

SECURITIES AND EXCHANGE COMMISSION

FORM 8-K

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FILER

GYMBOREE CORP

CIK: **786110** | IRS No.: **942615258** | State of Incorporation: **DE** | Fiscal Year End: **0202**
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SIC: **2300** Apparel & other finishd prods of fabrics & similar matl

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SAN FRANCISCO CA 94105

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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): January 8, 2013

THE GYMBOREE CORPORATION

(Exact Name of Registrant as Specified in its Charter)

Delaware

(State or Other Jurisdiction of
Incorporation)

000-21250

(Commission File Number)

94-2615258

(I.R.S. Employer
Identification No.)

**500 Howard Street, San Francisco, CA
94105**

(Address of Principal Executive Offices, Including Zip Code)

(415) 278-7000

(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))
-

Item 5.02 **Departure of Directors or Certain Officers; Election of Directors; Appointment of Certain Officers; Compensatory Arrangements of Certain Officers.**

(e) On January 8, 2013, the Compensation Committee of the Board of Directors (the “Board”) of The Gymboree Corporation (the “Company”) amended and restated The Gymboree Corporation Management Severance Plan (the “Plan”).

The Plan was amended to remove the automatic termination date of April 1, 2013. In connection with the amendment of the plan, the Company also increased, on a temporary basis through the end of the first quarter of calendar 2015, the amount of severance payable to certain of the Plan participants to 12 months (previously six months) of base salary and COBRA premium payments. The Plan will remain in effect indefinitely, although it may be terminated at any time at the discretion of the Board or an authorized committee thereof.

Except as noted above, the material terms of the prior version of the Plan remain in effect. The foregoing description of the Plan is qualified in its entirety by reference to The Gymboree Corporation Management Severance Plan, as amended and restated effective January 8, 2013, which is filed as an exhibit hereto and is incorporated by reference herein.

Item 9.01 **Financial Statements and Exhibits.**

(d) **Exhibits.**

<u>No.</u>	<u>Description</u>
10.1	The Gymboree Corporation Management Severance Plan, as amended and restated effective January 8, 2013

SIGNATURE

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.

THE GYMBOREE CORPORATION

By: /s/ Lynda G. Gustafson

Name: Lynda G. Gustafson

Title: Vice President, Corporate Controller

Date: January 11, 2013

EXHIBIT INDEX

No.	Description
10.1	The Gymboree Corporation Management Severance Plan, as amended and restated effective January 8, 2013

THE GYMBOREE CORPORATION

MANAGEMENT SEVERANCE PLAN

**Amended and Restated
Effective January 8, 2013**

ARTICLE I

PURPOSE, ESTABLISHMENT AND APPLICABILITY OF PLAN

1. Purpose. The purpose of this Plan is to provide for the payment of severance benefits to Participants whose employment with the Company terminates in an Involuntary Termination. The Company believes that severance benefits of this kind will aid the Company in attracting and retaining the highly qualified individuals who are essential to its success.

2. Establishment of Plan. As of the Effective Date, the Company hereby establishes the Plan, as set forth in this document.

3. Applicability of Plan. Subject to the terms of this Plan, the benefits provided by this Plan shall be available to those Employees who, on or after the Effective Date, receive a Notice of Participation.

4. Contractual Right to Benefits. This Plan and the Notice of Participation establish and vest in each Participant a contractual right to the benefits to which he or she is entitled pursuant to the terms and conditions thereof, enforceable by the Participant against the Company.

ARTICLE II

DEFINITIONS AND CONSTRUCTION

Whenever used in this Plan, the following terms shall have the meanings set forth below.

1. Base Compensation. "Base Compensation" shall mean the gross annual cash compensation paid to each Participant in the form of base salary, exclusive of bonuses, other incentive pay, commissions, and all other pay and expense types. Base Compensation of a Participant shall be computed with reference to the greatest Base Compensation received by that Participant in any full payroll period during the twelve (12) months preceding the Participant's Involuntary Termination.

