

TORONTO DOMINION BANK

Form S-8

June 01, 2010

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As filed with the Securities and Exchange Commission on June 1, 2010

Registration No. 333-

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

**FORM S-8
REGISTRATION STATEMENT
UNDER
THE SECURITIES ACT OF 1933**

The Toronto-Dominion Bank
(Exact name of Registrant as specified in its charter)

Canada
(State or other jurisdiction of incorporation or
organization)

13-5640479
(I.R.S. Employer Identification No.)

**P.O. Box 1
Toronto-Dominion Centre
King Street West and Bay Street
Toronto, Ontario M5K 1A2
Canada
(416) 982-8222**
(Address, including zip code, of Registrant's principal executive office)

The Toronto-Dominion Bank 2000 Stock Incentive Plan
(Full Title of the Plan)

**Brendan O Halloran
The Toronto-Dominion Bank
31 West 52nd Street
New York, New York 10019-6101
(212) 827-7000**

(Name, address, including zip code, and telephone number, including area code, of Registrants agent for service)

**Copies to:
Lee Meyerson
Ellen Patterson
Simpson Thacher & Bartlett LLP
425 Lexington Avenue
New York, New York 10017-3954
(212) 455-2000**

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

Large accelerated filer

Accelerated filer

Non-accelerated filer
(Do not check if a smaller
reporting company)

Smaller reporting
company

CALCULATION OF REGISTRATION FEE

Title of Securities to be Registered Common Shares, without par value	Amount to be Registered (a)(b)	Proposed Maximum Offering Price Per Share(c)	Proposed Maximum Aggregate Offering Price(c)	Amount of Registration Fee(c)
	3,900,000	\$65.87	\$256,893,000	\$18,316.47

- (a) The number of Common Shares being registered hereby shall be adjusted to include any additional shares which may become issuable as a result of stock splits, stock dividends or similar transactions in accordance with the provisions of the plans described herein.
- (b) The shares are issuable pursuant to The Toronto-Dominion Bank 2000 Stock Incentive Plan 3,900,000 Shares.
- (c) Pursuant to Rule 457(h)(1) and Rule 457(c) under the Securities Act of 1933, as amended, the proposed maximum offering price per share, the proposed maximum aggregate offering price and the amount of registration fee have been computed on the basis of the average

of the high and low
prices of the
Common Shares
reported on the
New York Stock
Exchange on
May 25, 2010.

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PART II
INFORMATION REQUIRED IN THE REGISTRATION STATEMENT

The 3,900,000 shares of Common Stock of The Toronto-Dominion Bank (the Company or the Registrant) being registered pursuant to this Registration Statement are additional securities of the same class as other securities for which registration statements (File Nos. 333-12948 and 333-120815) on Forms S-8 were filed with the Securities and Exchange Commission (the Commission) on November 30, 2000 and November 29, 2004, respectively. Pursuant to General Instruction E to Form S-8, the contents of such earlier registration statements are incorporated by reference into this Registration Statement, except that the provisions contained in Part II of such earlier registration statements are modified as set forth in this Registration Statement.

Item 5. Interests of Named Experts and Counsel.

Christopher A. Montague, Executive Vice President and General Counsel of the Registrant, owns or has the right to acquire Common Shares of the Registrant in an amount that does not exceed 0.05% of the outstanding Common Shares of the Registrant.

Item 6. Indemnification of Directors and Officers.

Under the Bank Act of Canada, a bank may not, by contract, resolution or by-law, limit the liability of its directors for breaches of the Act, including their fiduciary duties imposed under the Act. However, a bank may indemnify a director or officer, a former director or officer or a person who acts or acted, at the bank's request, as a director or officer of or in a similar capacity for another entity, and his or her heirs and personal representatives, against all costs, charges and expenses, including an amount paid to settle an action or satisfy a judgment, reasonably incurred by him or her because of any civil, criminal, administrative, investigative or other proceeding in which he or she is involved because of that association and may advance funds to him or her for the costs, charges or expenses of such a proceeding, provided however, that a bank may not indemnify such a person unless:

- (1) that person acted honestly and in good faith with a view to the best interests of, as the case may be, the bank or the other entity for which they acted at the bank's request as a director or officer or in a similar capacity; and
- (2) in the case of a criminal or administrative action or proceeding that is enforced by a monetary penalty, that person had reasonable grounds for believing that his or her impugned conduct was lawful.

