
Section 1: 8-K (8-K)

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

FORM 8-K

CURRENT REPORT

Pursuant to Section 13 or 15(d) of the Securities Exchange Act of 1934

Date of Report (Date of earliest event reported):
January 25, 2012



TCF FINANCIAL CORPORATION
(Exact name of registrant as specified in its charter)

Delaware
(State or other jurisdiction of
incorporation)

001-10253
(Commission File Number)

41-1591444
(IRS Employer Identification No.)

200 Lake Street East, Mail Code EX0-03-A, Wayzata, Minnesota 55391-1693
(Address of principal executive offices, including Zip Code)

(952) 745-2760
(Registrant's telephone number, including area code)

Check the appropriate box below if the Form 8-K filing is intended to simultaneously satisfy the filing obligation of the registrant under any of the following provisions:

- Written communications pursuant to Rule 425 under the Securities Act (17 CFR 230.425)
 - Soliciting material pursuant to Rule 14a-12 under the Exchange Act (17 CFR 240.14a-12)
 - Pre-commencement communications pursuant to Rule 14d-2(b) under the Exchange Act (17 CFR 240.14d-2(b))
 - Pre-commencement communications pursuant to Rule 13e-4(c) under the Exchange Act (17 CFR 240.13e-4(c))
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Item 5.02 Departure of Directors or Certain Officers; Election of Directors; Appointment of Certain Officers; Compensatory Arrangements of Certain Officers.

On January 25, 2012, TCF Financial Corporation entered into the Amended and Restated Agreement (2012) with William A. Cooper (the “Agreement”), which supersedes the Amended and Restated Agreement (2009) with William A. Cooper dated as of July 31, 2009 (the “2009 Agreement”). The Agreement amends the 2009 Agreement to (i) extend the term to December 31, 2015; (ii) eliminate the automatic renewal provision contained in the 2009 Agreement; (iii) eliminate the excise tax gross up provision contained in the 2009 Agreement and add a so-called “valley provision” that provides that if payments made to Mr. Cooper would subject him to an excise tax, then such payments will be reduced to a level that will put him in the best net after-tax position; (iv) increase Mr. Cooper’s base salary to \$1,500,000 per year effective January 1, 2012; and (v) reflect clean-up edits and other non-substantive changes. The foregoing description of the Agreement is qualified in its entirety by reference to the full text of the Agreement, a copy of which is attached hereto as Exhibit 10.1 and is incorporated by reference herein.

Item 9.01 Financial Statements and Exhibits.

(d) Exhibits.

<u>Exhibit No.</u>	<u>Description</u>
10.1	Amended and Restated Agreement (2012) with William A. Cooper between William A. Cooper and TCF Financial Corporation, effective as of January 25, 2012.

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SIGNATURES

Pursuant to the requirements of the Securities Exchange Act of 1934, the registrant has duly caused this report to be signed on its behalf by the undersigned hereunto duly authorized.

TCF FINANCIAL CORPORATION

/s/ William A. Cooper

William A. Cooper,
Chairman and Chief Executive Officer
(Principal Executive Officer)

/s/ Michael S. Jones

Michael S. Jones, Executive Vice President and
Chief Financial Officer
(Principal Financial Officer)

/s/ David M. Stautz

David M. Stautz, Senior Vice President,
Controller and Managing Director, Corporate Development
(Principal Accounting Officer)

Dated: January 30, 2012

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Section 2: EX-10.1 (EX-10.1)

AMENDED AND RESTATED AGREEMENT (2012)
WITH WILLIAM A. COOPER

THIS AMENDED AND RESTATED AGREEMENT 2012 WITH WILLIAM A. COOPER (this "Agreement") is made and entered into as of January 25, 2012 between TCF FINANCIAL CORPORATION, a Delaware corporation (the "Company") and WILLIAM A. COOPER ("Cooper").

