

TWITTER, INC.

FORM 8-K (Current report filing)

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**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)

June 30, 2014

Twitter, Inc.
(Exact name of registrant as specified in its charter)

Delaware
(State or other jurisdiction
of incorporation)

001-36164
(Commission
File Number)

20-8913779
(IRS Employer
Identification No.)

**1355 Market Street, Suite 900
San Francisco, California 94103**
(Address of principal executive offices, including zip code)

(415) 222-9670
(Registrant's telephone number, including area code)

Not Applicable
(Former name or former address, if changed since last report)

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 (see General Instruction A.2. below):

- ☐ 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.

Mike Gupta, Twitter, Inc.'s ("Twitter" or the "Company") Chief Financial Officer, will be assuming the role of Senior Vice President, Strategic Investments within the next 30 days.

Twitter's board of directors has appointed Anthony Noto as its Chief Financial Officer ("CFO") to replace Mr. Gupta effective as of a date within the next 30 days. Mr. Noto, 46, served as a Managing Director in the Technology, Media and Telecom Investment Banking Group at Goldman, Sachs & Co. ("Goldman Sachs") from October 2010 to June 2014. Mr. Noto served as Co-Head of Goldman Sachs' Technology, Media and Telecom Investment Banking group from September 2011 to May 2014. From February 2008 to September 2010, Mr. Noto served as the CFO of the National Football League. From May 1999 to January 2008, Mr. Noto served in various roles at Goldman Sachs, including as the Internet and Media Equity Research Analyst and the head of the Communication, Media and Entertainment Equity Research Team. Mr. Noto holds a B.S. in Mechanical Engineering from the United States Military Academy and a M.B.A. from the Wharton School of the University of Pennsylvania.

There are no arrangements or understandings between Mr. Noto and any other persons pursuant to which he was selected as Chief Financial Officer. There are also no family relationships between Mr. Noto and any director or executive officer of the Company and he has no direct or indirect material interest in any transaction required to be disclosed pursuant to Item 404(a) of Regulation S-K.

The Company entered into a letter agreement with Mr. Noto (the "Offer Letter") and a Change of Control Severance Policy Participation Agreement (the "Participation Agreement"), each dated June 30, 2014, establishing his compensation as CFO as summarized below.

Salary. Mr. Noto's annual salary rate will be \$250,000.

Equity Compensation. In connection with his appointment, Mr. Noto will receive a one-time stock award in the form of Restricted Stock Units for one million five hundred thousand (1,500,000) shares of Twitter common stock vesting over 4 years as described in the Offer Letter and subject to the terms of the Company's 2013 Equity Incentive Plan. In addition, Mr. Noto will receive a one-time option grant to buy five hundred thousand (500,000) shares of Twitter common stock at an exercise price equal to the closing price of Twitter common stock on the date of grant and vesting over 4 years as described in the Offer Letter and subject to the terms of the Company's 2013 Equity Incentive Plan.

Termination of Employment and Payments. Mr. Noto will participate in the Company's change of control severance policy applicable to our executive officers, as modified by the terms of his Participation Agreement. Under this policy, if Mr. Noto is involuntarily terminated for any reason (including by him for good reason, as defined in the policy/Participation Agreement) other than cause, death or disability on or within 12 months following a change of control, he would be entitled to receive severance benefits as follows: (i) a lump sum severance payment equal to 100% of his annual base salary, (ii) payment for up to 12 months of COBRA premiums to continue health insurance coverage and (iii) the acceleration of vesting of 100% of the shares underlying all unvested equity awards held by him immediately prior to such termination. If Mr. Noto is involuntarily terminated for any reason (including by him for good reason, as defined in the policy/Participation Agreement) other than cause (as defined in the policy/Participation Agreement), death or disability (not in the context of a change of control), Mr. Noto would be entitled to receive severance benefits as follows: (i) a lump sum severance payment equal to 50% of his annual base salary, (ii) payment for up to 6 months of COBRA premiums to continue health insurance coverage and (iii) the acceleration of vesting of no less than 12.5% of the shares underlying all unvested equity awards held by him immediately prior to such termination, as determined by the Compensation Committee based on facts and circumstances.