Under the Bank Act of Canada, these individuals are entitled to be indemnified by the bank in respect of all costs, charges and expenses reasonably incurred by them in connection with the defence of any civil, criminal, administrative, investigative or other proceeding in which he or she is involved because of an association referred to above with the bank or other entity if the person was not judged by the courts or other competent authority to have committed any fault or omitted to do anything that they ought to have done and fulfilled the conditions set out in (1) and (2) above. A bank may, with the approval of a court, also indemnify these individuals in respect of, or advance amounts to him or her for the costs, charges and expenses of, a proceeding referred to above, in respect of an action by or on behalf of the bank or other entity to procure a judgment in its favor, to which the person is made a party because of an association referred to above with the bank or other entity, if he or she fulfills the conditions set out in (1) and (2) above.

The Registrant's by-laws provide that subject to the limitations contained in the Bank Act of Canada, but without limit to the right of the Registrant to indemnify or advance funds to any person under the Bank Act of Canada or otherwise, the Registrant will indemnify a director or officer or a former director or officer, or a person who acts or acted at the Registrant's request as a director or officer of or in a similar capacity for another entity, and such person's heirs and legal representatives, against all costs, charges and expenses, including an amount paid to settle an action or satisfy a judgment reasonably incurred by such person in respect of any civil, criminal, administrative, investigative or other proceeding to which such person is involved because of that association with the Registrant or other entity. However, the Registrant's bylaws further provide that the Registrant shall not indemnify any such person unless:

- (i) such person acted honestly and in good faith with a view to the best interests of the Registrant or the other entity for which

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they acted at the Registrant's request as a director or officer or in a similar capacity; and (ii) in the case of a criminal or administrative action or proceeding that is enforced by a monetary penalty, such person had reasonable grounds for believing that such person's conduct was lawful. These indemnification provisions could be construed to permit or require indemnification for certain liabilities arising out of U.S. federal securities laws. Insofar as indemnification for liabilities arising under the Securities Act may be permitted to directors, officers or persons controlling the Registrant pursuant to the foregoing provisions, the Registrant has been informed that in the opinion of the Commission such indemnification is against public policy as expressed in the Securities Act and is therefore unenforceable in the United States.

The Registrant maintains directors' and officers' liability insurance policies providing for the insurance on behalf of any person who is or was a director or officer of the Registrant and subsidiary companies against any liability incurred by him or her in any such capacity or arising out of his or her status as such.

The Registrant also maintains liability insurance policies providing for the insurance on behalf of any person who is or was an employee of the Registrant while acting as a director, officer, trustee, governor or executive director of any organization where such service is with the knowledge and consent of the Registrant's Board of Directors against any liability incurred by him or her in any such capacity or arising out of his or her status, provided that such insurance shall not apply to the extent that any such person is entitled to be indemnified by such organization or to the extent that such organization maintains separate insurance of behalf of the person against such liability.

Item 8. Exhibits.

No. Exhibit

5.1 Opinion of Christopher A. Montague.

23.1 Consent of Ernst & Young LLP.

23.2 Consent of Christopher A. Montague (included in his opinion filed as Exhibit 5.1 hereto).

24.1 Power of Attorney.

Item 9. Undertakings.

(a) The undersigned Registrant hereby undertakes:

(1) To file, during any period in which offers or sales are being made, a post-effective amendment to this Registration Statement:

(i) To include any prospectus required by Section 10(a)(3) of the Securities Act of 1933, as amended (the Securities Act).

(ii) To reflect in the prospectus any facts or events arising after the effective date of the Registration Statement (or the most recent post-effective amendment thereof) which, individually or in the aggregate, represent a fundamental change in the information set forth in the Registration Statement.

Notwithstanding the foregoing, any increase or decrease in volume of securities offered (if the total dollar value of securities offered would not exceed that which was registered) and any deviation from the low or high end of the estimated maximum offering range may be reflected in the form of prospectus filed with the Commission pursuant to Rule 424(b) if, in the aggregate, the changes in volume and price represent no more than a 20 percent change in the maximum aggregate offering price set forth in the Calculation of Registration Fee table in the effective Registration Statement.

(iii) To include any material information with respect to the plan of distribution not previously disclosed in the Registration Statement or any material change to such information in the Registration Statement;

Provided, however, that paragraphs (a)(1)(i) and (a)(1)(ii) of this section do not apply if the Registration Statement is on Form S-8, and the information required to be included in a post-effective amendment by those paragraphs is contained in reports filed with or furnished to the Commission by the Registrant pursuant to Section 13

or 15(d) of the Exchange Act that are incorporated by reference in this Registration Statement.