R E C I T A L S:

WHEREAS, the Company is a bank holding company and Cooper is now and has been Chairman of the Board of the Company; and

WHEREAS, Cooper has been elected Chief Executive Officer of the Company effective July 26, 2008; and

WHEREAS, Cooper and the Company are parties to an Amended and Restated Agreement dated as of July 31, 2008 (the "Employment Agreement");

WHEREAS, Cooper and the Company wish to enter into this Agreement effective as of the date hereof to provide for the amendment and restatement of the Employment Agreement;

NOW, THEREFORE, in consideration of the mutual promises and agreements set forth herein, the parties agree as follows:

1. Employment and Duties. During the term of this Agreement as set forth in paragraph 2 below, Cooper shall be employed as Chief Executive Officer of the Company with overall responsibility for the business and affairs of the Company and Cooper's powers and authority shall be superior to those of any other officer or employee of the Company or its subsidiaries. If elected, Cooper also agrees to continue to serve as Chairman of the Board of Directors of the Company. In discharging such duties and responsibilities, Cooper may also serve as an executive officer and/or director of any direct or indirect subsidiary of the Company (collectively, the "TCF Subsidiaries"). During the term of this Agreement, Cooper shall apply on a substantially full-time basis (allowing for usual vacations and sick leave) all of his skill and experience to the performance of his duties in his positions with the Company and the TCF Subsidiaries. It is understood that Cooper may have other business investments and participate in other business ventures which shall not interfere or be inconsistent with his duties under this Agreement. Cooper shall perform his duties at the Company's principal executive offices in Wayzata, Minnesota or at such other location as may be mutually agreed upon by Cooper and the Company; provided that Cooper shall travel to other locations at such times as may be necessary for the performance of his duties under this Agreement.

2. Term of Employment. This Agreement shall commence on the date hereof and shall continue through December 31, 2015.

3. Compensation and Benefits. During the term of this Agreement, Cooper shall be entitled to the following compensation and benefits:

(a) Base Salary, Bonus. Cooper shall receive:

(i) Effective January 1, 2012, a base salary of One Million Five Hundred Thousand Dollars (\$1,500,000.00) or such other amount as the Board of Directors of the Company may from time to time determine, payable in accordance with the Company's customary payroll practices; and

- (ii) Such bonus as may be awarded from time to time by the Board of Directors or Compensation Committee of the Company.

(b) Stock Incentives. Cooper has received stock options and restricted stock under the terms and conditions set forth in a Restricted Stock Agreement and Non-Solicitation/ Confidentiality Agreement dated February 16, 2011 between the Company and Cooper and a Performance Based Restricted Stock Agreement and Non-Solicitation/ Confidentiality Agreement dated January 17, 2012 between the Company and Cooper (collectively, the “Restricted Stock Agreements”) and a Non-Qualified Stock Option Agreement dated July 31, 2008 between the Company and Cooper (the “Option Agreement”) (the Option Agreement collectively with the Restricted Stock Agreements are referred to as the “Award Agreements”) pursuant to the Amended and Restated TCF Financial Incentive Stock Program, as amended and restated effective January 1, 2011 (the “TCF Incentive Stock Program”). Additional awards, if any, of stock options, restricted stock and stock appreciation rights would be made under any stock based plan from time to time adopted by the Company (the “Stock Plans”) as from time to time determined by the Board of Directors or Compensation Committee of the Company. Cooper shall not receive director’s fees paid to non-employee directors or an annual fee for serving as Chairman.

(c) Reimbursement of Expenses. The Company shall reimburse Cooper for all business expenses properly documented, including without limitation, Cooper’s legal fees incurred in the preparation of this Agreement. Any such payments shall be made no later than 2 ½ months after the end of the calendar year in which the expense was incurred.

(d) Aircraft. Cooper shall be entitled to use of the Company’s corporate aircraft at the Company’s expense, provided that Cooper shall be responsible for all individual income taxes resulting from his use of the aircraft for non-business travel.

(e) Other Benefits. Cooper shall be entitled to participate in and shall be included in any employee benefit plan, pension plan, supplemental employee retirement plan, fringe benefit programs or similar plan of the Company now existing or established hereafter to the extent that he is eligible under the general provisions thereof.

(f) Perquisites. Cooper shall be entitled to other perquisites provided to executive officers, subject to annual review by the Compensation Committee of the Board of Directors.

