

ACCESS NATIONAL CORP

Form S-8

July 29, 2009

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As filed with the Securities and Exchange Commission on July 29, 2009

Registration No. 333-

**UNITED STATES  
SECURITIES AND EXCHANGE COMMISSION  
Washington, D.C. 20549  
FORM S-8  
REGISTRATION STATEMENT UNDER THE SECURITIES ACT OF 1933  
ACCESS NATIONAL CORPORATION  
(Exact name of registrant as specified in its charter)**

**Virginia**  
(State or other jurisdiction of  
incorporation or organization)

**82-0545425**  
(I.R.S. Employer  
Identification No.)

**1800 Robert Fulton Drive, Suite 300  
Reston, VA**  
(Address of Principal Executive Offices)

**20191**  
(Zip Code)

**ACCESS NATIONAL CORPORATION 2009 STOCK OPTION PLAN**

(Full title of the plan)

**Michael W. Clarke  
President and Chief Executive Officer  
Access National Corporation  
1800 Robert Fulton Drive  
Suite 300  
Reston, VA 20191  
(703) 871-2100**

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

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.

Large accelerated  
filer ☐

Accelerated filer ☐

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

Smaller reporting  
company ☐

The Commission is requested to mail signed copies of all orders, notices and communications to:

**Susan Stoops Ancarrow, Esq.  
Troutman Sanders LLP  
1001 Haxall Point  
Richmond, VA 23219  
Telephone: (804) 697-1861  
Facsimile: (804) 698-6015  
CALCULATION OF REGISTRATION FEE**

Proposed  
maximum

Proposed  
maximum

Title of securities

Amount of

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to be registered	Amount to be registered <sup>2</sup> 975,000 shares	offering price per share	aggregate offering price	registration fee
Common Stock <sup>1</sup>		\$ 6.33 <sub>3</sub>	\$ 6,171,750 <sub>3</sub>	\$ 345

<sup>1</sup> Common Stock, \$0.835 par value per share, offered by Access National Corporation (the Company ) pursuant to the Access National Corporation 2009 Stock Option Plan (the Plan ).

<sup>2</sup> Pursuant to Rule 416(a) under the Securities Act of 1933, as amended (the Securities Act ), this registration statement also covers an indeterminate number of additional shares that may be offered and issued to prevent dilution resulting from stock splits, stock dividends or similar transactions as provided in the Plan.

<sup>3</sup> Pursuant to Rule 457(c) and (h) under the Securities Act, the proposed maximum

offering price  
and proposed  
maximum  
aggregate  
offering price  
are estimated  
solely for the  
purpose of  
calculating the  
registration fee  
and were  
determined  
based on the  
average of the  
high and low  
sales prices of  
Access National  
Corporation  
Common Stock  
on July 27, 2009  
as reported on  
the NASDAQ  
Global Market.

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**Part I Information Required in the Section 10(a) Prospectus**

Item 1. Plan Information.\*

Item 2. Registrant Information and Employee Plan Annual Information.\*

\* The information required by Part I to be contained in the Section 10(a) prospectus is omitted from this registration statement in accordance with the Note to Part I of Form S-8 and Rule 428.

**Part II Information Required in the Registration Statement**

Item 3. Incorporation of Documents by Reference.

The Company hereby incorporates by reference into this registration statement the following documents:

- (a) The Company's Annual Report on Form 10-K for the fiscal year ended December 31, 2008, filed with the Securities and Exchange Commission (the Commission) on March 31, 2009;
- (b) The Company's Quarterly Report on Form 10-Q for the quarterly period ended March 31, 2009, filed with the Commission on May 15, 2009;
- (c) The Company's Current Reports on Form 8-K, filed with the Commission on January 6, 2009, January 29, 2009, February 3, 2009, February 5, 2009, February 17, 2009, April 22, 2009, May 26, 2009, and July 6, 2009; and
- (d) The description of the Company's capital stock contained in Amendment No. 1 to the Registration Statement on Form S-1, filed with the Commission on July 19, 2006, including any amendment or report filed for the purpose of updating such description.

All documents filed by the Company subsequent to the date of this registration statement pursuant to Sections 13(a), 13(c), 14 and 15(d) of the Securities Exchange Act of 1934, as amended (the Exchange Act) and prior to the filing of a post-effective amendment hereto which either indicate that all securities offered hereby have been sold or deregister all such securities then remaining unsold, shall also be deemed to be incorporated by reference into this registration statement and to be a part hereof from their respective dates of filing. Any statement in this registration statement, or in a document incorporated or deemed incorporated herein, shall be deemed to be modified or superseded to the extent that a statement contained in a subsequently filed document which is, or is deemed to be, incorporated by reference herein modifies or supersedes such statement. Any statement so modified or superseded shall not be deemed, except as so modified or superseded, to constitute a part of this registration statement.

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Item 4. Description of Securities.

Not applicable.

Item 5. Interests of Named Experts and Counsel.

Not applicable.

Item 6. Indemnification of Directors and Officers.

Article VI of the Company's Articles of Incorporation limits the liability of the Company's directors and officers to the Company and its shareholders to the full extent permitted by the Virginia Stock Corporation Act. The Virginia Stock Corporation Act limits the liability of a director or officer in derivative or shareholder proceedings to the lesser of (i) the amount specified in the corporation's articles of incorporation or a shareholder-approved bylaw; or (ii) the greater of (a) \$100,000 or (b) twelve months of cash compensation received by the director or officer. The Company's Articles of Incorporation provide that the Company's directors and officers will not be monetarily liable to the Company or the Company's shareholders, if such limitation is permissible under the Virginia Stock Corporation Act. This limitation does not apply in the event the director or officer has engaged in willful misconduct or a knowing violation of a criminal law or a federal or state securities law. The effect of the Company's Articles of Incorporation, together with the Virginia Stock Corporation Act, is to eliminate liability of directors and officers for monetary damages in derivative or shareholder proceedings so long as the required standard of conduct is met.