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(2) That, for the purpose of determining any liability of the Registrant under the Securities Act each such post-effective amendment shall be deemed to be a new registration statement relating to the securities offered therein, and the offering of such securities at that time shall be deemed to be the initial bona fide offering thereof.

(3) To remove from registration by means of a post-effective amendment any of the securities being registered hereby which remain unsold at the termination of the offering.

(b) The undersigned Registrant hereby undertakes that, for purposes of determining any liability under the Securities Act, each filing of the Registrant's annual report pursuant to Section 13(a) or Section 15(d) of the Exchange Act (and, where applicable, each filing of an employee benefit plan's annual report pursuant to section 15(d) of the Exchange Act) that is incorporated by reference in this Registration Statement shall be deemed to be a new registration statement relating to the securities offered herein, and the offering of such securities at that time shall be deemed to be the initial bona fide offering thereof.

(c) Insofar as indemnification for liabilities arising under the Securities Act may be permitted to directors, officers and controlling persons of the Registrant pursuant to the foregoing provisions, or otherwise, the Registrant has been advised that in the opinion of the Commission such indemnification is against public policy as expressed in the Securities Act, and is, therefore, unenforceable. In the event that a claim for indemnification against such liabilities (other than the payment by the Registrant of expenses incurred or paid by a director, officer or controlling person of the Registrant in the successful defense of any action, suit or proceeding) is asserted by such director, officer or controlling person in connection with the securities being registered, the Registrant will, unless in the opinion of its counsel the matter has been settled by controlling precedent, submit to a court of appropriate jurisdiction the question whether such indemnification by it is against public policy as expressed in the Securities Act and will be governed by the final adjudication of such issue.

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Pursuant to the requirements of the Securities Act of 1933, as amended, the Registrant certifies that it has reasonable grounds to believe that it meets all of the requirements for filing on Form S-8 and has duly caused this Registration Statement to be signed on its behalf by the undersigned, thereunto duly authorized, in Toronto, Ontario, Canada on this 1st day of June 2010.

THE TORONTO-DOMINION BANK

By: /s/ Christopher A. Montague
 Name: Christopher A. Montague
 Title: Executive Vice President and General
 Counsel

Pursuant to the requirements of the Securities Act of 1933, as amended, this Registration Statement has been signed by the following persons in the capacities and on the dates indicated.

Signature	Title	Date
*	Director	June 1, 2010
William E. Bennett		
*	Director	June 1, 2010
Hugh J. Bolton		
*	Director	June 1, 2010
John L. Bragg		
*	President, Chief Executive Officer and Director (principal executive officer)	June 1, 2010
W. Edmund Clark		
*	Director	June 1, 2010
Wendy K. Dobson		
*	Director	June 1, 2010
Henry H. Ketcham		
*	Director	June 1, 2010
Pierre H. Lessard		
*	Director	June 1, 2010

Brian M. Levitt

* Director June 1, 2010

Harold H. MacKay

* Director June 1, 2010

Irene R. Miller

* Director June 1, 2010

Nadir H. Mohamed

* Director June 1, 2010

Wilbur J. Prezzano

* Director June 1, 2010

Helen K. Sinclair

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Signature	Title	Date
<p style="text-align: center;">*</p> <p>Carole S. Taylor</p>	<p style="text-align: center;">Director</p>	<p style="text-align: center;">June 1, 2010</p>
<p style="text-align: center;">*</p> <p>John M. Thompson</p>	<p style="text-align: center;">Director and Chairman</p>	<p style="text-align: center;">June 1, 2010</p>
<p style="text-align: center;">*</p> <p>Kelvin Tran</p>	<p style="text-align: center;">Senior Vice President and Chief Accountant (principal accounting officer)</p>	<p style="text-align: center;">June 1, 2010</p>
<p style="text-align: center;">*</p> <p>Colleen M. Johnston</p>	<p style="text-align: center;">Group Head, Finance and Chief Financial Officer (principal financial officer)</p>	<p style="text-align: center;">June 1, 2010</p>
<p>/s/ Christopher A. Montague</p> <p>Christopher A. Montague</p> <p>*Attorney-in-fact</p> <p>Authorized Representative in the United States:</p>		<p style="text-align: center;">June 1, 2010</p>
<p>/s/ Brendan O Halloran</p> <p>Name: Brendan O Halloran Title: Senior Vice President</p>		<p style="text-align: center;">June 1, 2010</p>

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