

**UNITED STATES OF AMERICA**  
**Before the**  
**SECURITIES AND EXCHANGE COMMISSION**

**SECURITIES ACT OF 1933**  
**Release No. 9103 / January 27, 2010**

**SECURITIES EXCHANGE ACT OF 1934**  
**Release No. 61428 / January 27, 2010**

**ADMINISTRATIVE PROCEEDING**  
**File No. 3-13557**

**In the Matter of**

**TD AMERITRADE, INC.,**

**Respondent.**

**ORDER UNDER SECTION 27A(b) OF THE  
SECURITIES ACT OF 1933 AND SECTION  
21E(b) OF THE SECURITIES EXCHANGE  
ACT OF 1934, GRANTING WAIVERS OF  
THE DISQUALIFICATION PROVISIONS  
OF SECTION 27A(b)(1)(A)(ii) OF THE  
SECURITIES ACT OF 1933 AND SECTION  
21E(b)(1)(A)(ii) OF THE SECURITIES  
EXCHANGE ACT OF 1934**

TD Ameritrade, Inc. (“TDA”) has submitted a letter, on behalf of itself and any of its current or future affiliates, dated October 5, 2009, for a waiver of the disqualification provisions of Section 27A(b)(1)(A)(ii) of the Securities Act of 1933 (“Securities Act”) and Section 21E(b)(1)(A)(ii) of the Securities Exchange Act of 1934 (“Exchange Act”) arising from TDA’s settlement of administrative and cease-and-desist proceedings instituted by the Commission.

On July 20, 2009, the Commission instituted administrative and cease-and-desist proceedings against TDA, a registered broker-dealer.<sup>1</sup> In the order instituting proceedings, the Commission found, among other things, that TDA did not accurately characterize the investment nature of auction rate securities (“ARS”) that TDA sold to its customers, and did not provide customers with adequate and complete disclosures regarding the complexity of the auction process and the risks associated with ARS. Based on these findings, the Commission found that TDA had violated Section 17(a)(2) of the Securities Act. Without admitting or denying the findings, TDA consented to a censure and an order to cease and desist from violations of Section 17(a)(2) of the Securities Act. TDA also voluntarily undertook to offer to buy back at par certain ARS from certain customers.

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<sup>1</sup> In the Matter of TD Ameritrade, Inc., Sec. Act Rel. No. 9053, Exch. Act Rel. No. 60341 (July 20, 2009).

The safe harbor provisions of Section 27A(c) of the Securities Act and Section 21E(c) of the Exchange Act are not available for any forward looking statement that is “made with respect to the business or operations of an issuer, if the issuer . . . during the 3-year period preceding the date on which the statement was first made . . . has been made the subject of a judicial or administrative decree or order arising out of a governmental action that (I) prohibits future violations of the antifraud provisions of the federal securities laws; (II) requires that the issuer cease and desist from violating the antifraud provisions of the securities laws; or (III) determines that the issuer violated the antifraud provisions of the securities laws[.]” Section 27A(b)(1)(A)(ii) of the Securities Act and Section 21E(b)(1)(A)(ii) of the Exchange Act. The disqualifications may be waived “to the extent otherwise specifically provided by rule, regulation, or order of the Commission.” Section 27A(b) of the Securities Act and Section 21E(b) of the Exchange Act.

Based upon the representations set forth in TDA’s letter, the Commission has determined that, under the circumstances, the request for a waiver of the disqualifications resulting from the entry of the Order is appropriate and should be granted.

Accordingly, IT IS ORDERED, pursuant to Section 27A(b) of the Securities Act and Section 21E(b) of the Exchange Act, that waivers from the disqualification provisions of Section 27A(b)(1)(A)(ii) of the Securities Act and Section 21E(b)(1)(A)(ii) of the Exchange Act as to TDA and any current or future affiliates resulting from the entry of the Order are hereby granted.

By the Commission.

Elizabeth M. Murphy  
Secretary