2. Board. "Board" shall mean the Board of Directors of The Gymboree Corporation.

3. Cause. "Cause" shall mean (i) the conviction of (or plea of nolo contendere by) the Participant for a felony or a crime involving moral turpitude; (ii) the commission by the Participant of theft, fraud, embezzlement, material breach of trust or any material act of dishonesty involving the Company; (iii) a material breach by the Participant in the performance of his or her duties and responsibilities, following written notice to the Participant and a 30 day opportunity to cure; (iv) a significant violation by the Participant of the code of conduct of the Company or of any statutory or common law duty of loyalty to the Company; or (v) any act that would constitute a material violation of the standards set forth in this Plan, including, without limitation, the standards of Article V or a material breach of any agreement with the Company.

4. COBRA Premiums Continuation Period. “COBRA Premiums Continuation Period” shall mean the period set forth in a Participant’s Notice of Participation, which period immediately follows the Participant’s Involuntary Termination.

5. Code. “Code” shall mean the Internal Revenue Code of 1986, as amended.

6. Company. “Company” shall mean The Gymboree Corporation, any subsidiary corporations, any affiliates, any successor entities as provided in Article VII hereof, and any parent, subsidiaries or affiliate of such successor entities.

7. Disability. “Disability” shall mean that the Participant has been unable to perform his or her duties as an Employee as the result of incapacity due to physical or mental illness, and the Participant is found to be disabled within the meaning of the Company’s long-term disability plan.

8. Effective Date. “Effective Date” for purposes of this most recent amendment and restatement of this Plan shall mean January 8, 2013.

9. Employee. “Employee” shall mean an employee of the Company.

10. ERISA. “ERISA” shall mean the Employee Retirement Income Security Act of 1974, as amended.

11. Good Reason. “Good Reason” means the occurrence of any of the following without the Participant’s express written consent: (i) the material reduction of the Participant’s authority, duties or responsibilities relative to the Participant’s authority, duties or responsibilities in effect immediately prior to such reduction; provided, however, that a significant reduction in title, duties or responsibilities solely by virtue of the Company being acquired and made part of a larger entity (as example, when the Chief Financial Officer of The Gymboree Corporation remains as such following a change of control and is not made the Chief Financial Officer of the acquiring corporation) shall not constitute Good Reason, (ii) a material reduction by the Company in the annual base salary relative to the annual base salary in effect immediately prior to such reduction; or (iii) the required relocation of Participant’s primary geographic work location by more than 50 miles; provided that no event described herein shall constitute Good Reason unless (A) the Participant has given the Company written notice of termination setting forth the conduct that is alleged to constitute Good Reason within 90 days of the first date on which the Participant has knowledge of such event or conduct, and (B) the Participant has provided the Company at least 30 days following the date on which such notice is provided to cure such conduct and the Company has failed to do so.

12. Involuntary Termination. “Involuntary Termination” shall mean (i) a termination of a Participant’s employment by the Company other than for Cause or (ii) by the Participant for Good Reason; provided, however, that an Involuntary Termination shall not occur for purposes of this Plan if the Participant is offered comparable employment with the Company. A position will not be considered comparable under the foregoing sentence if, at the time the Participant is offered the position: (a) the annual base salary for the new position would result in a material reduction from the annual base salary of the Participant’s then current position, or (b) the new position involves a material change in geographic location from the location of the Participant’s then current position.

13. Notice of Participation. “Notice of Participation” shall mean an individualized written notice of participation in this Plan from an authorized officer of the Company.

14. Participant. “Participant” shall mean an individual who meets the eligibility requirements of Article III.

15. Plan. “Plan” shall mean this The Gymboree Corporation Management Severance Plan.

16. Plan Administrator. “Plan Administrator” shall mean the Board of Directors of the Company, or its committee or designee, as shall be responsible for administering this Plan.

17. Release. “Release” shall mean the waiver and release referenced in Paragraph 2 of Article III.

18. Severance Payment. “Severance Payment” shall mean the payment of severance compensation as provided in Article IV hereof.

19. Severance Payment Percentage. “Severance Payment Percentage” shall mean, for each Participant, the Severance Payment Percentage set forth in such Participant’s Notice of Participation.