The foregoing descriptions of the Offer Letter and the Participation Agreement are qualified in their entirety by reference to the full text of the Offer Letter and the Participation Agreement, which are filed as Exhibit 10.1 and 10.2, respectively, to this Current Report on Form 8-K and are incorporated by reference.

Item 7.01. Regulation FD Disclosure.

In announcing Mr. Noto as its new CFO, Twitter notes that this change is not related to Twitter’s previously-issued expectations.

Item 9.01 Financial Statements and Exhibits.

(d) Exhibits.

<u>Exhibit Number</u>	<u>Description</u>
10.1	Offer Letter between the Company and Anthony Noto, dated as of June 30, 2014.
10.2	Change of Control Severance Policy Participation Agreement between the Company and Anthony Noto, dated as of June 30, 2014.

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.

TWITTER, INC.

By: /s/ Vijaya Gadde

Vijaya Gadde

General Counsel & Secretary

Date: July 1, 2014

EXHIBIT INDEX

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10.1	Offer Letter between the Company and Anthony Noto, dated as of June 30, 2014.
10.2	Change of Control Severance Policy Participation Agreement between the Company and Anthony Noto, dated as of June 30, 2014.

30 June 2014

Dear Anthony,

Twitter, Inc., a Delaware corporation (the “Company”), is pleased to offer you employment on the following terms:

1. **Position.** Your title will be Chief Financial Officer and you will report at the start of your employment to Dick Costolo, CEO and over time to any successor Chief Executive Officer(s). You will be a regular, full-time employee.
2. **Start Date.** Your employment will commence on a mutually agreeable date, no later than 01 September 2014.
3. **Cash Compensation.** The Company will pay you a gross starting salary at an annualized rate of Two Hundred Fifty Thousand dollars (\$250,000), payable in accordance with the Company’s standard payroll schedule. This salary will be eligible for increase from time to time in accordance with the employee compensation policies then in effect. This is an exempt position, and your salary is intended to cover all hours worked. Should the Company adopt an executive incentive compensation plan, you will become an eligible participant in the plan as of its adoption and effective date, along with other eligible executives at Twitter.
4. **Employee Benefits.** As a regular employee of the Company, you will be eligible to participate in Company-sponsored benefits in accordance with the terms of the applicable benefit plans.
5. **Equity Compensation.** Subject to the approval of the Company’s Board of Directors, you will be granted one million five hundred thousand (1,500,000) restricted stock units (“RSUs”) of the Company. The RSUs will be subject to the terms and conditions set forth in the Company’s 2013 equity plan. You will vest in 25% of the RSUs on the first day of the month after reaching twelve months’ of continuous employment by Twitter, and the balance will vest quarterly over the following thirty-six months’ of continuous service, as described in the equity plan. Subject to the approval of the Company’s Board of Directors, you will be granted five hundred thousand (500,000) non-qualified stock options of the Company. The stock options will be subject to the terms and conditions set forth

in the Company's 2013 equity plan. You will vest in 25% of the stock options on the first day of the month after reaching twelve months' of continuous employment by Twitter, and the balance will vest quarterly over the following thirty-six months' of continuous service as described in the equity plan. The exercise price of the stock options will be the closing price on the stock option award's grant date. Please note that the terms of the Company's equity plans are reviewed periodically, and subject to revision at the Company's sole discretion.