Payment of perquisites, if any, shall be made no later than 2 ½ months after the end of the calendar year in which Cooper was entitled to such payments.

(g) Return of Compensation under Section 304 of the Sarbanes-Oxley Act. Notwithstanding anything in this Agreement to the contrary, in the event of a restatement of financial results by the Company, the Audit Committee of the Board of Directors shall determine (after reasonable notice to Cooper and an opportunity for Cooper, together with his legal counsel, to be heard before the Audit Committee) whether or not repayment of any compensation is required under Section 304 of the Sarbanes-Oxley Act. If the Audit Committee determines that such repayment is required, the Committee shall make a demand for repayment by Cooper of any bonus or other incentive-based or equity-based compensation, and any profits realized from the sale of TCF stock or other TCF securities, which are required to be returned to the Company as a result of Section 304 of the Sarbanes-Oxley Act. Cooper shall promptly tender such repayment unless he disputes the findings of the Audit Committee.

4. Termination of Employment.

(a) Termination without Cause. In the event Cooper’s employment with the Company is terminated by the Company without Cause during the term of this Agreement, Cooper shall be entitled to any remaining Base Salary (as set forth in paragraph 3) determined from the date of termination through the end of the applicable term of this Agreement. Company shall pay any remaining Base Salary in a single sum payment promptly but not later than 2 ½ months after the end of the calendar year in which the termination occurs.

(b) Termination for Good Reason by Cooper. By following the procedure set forth in paragraph 4(d), Cooper shall have the right to terminate his employment with the Company for “Good Reason” in the event there is: (i) any material diminution

in the scope of Cooper's authority and responsibility (provided, however, in the event of any illness or injury which disables Cooper from performing his duties, the Company may reassign Cooper's duties to one or more other employees until Cooper is able to perform such duties); (ii) a material diminution in Cooper's base compensation (salary, bonus opportunity, benefits or perquisites); (iii) a material diminution in the authority, duties, responsibilities of the supervisor to whom Cooper is required to report; (iv) a material diminution in the budget over which Cooper retains authority; (v) a material change in geographic location at which Cooper must perform the services; (vi) any other action or inaction that constitutes a material breach by the Company of this Agreement. If the employment of Cooper is terminated by him for Good Reason, Cooper shall be entitled to any remaining Base Salary (as set forth in paragraph 3) determined from the date of termination through the end of the applicable term of this Agreement. Company shall pay any remaining Base Salary in a single sum payment promptly but not later than 2 ½ months after the end of the calendar year in which the termination occurs.

(c) Termination for Cause by the Company. Termination for "Cause" shall include the following: (i) engaging in willful and recurring misconduct in not following the legitimate directions of the Board of Directors of the Company after fair warning; (ii) conviction of a felony and all appeals from such conviction have been exhausted; (iii) engaging in habitual drunkenness; (iv) excessive absence from work which absence is not related to disability, illness,

sick leave or vacations; or (v) engaging in continuous conflicts of interest between his personal interests and the interests of the Company after fair warning.

(d) Notice and Right to Cure. In the event Cooper proposes to terminate his employment for Good Reason under paragraph (4)(b) above, Cooper shall first provide written notice to the Company of the existence of the condition described as Good Reason in paragraph 4(b) above not less than 90 days after the initial existence of the condition. The Company will have an opportunity to correct any curable situation to the reasonable satisfaction of Cooper within the period of time specified in the notice which shall not be less than thirty (30) days. If such correction is not so made or the circumstances or situation is such that it is not curable, Cooper may, within thirty (30) days after the expiration of the time so fixed within which to correct such situation (but not more than two years after the initial existence of the Good Reason), give written notice to the Company that his employment is terminated for Good Reason effective forthwith.

5. Covenant Not to Compete; Non-Solicitation Covenant.

(a) Covenant Not to Compete. During the term of this Agreement, Cooper agrees that he will not directly or indirectly substantially compete with the Company, TCF National Bank, TCF National Bank Arizona or their respective subsidiaries in the Relevant Market. The "Relevant Market" is financial businesses located in the States of Arizona, Michigan, Minnesota, Iowa, North Dakota, South Dakota, Colorado and Wisconsin, and the Chicago metropolitan area.