ARTICLE III

ELIGIBILITY

1. Participation in Plan. Each Employee who is designated by the Plan Administrator and who signs and timely returns to the Company a Notice of Participation within the time set forth in such Notice shall be a Participant in this Plan. A Participant shall cease to be a Participant in this Plan (i) upon ceasing to be an Employee, or (ii) upon receiving written notice from this Plan Administrator that the Participant is no longer eligible to participate in this Plan, unless, in either case, such Participant is then entitled to benefits hereunder by virtue of having already incurred an Involuntary Termination. A Participant entitled to benefits hereunder shall remain a Participant in this Plan until the full amount of the benefits have been delivered to the Participant.

2. Waiver and Release. As a condition of receiving benefits under this Plan, an Employee must sign (and not revoke) an effective general waiver and release on a form provided by the Company not later than 60 days following the Employee’s Involuntary Termination.

ARTICLE IV

SEVERANCE BENEFITS

1. Benefits Upon an Involuntary Termination. If the Participant's employment with the Company terminates as a result of Involuntary Termination, then, subject to Articles V and VI hereof, the Participant shall be entitled to receive severance benefits as follows:

(a) Severance Pay Upon an Involuntary Termination. The Participant shall be entitled to receive a Severance Payment equal to the product obtained by multiplying the Participant's Severance Payment Percentage times the Participant's Base Compensation. Unless otherwise determined by the Plan Administrator, any such Severance Payment shall be paid in cash by the Company to the Participant as salary continuation in accordance with the Company's regular payroll schedule over the period that it would have taken the Participant to earn the Severance Payment as Base Compensation had the Involuntary Termination not occurred, less applicable withholding and subject to the Release becoming effective, and shall be in lieu of any other severance or severance-type benefits to which the Participant may be entitled under any other Company-sponsored plan, practice or arrangement. The first installment of the Severance Payment paid following the date on which the Release becomes effective shall be payable in arrears and, to the extent any portion of the Severance Payment is subject to Section 409A of the Code and the timing of the execution of the Release could result in such installment becoming payable in either of two taxable years of the Participant, such installment shall be paid in the later of the two taxable years.

EXAMPLE: Participant experiences an Involuntary Termination on July 1, 2013. Participant's Base Compensation is \$150,000. The Severance Payment Percentage set forth in the Participant's Notice of Participation is 50%. The Participant is entitled to a Severance Payment equal to $50\% \times \$150,000 = \$75,000$.

(b) Employee Benefits Following an Involuntary Termination. The Company shall continue to provide the Participant with medical, dental and vision insurance coverage to the extent provided in the respective governing documents for each such employee benefit, including but not limited to continuation coverage pursuant to Title X of the Consolidated Omnibus Budget Reconciliation Act of 1985 ("COBRA"). To the extent the Participant properly elects COBRA continuation coverage, beginning on the Company's next regular payroll date following the Release becoming effective, the Company shall, to the extent permitted under applicable law, reimburse the Participant for the full cost of the premiums due for such coverage for a period that ends on the earliest to occur of (i) expiration or early termination of COBRA continuation coverage in accordance with the requirements of COBRA, and (ii) the Participant's COBRA Premiums Continuation Period. In the event the Company's payment obligations end based on clause (ii) of the foregoing sentence, the Participant shall be responsible for properly paying the full cost of the premiums due for any future COBRA continuation coverage to which he or she is then entitled.

2. Voluntary Resignation; Termination For Cause. If the Participant's employment terminates by reason of the Participant's voluntary resignation (other than for Good Reason), or if the Company terminates the Participant for Cause, then the Participant shall not be entitled to receive severance or other benefits under this Plan and shall be entitled only to those benefits (if any) as may be available under the Company's then existing benefit plans and policies at the time of such termination.

3. Disability; Death. If the Participant's employment terminates by reason of the Participant's death, or in the event the Company terminates the Participant's employment following his or her Disability, the Participant shall not be entitled to receive severance or other benefits under this Plan and shall be entitled only to those benefits (if any) as may be available under the Company's then existing benefits plans and policies at the time of such termination.

ARTICLE V

FORFEITURE OF SEVERANCE BENEFITS

1. Future Services with the Company. If a Participant provides services to the Company (as an employee, independent contractor, consultant or otherwise) during the 12-month period following his or her Involuntary Termination and does so without the prior written approval of the Company's General Counsel or his or her delegate, the Participant shall repay a pro rata amount of such benefits previously paid by the Company equal to the fraction derived from the number of days remaining in such 12-month period divided by 365.