6. **Severance and Change of Control** . Should your employment be terminated by the Company at any time without "Cause" or should you terminate employment with the Company for "Good Reason" you will be entitled to the benefits described in the Change of Control Severance Policy Participation Agreement attached to this letter. The company shall not treat any matter as Cause unless it is a material violation.
7. **Employee Invention Assignment and Confidentiality Agreement**. You will be required, as a condition of your employment with the Company, to sign the Company's standard Employee Invention Assignment and Confidentiality Agreement ("Confidentiality Agreement"). A copy of the Confidentiality Agreement has been previously sent to you for your review.
8. **Employment Relationship**. Employment with the Company is for no specific period of time. Your employment with the Company will be "at will," meaning that either you or the Company may terminate your employment at any time and for any reason, with or without cause. This is the full and complete agreement between you and the Company regarding the duration of the employment relationship. Although your job duties, title, compensation and benefits, as well as the Company's personnel policies and procedures may change from time to time, the "at will" nature of your employment, the Proprietary Information and Inventions Agreement and the Dispute Resolution Policy may only be changed through an express written agreement signed by you and the Company's Chief Executive Officer.
9. **Outside Activities**. While you render services to the Company, you will not engage in any other employment, consulting, or other business activity that would create a conflict of interest with the Company, which includes engaging in any work that is competitive in nature. While you render services to the Company, you also will not assist any person or entity in competing with the Company, in preparing to compete with the Company, or in

hiring any employees or consultants of the Company. In addition, for a period of one (1) year after the termination of your services, you will not solicit either directly or indirectly, any employee of the Company to leave the Company for other employment or assist any person or entity in doing the same.

10. **Background Check.** This offer is contingent on successful completion of a background check regarding your employment experience, educational credentials, criminal history and the like. This offer may be withdrawn in the sole discretion of the Company based on any negative information contained in the background check results. Your acceptance of this offer of employment will be complete when you have initiated authorization to perform a background check, as instructed by our Human Resources Department.
11. **Verification of Employability.** This offer is contingent upon your providing legal proof of your identity and authorization to work in the United States within three (3) days of the commencement of your employment.
12. **Taxes.** All forms of compensation that are subject to income or payroll taxes will be reduced to reflect applicable income tax withholding and payroll taxes. Any form of compensation that is subject to income or payroll taxes and that is not paid in cash will result in a reduction in cash compensation to reflect applicable income tax withholding and payroll taxes.
13. **Dispute Resolution.** We sincerely hope that no dispute will arise between us. If a dispute should arise, it can be resolved through the Company's Dispute Resolution Policy. A copy of the Dispute Resolution Policy has previously been sent to you for your review.
14. **Entire Agreement .** This letter agreement supersedes and replaces any prior agreements, representations or understandings, whether written, oral or implied, between you and the Company.

Please do not make any change in your present living or employment circumstances until all of the conditions to this offer, including successful completion of the background check and, if applicable, acquisition of a visa, have been satisfied. Any questions regarding your satisfaction of these conditions should be directed to Brian Schipper.

By signing this letter agreement, you confirm to the Company that you have no contractual commitments or other legal obligations that would prohibit you from performing your duties for the Company.

We hope that you will accept our offer to join the Company. To indicate your acceptance of this offer, please initiate the authorization of your background check, and sign and date the enclosed duplicate original of this letter agreement, the enclosed Confidentiality Agreement, and the enclosed Dispute Resolution Policy and return them to Brian Schipper.

This offer will expire if the signed documents are not returned to me by the end of business on 30 June 2014. The offer will expire if you are unable to begin work as a regular full-time employee no later than 01 September 2014.

Very truly yours,

Twitter, Inc.

/s/ Brian Schipper

Brian Schipper, Vice President, Human Resources

I have read, understood and accept all the provisions of this offer of employment:

/s/ Anthony Noto

Anthony Noto

June 30, 2014

Date

Change of Control Severance Policy**Participation Agreement**

This Participation Agreement (“**Agreement**”) is made and entered into by and between Anthony Noto on the one hand, and Twitter, Inc. (the “**Company**”) on the other.

