,484	1,190,464	1,133,298
<b>OPERATING EXPENSES</b>			
Employee compensation and benefits	527,229	456,597	372,557
Floor brokerage, exchange and clearing fees	104,596	86,472	53,125
Occupancy	68,448	71,832	66,650
Advertising and promotion	91,293	66,788	91,123
Depreciation and amortization	56,231	55,743	57,399
Equipment	39,012	37,782	46,992
Communications and data processing	57,543	77,356	82,529
Professional fees	58,294	42,973	41,902
Stationery and postage	37,045	33,789	37,653

Other	103,778	101,755	190,171
<b>Total operating expenses</b>	<b>1,143,469</b>	<b>1,031,087</b>	<b>1,040,101</b>
Income before income taxes and minority interest	253,015	159,377	93,197
Income tax provision	85,793	53,881	44,492
<b>Income after taxes before minority interest</b>	<b>167,222</b>	<b>105,496</b>	<b>48,705</b>
Minority interest in subsidiary	9,150	5,828	1,386
<b>Income from continuing operations</b>	<b>158,072</b>	<b>99,668</b>	<b>47,319</b>
<b>Discontinued operations</b>			
Loss from discontinued operations (including loss on disposal of \$61,650 for the year ended October 31, 2003)		(64,661)	(16,896)
Income tax benefit		(9,751)	(5,010)
Loss from discontinued operations		(54,910)	(11,886)
<b>Net income</b>	<b>\$ 158,072</b>	<b>\$ 44,758</b>	<b>\$ 35,433</b>

The accompanying notes are an integral part of these consolidated financial statements.

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**TD WATERHOUSE GROUP, INC.**  
**CONSOLIDATED STATEMENTS OF CHANGES IN STOCKHOLDERS' EQUITY**  
(In thousands of dollars, except share data)

	Preferred Stock of Subsidiary	Preferred Stock of Subsidiary	Common Stock Class A Shares	Common Stock Class A Amount	Common Stock Class B Shares	Common Stock Class B Amount	Additional Paid-In Capital	Retained Earnings	Accumulated (Loss)/ Comprehensive Income	Total Equity
Balance at October 31, 2011, as adjusted (Note 3)	17,100	\$ 11,829	2,002	\$	102	\$	\$ 1,772,226	\$ 843,789	\$ (22,719)	\$ 2,605,1
Cancellation of common stock outstanding of TDW Holdings part of TDW Group			(2,002)		(102)					
Issuance of new common shares of TDW Group			352,944,959	3,530	17,724,648	177	(3,707)			
Increase in Contributions from Subsidiary Acquisition							1,819			1,819
Decrease in Contributions from Subsidiary Acquisition							(643)			(643)
Return of Capital to Investor: sale of joint ventures										
Change in Goodwill							(7,993)			(7,993)
Contribution re: Subsidiary Acquisition										
Contribution re: Subsidiary Acquisition							9,043			9,043
Contribution to Investor: TD								(56,500)		(56,500)