(b) Non-Solicitation Covenant. During the term of this Agreement, Cooper agrees that, except with the prior written permission of the Board of Directors of the Company, he will not offer to hire, entice away, or in any manner attempt to persuade any officer, employee, or agent of the Company, TCF National Bank or TCF National Bank Arizona or any of their subsidiaries to discontinue his or her relationship with the Company, TCF National Bank, TCF National Bank Arizona or any of their subsidiaries nor will he directly or indirectly solicit, divert, take away or attempt to solicit any business of the Company or any of its subsidiaries as to which Cooper has acquired any knowledge during the term of his employment with the Company or his service as a director of the Company.

(c) Extension of Terms of Covenant Not to Compete and Non-Solicitation Covenant. In consideration for the acceleration of benefits under the Award Agreements upon a Change in Control as defined in the TCF Incentive Stock Program, Cooper's obligations under paragraphs 5(a) and 5(b) shall be extended for three (3) years following any such Change in Control; provided, however, that during such extended period Cooper may be permitted to engage in activities otherwise prohibited by paragraphs 5(a) and 5(b) with the prior written permission of the Board of Directors of the Company, which shall not be withheld if the nature and extent of such activity would be immaterial or inconsequential to the Company.

(d) Remedies. If Cooper commits a breach, or threatens to commit a breach, of any of the provisions of this paragraph 5, the Company shall have the right of specific performance in addition to any rights and remedies otherwise available

6. Section 280G.

(a) Certain Payment Reductions. Anything to the contrary notwithstanding, the amount of any payment, distribution or benefit made or provided by the Company to or for the benefit of Cooper in connection with a change in control of the Company or the termination of Cooper's employment with the Company, whether payable pursuant to this Agreement or any other agreement between Cooper and the Company or with any person constituting a member of an "affiliated group" (as defined in Section 280G(d)(5) of the Internal Revenue Code of 1986, as amended (the "Code")) with the Company or with any person whose actions result in a change of control of the Company (such foregoing payments or benefits referred to collectively as the "Total Payments"), shall be reduced (but not below zero) by the amount, if any, necessary to prevent any part of the Total Payments from being treated as an "excess parachute payment" within the meaning of Section 280G(b)(1) of the Code, but only if and to the extent such reduction will also result in, after taking into account all applicable state and federal taxes (computed at the highest marginal rate) including Cooper's share of F.I.C.A. and Medicare taxes and any taxes payable pursuant to Section 4999 of the Code, a greater after-tax benefit to Cooper than the after-tax benefit to Cooper of the Total Payments computed without regard to any such reduction. For purposes of the foregoing, (i) no portion of the Total Payments shall be taken into account which in the opinion of tax counsel selected by the Company and acceptable to Cooper does not constitute a "parachute payment" within the meaning of section 280G(b)(2) of the Code; (ii) any reduction in payments shall be computed by taking into account that portion of Total Payments which constitute reasonable compensation within the meaning of Section 280G(b)(4) of the Code in the opinion of such tax counsel; (iii) the value of any non-cash benefit or of any deferred cash payment included in the Total Payments shall be determined by the Company in accordance with the principles of Section 280G(d)(3)(iv) of the Code; and (iv) in the event of any uncertainty as to whether a reduction in Total Payments to Cooper is required pursuant to this paragraph, the Company shall initially make the payment to Cooper and Cooper shall be required to refund to the Company any amounts ultimately determined not to have been payable under the terms of this paragraph 6.

(b) Determination of Certain Payment Reductions. Cooper will be permitted to provide the Company with written notice specifying which of the Total Payments will be subject to reduction or elimination (the "Reduction Notice"). But, if Cooper's exercise of authority pursuant to the Reduction Notice would cause any Total Payments to become subject to any taxes or penalties pursuant to Section 409A of the Code or if Cooper fails to timely provide the Company with the Reduction Notice, then the Company will reduce or eliminate the Total Payments in the following order:

- (i) first, by reducing or eliminating the portion of the Total Payments that are payable in cash and
- (ii) second, by reducing or eliminating the non-cash portion of the Total Payments,

in each case, in reverse chronological order beginning with payments or benefits under the most recently dated agreement, arrangement or award.