2. Violation of the Company's Code of Conduct, Code of Ethics or the Participant's Restrictive Covenants. Notwithstanding any other provision of this Plan to the contrary, if it is determined by the Company that a Participant has violated the Company's code of conduct or code of ethics or violated any restrictive covenants contained in the Participant's general waiver and release or any other restrictive covenants contained in any other Company plan or program or agreement between the Company and the Participant, the Participant shall be required to repay to the Company an amount equal to the economic value of all severance and other benefits already paid or provided to the Participant under this Plan and the Participant shall forfeit all other entitlements under this Plan. Additional forfeiture provisions may apply under other agreements between the Participant and the Company, and any such forfeiture provisions shall remain in full force and effect.

ARTICLE VI

EMPLOYMENT STATUS; WITHHOLDING

1. Employment Status. This Plan does not constitute a contract of employment or impose on the Participant or the Company any obligation to retain the Participant as an Employee, to change the status of the Participant's employment, or to change the Company's policies regarding termination of employment. The Participant's employment is and shall continue to be at-will, as defined under applicable law. If the Participant's employment with the Company or a successor entity terminates for any reason the Participant shall not be entitled to any payments, benefits, damages, awards or compensation other than as provided by this Plan, or as may otherwise be available in accordance with the Company's established employee plans and practices or other agreements with the Company at the time of termination.

2. Taxation of Plan Payments. All amounts paid pursuant to this Plan shall be subject to regular payroll and withholding taxes.

ARTICLE VII

AMENDMENT AND TERMINATION

The Board (or a designated committee thereof) shall have the discretionary authority to amend this Plan at any time in any respect, including as to the removal or addition of Participants, or to terminate this Plan, in either case by resolution adopted by a majority of the Board (or such designated committee). A termination of this Plan pursuant to the preceding sentence shall be effective for all purposes, except that such termination shall not affect the payment or provision of compensation or benefits earned by a Participant by virtue of having already incurred an Involuntary Termination prior to the termination of this Plan.

ARTICLE VIII

ADMINISTRATION

1. Power and Authority. The Plan Administrator has all power and discretionary authority necessary or convenient to administer this Plan, including, but not limited to, the exclusive authority and discretion: (a) to construe and interpret this Plan; (b) to decide all questions of eligibility for and the amount of benefits under this Plan; (c) to prescribe procedures to be followed and the forms to be used by the Participants pursuant to this Plan; and (d) to request and receive from all Participants such information as the Plan Administrator determines is necessary for the proper administration of this Plan. All determinations under, and interpretations of, the Plan by the Plan Administrator shall be final and shall be conclusive and binding on all parties.

2. Section 409A. The Company intends that this Plan not contain nonqualified deferred compensation subject to the requirements of Section 409A of the Code. Accordingly, this Plan will be interpreted, operated, and administered by the Company to the extent the Company deems necessary to carry out such intention and to avoid the imposition of any additional tax or income recognition pursuant to Section 409A, including any temporary or final Treasury regulations and guidance promulgated thereunder.

ARTICLE IX
CLAIMS PROCESS

1. Claim for Benefits. A Participant (or any individual authorized by such Participant) has the right under ERISA and this Plan to file a written claim for benefits. To file a claim, the Participant must send the written claim to the Company's Vice President, HR & Total Rewards. If such claim is denied in whole or in part, the Participant shall receive written notice of the decision of the Company's Vice President, HR & Total Rewards, within 90 days after the claim is received. Such written notice shall include the following information: (i) specific reasons for the denial; (ii) specific reference to pertinent Plan provisions on which the denial is based; (iii) a description of any additional material or information necessary for the perfection of the claim and an explanation of why it is needed; and (iv) steps to be taken if the Participant wishes to appeal the denial of the claim, including a statement of the Participant's right to bring a civil action under Section 502(a) of ERISA upon an adverse decision on appeal. If the Company's Vice President, HR & Total Rewards, needs more than 90 days to make a decision, he or she shall notify the Participant in writing within the initial 90 days and explain why more time is required, and how long is needed. If a Participant (or any individual authorized by such Participant) submits a claim according to the procedures above and does not hear from the Company's Vice President, HR & Total Rewards, within the appropriate time, the Participant may consider the claim denied.