RECITALS

The Company adopted a Change of Control Severance Policy (the “**Policy**”) to assure that the Company will have the continued dedication and objectivity of the participants in the Policy, notwithstanding the possibility, threat or occurrence of a Change of Control.

The Company has designated you as eligible for protection under the Policy and this Agreement, subject to your qualifying as an Eligible Employee under the Policy on the date of a COC Qualified Termination.

In addition, the Company has determined that it would be in the best interests of the Company to provide you with severance protection in addition to that payable upon a COC Qualified Termination.

Unless otherwise defined herein, the terms defined in the Policy, which is hereby incorporated by reference, shall have the same defined meanings in this Agreement.

AGREEMENT

NOW, THEREFORE, in consideration of the mutual covenants contained herein, the parties hereto agree as follows:

COC Qualified Termination.

You have been designated as an Eligible Employee in the Policy, a copy of which is attached hereto, subject to your satisfying the criteria of being an Eligible Employee on the date of a COC Qualified Termination. For avoidance of doubt, if you terminate your employment for Good Reason during the Change in Control Period, that will be a COC Qualified Termination.

The terms and conditions of your participation in the Policy are as set forth in the Policy.

Your equity vesting benefit shall be	100%
Your percentage of Base Salary shall be	100%
Your COBRA benefit shall be	12 months

Non-COC Qualified Termination.

If your employment is terminated by the Company in an Involuntary Termination that is not a COC Qualified Termination or you terminate your employment for Good Reason (either a “Non-COC Qualified Termination”), you will be entitled to the following benefits, subject to your compliance with the Policy, except that all references to COC Qualified Termination will instead be read as Non-COC Qualified Termination.

Your equity vesting benefit shall be no less than 12.5% as determined by the Compensation Committee based on the facts and circumstances

Your percentage of Base Salary shall be	50%
Your COBRA benefit shall be	6 months

“Good Reason” means your termination of employment within thirty (30) days following the “notice and cure period” in the next paragraph following the occurrence of one or more of the following events, without your express written consent: (a) a material adverse change in the nature or scope of your authority, powers, functions, duties, responsibilities, or reporting relationship (including ceasing to directly report to the chief executive officer or board of directors of a publicly traded entity, as applicable); (b) a material reduction by the Company in your rate of annual base salary; (c) the failure of the Company to continue any material compensation plan in which you are participating, unless you are permitted to participate in other plans providing you with substantially comparable compensation-related benefits, or the taking of any action by the Company which would adversely affect your participation in or materially reduce your compensation-related benefits under any such plan; or (d) the failure of the Company to obtain from any successor or transferee of the Company an express written and unconditional assumption of the Company’s obligations under this agreement.

Your employment may be terminated by you for Good Reason only if an event or circumstance set forth the Good Reason definitions as specified in (a) through (d) above shall have occurred and you provide the Company with written notice thereof within ninety (90) days after you have knowledge of the occurrence or existence of such event or circumstance, which notice shall specifically identify the event or circumstance that you believe constitutes Good Reason, the Company fails to correct the circumstance or event so identified within thirty (30) days after the receipt of such notice, and you resign after the expiration of the cure period referenced in the preceding clause.

You agree that the Policy constitutes the entire agreement of the parties hereto and supersedes in their entirety all prior representations, understandings, undertakings or agreements (whether oral or written and whether expressed or implied) of the parties, and shall specifically supersede any severance and/or change of control provisions of any offer letter, employment agreement, or equity award agreement entered into between the you and Company. Your participation in the Policy is contingent upon your agreeing to the terms of the Policy

This Agreement may be executed in counterparts, each of which will be deemed an original, but all of which together will constitute one and the same instrument.

IN WITNESS WHEREOF, each of the parties has executed this Agreement, in the case of the Company by its duly authorized officer, as of the day and year set forth below.

Twitter, Inc.

ELIGIBLE EMPLOYEE

By: /s/ Richard Costolo

Signature: /s/ Anthony Noto

Date: June 30, 2014

Date: June 30, 2014