Except as set forth in this subparagraph b., any Reduction Notice will take precedence over the provisions of any other plan, arrangement or agreement governing Cooper's rights and entitlements to any benefits or compensation.

7. Section 409A of the Internal Revenue Code. The arrangements described in this Agreement and the Award Agreements are intended to comply with Section 409A of the Internal Revenue Code to the extent such arrangements are subject to that law. The parties agree that they will negotiate in good faith regarding amendments necessary to bring this Agreement into compliance with the terms of that Section or an exemption therefrom as interpreted by guidance issued by the Internal Revenue Service. The parties further agree that to the extent any part of this Agreement fails to qualify for exemption from or satisfy the requirements of Section 409A, the affected arrangement may be operated in compliance with Section 409A pending amendment to the extent authorized by the Internal Revenue Service. In such circumstances the Company will administer this Agreement in a manner which adheres as closely as possible to the existing terms and intent of the Agreement while complying with

Section 409A. This paragraph does not restrict the Company's rights (including, without limitation, the right to amend or terminate) with respect to this Agreement to the extent such rights are reserved under the terms of this Agreement.

8. Attorney's Fees. In the event of a dispute between the Company and Cooper relating to Cooper's services hereunder or the terms or performance of this Agreement, including, but not limited to, paragraphs 3(g) and 4(d) of this Agreement, the Company shall promptly pay Cooper's reasonable expenses of attorney's fees and expenses in connection with such dispute upon delivery of periodic billings for same, provided that (i) Cooper shall promptly repay all amounts paid under this paragraph 8 at the conclusion of such dispute if the resolution thereof includes a finding that Cooper did not act in good faith in the matter in dispute or in the dispute proceeding itself, and (ii) no claim for expenses of representation shall be submitted by Cooper unless made in writing to the Board of Directors within 90 days after receipt of billing for such representation. Any such payment shall be made promptly, and in any event no later than the end of the calendar year following the year in which the expense was incurred.

9. Other Benefits. The benefits provided under this Agreement shall, except to the extent otherwise specifically provided herein, be in addition to, and not in derogation or diminution of, any benefits that Cooper or his beneficiary may be entitled to receive under any other plan or program now or hereafter maintained by the Company or TCF Subsidiaries.

10. Successors. The Company shall require any successor (whether direct or indirect, by purchase, merger, consolidation, or otherwise) to all or substantially all of the business and/or assets of the Company, to expressly assume and agree to perform its obligations under this Agreement in the same manner and to the same extent that the Company would be required to perform them if no succession had taken place unless, in the opinion of legal counsel mutually acceptable to the Company and Cooper, such obligations have been assumed by the successor as a matter of law. Cooper's rights under this Agreement shall inure to the benefit of, and shall be enforceable by, Cooper's legal representative or other successors in interest, but shall not otherwise be assignable or transferable.

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11. Other Agreements. This Agreement supersedes and replaces effective the date hereof all prior agreements or understandings relating to the terms of Cooper's service with the Company, including the Employment Agreement, except as set forth herein. Except as specifically provided herein, this Agreement does not supersede or replace any agreement between the Company and Cooper pursuant to any plans or programs of the Company, including any stock option agreement, restricted stock agreement or supplemental retirement agreement.

12. Governing Law. This Agreement shall be governed by and construed in accordance with the laws of the State of Minnesota.

[Signature page follows]

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IN WITNESS WHEREOF, the parties have duly executed this Agreement as of the day and year first written above.

WITNESS:

/s/ Julie M. Otto

Julie M. Otto

TCF FINANCIAL CORPORATION

/s/ Joseph T. Green

By: Joseph T. Green

Its: Senior Vice President and
General Counsel

WITNESS:

/s/ Pam Gordley
Pam Gordley

/s/ William A. Cooper
William A. Cooper

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