Article VI of the Company's Articles of Incorporation also mandates indemnification of the Company's directors and officers to the full extent permitted by the Virginia Stock Corporation Act. The Virginia Stock Corporation Act permits a corporation to indemnify its directors and officers against liability incurred in all proceedings, including derivative proceedings, arising out of their service to the corporation or to other corporations or enterprises that the officer was serving at the request of the corporation, except in the case of willful misconduct or a knowing violation of a criminal law. The Company is required to indemnify its directors and officers in all such proceedings if they have not violated this standard.

Under the Virginia Stock Corporation Act, a Virginia corporation may not indemnify a director or officer for an adverse judgment in a suit by or in the right of the corporation or for a judgment of liability on the basis that personal benefit was improperly received, unless in either case a court orders indemnification and then only for expenses. In addition, the Virginia Stock Corporation Act permits a corporation to advance reasonable expenses to a director or officer upon the corporation's receipt of:

a written affirmation by the director or officer of his good faith belief that he has met the standard of conduct necessary for indemnification by the company; and

a written undertaking by the director or on the director's behalf to repay the amount paid or reimbursed by the corporation if it is ultimately determined that the director did not meet the standard of conduct.

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In addition, Article III of the Plan mandates indemnification of the members of the committee administering the Plan against reasonable expenses, including attorneys' fees actually and reasonably incurred, in connection with any proceeding arising out of their administration of the Plan, and against all amounts reasonably paid in settlement thereof or paid in satisfaction of a judgment in any such proceeding, if such committee members acted in good faith and in a manner which they believed to be in, and not opposed to, the best interests of the Company. These indemnification rights are in addition to any indemnification rights the members of the committee may otherwise have as directors of the Company.

The Company also carries insurance on behalf of its directors, officers, employees or agents which may cover liabilities under the Securities Act.

Insofar as the foregoing provisions permit indemnification of directors, officers or persons controlling the Company for liability arising under the Securities Act, the Company has been informed that in the opinion of the Commission, this indemnification is against public policy as expressed in the Securities Act and is therefore unenforceable.

**Item 7. Exemption from Registration Claimed.**

Not applicable.

**Item 8. Exhibits.**

An Exhibit Index appears at page 7 hereof.

**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;

(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 the 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 the volume and price represent no more than a 20% change in the maximum aggregate offering price



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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) do not apply if 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 Section 15(d) of the Exchange Act that are incorporated by reference in the registration statement.

(2) That, for the purpose of determining any liability 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 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 the registration statement 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.

(h) 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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**SIGNATURES**

Pursuant to the requirements of the Securities Act, 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 the City of Reston, Commonwealth of Virginia, on July 29, 2009.

**Access National Corporation**  
(Registrant)

By: /s/ Charles Wimer  
Charles Wimer  
Executive Vice President and Chief  
Financial Officer

**POWERS OF ATTORNEY  
AND  
SIGNATURES**

KNOW ALL MEN BY THESE PRESENTS, that each person whose signature appears below hereby constitutes and appoints Michael W. Clarke and Charles Wimer with full power of substitution, as his attorneys-in-fact and agents for him and in his name and on his behalf as a director and/or officer of Access National Corporation to prepare, execute and file any and all amendments, including post-effective amendments, or supplements to this registration statement on Form S-8, including any amendment to this registration statement for the purpose of registering additional shares in accordance with General Instruction E to Form S-8, and other documents (including any necessary amendments thereof) which such attorneys-in-fact may deem appropriate or necessary and to cause the same to be filed with the Commission.

Pursuant to the requirements of the Securities Act, this registration statement has been signed by the following persons in the capacities and on the date indicated.

<b>Signature</b>	<b>Title</b>	<b>Date</b>
J. Randolph Babbitt	Director	
/s/ Michael W. Clarke	Chairman, President, Chief Executive Officer & Director (Principal Executive Officer)	July 29, 2009
Michael W. Clarke		

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<b>Signature</b>	<b>Title</b>	<b>Date</b>
/s/ John W. Edgemond		
John W. Edgemond	Director	July 29, 2009
James L. Jadlos	Director	
/s/ Thomas M. Kody		
Thomas M. Kody	Director	July 23, 2009
/s/ Robert C. Shoemaker		
Robert C. Shoemaker	Director	July 29, 2009
/s/ Charles Wimer	Executive Vice President & Chief Financial Officer (Principal Financial Officer and Principal Accounting Officer)	July 29, 2009
Charles Wimer		

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EXHIBIT INDEX

Exhibit No.	Description
4.1	Access National Corporation 2009 Stock Option Plan (incorporated by reference to Appendix A to the Company's Proxy Statement filed on April 15, 2009).
5.1	Opinion of Troutman Sanders LLP with respect to the validity of the Common Stock, filed herewith.
23.1	Consent of Troutman Sanders LLP (contained in Exhibit 5.1 hereto).
23.2	Consent of BDO Seidman, LLP, filed herewith.
24.1	Powers of Attorney (included on the signature page of this registration statement).

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