2. Appeals. The following appeal procedures give the rules for appealing a denied claim. If a claim for benefits is denied, in whole or in part, or if the Participant believes benefits under this Plan have not been properly provided, the Participant (or any individual authorized by such Participant) may appeal this denial in writing within 60 days after the denial is received. The Plan Administrator shall conduct a review and make a final decision within 60 days after receiving the Participant's written request for review. If the Plan Administrator needs more than 60 days to make a decision, it shall notify the Participant in writing within the initial 60 days and explain why more time is required. The Plan Administrator may then take 60 more days to make a decision. If such appeal is denied in whole or in part, the decision shall be in writing and shall include the following information: (i) specific reasons for the denial; (ii) specific reference to pertinent Plan provisions on which the denial is based; (iii) a statement of the Participant's right to access and receive copies, upon request and free of charge, of all documents and other information relevant to such claim for benefits; and (iv) a statement of the Participant's (or representative's) right to bring a civil action under Section 502(a) of ERISA. If the Plan Administrator does not respond within the applicable time frame, the Participant may consider the appeal denied. If a Participant (or any individual authorized by such Participant) submits a written request to appeal a denied claim, the Participant has the right to review pertinent Plan documents and to send a written statement of the issues and any other documents to support the claim.

3. Limitations Period. A Participant must pursue the claim and appeal rights described above before seeking any other legal recourse regarding a claim for benefits. The Participant may thereafter file an action in a court of competent jurisdiction, but he or she must do so within 180 days after the date of the notice of decision on appeal or such action will be forever barred.

ARTICLE X

NOTICE AND ASSIGNMENT

1. General. Notices and all other communications contemplated by this Plan shall be in writing and shall be deemed to have been duly given when personally delivered or when mailed by U.S. registered or certified mail, return receipt requested and postage prepaid. In the case of the Participant, mailed notices shall be addressed to him or her at the home address which he or she most recently communicated to the Company in writing. In the case of the Company, mailed notices shall be addressed to its corporate headquarters, and all notices shall be directed to the attention of its Vice President, HR & Total Rewards.

2. Notice by the Participant of Potential Involuntary Termination. In the event that the Participant (a) determines that circumstances constituting Good Reason have occurred and (b) desires to terminate his employment with the Company for such Good Reason, the Participant shall give written notice to the Company of such circumstances which Participant believes constitute Good Reason and Participant's intent to terminate his employment. The notice shall be delivered by the Participant to the Company within ninety (90) calendar days following the date on which such circumstances constituting Good Reason occurred, shall indicate the specific provision or provisions in this Plan upon which the Participant relied to make such determination and shall set forth in reasonable detail the facts and circumstances claimed to provide a basis for such determination. The failure by the Participant to include in the notice any fact or circumstance which contributes to a showing of Good Reason shall not waive any right of the Participant hereunder or preclude the Participant from asserting such fact or circumstance in enforcing his or her rights hereunder. Following the notice, the Company shall have thirty (30) calendar days to remedy the circumstances constituting Good Reason before giving effect to such Involuntary Termination for purposes of this Plan.

3. Assignment by Company. The Company may assign its rights under this Plan to an affiliate, and an affiliate may assign its rights under this Plan to another affiliate of the Company or to the Company. In the case of any such assignment, the term "Company" when used in this Plan shall mean the corporation that actually employs the Participant.

4. Company's Successors. Any successor to the Company (whether direct or indirect and whether by purchase, lease, merger, consolidation, liquidation or otherwise) to all or substantially all of the Company's business and/or assets shall assume the obligations under this Plan and agree expressly to perform the obligations under this Plan by executing a written agreement. For all purposes under this Plan, the term "Company" shall include any successor to the Company's business and/or assets which executes and delivers the assumption agreement described in this subsection or which becomes bound by the terms of this Plan by operation of law.

ARTICLE XI

MISCELLANEOUS

1. Governing law, Jurisdiction and Venue. This Plan is intended to be, and shall be interpreted as, an unfunded employee welfare benefit plan (within the meaning of Section 3(1) of ERISA) for a select group of management or highly compensated employees (within the meaning of Section 2520.104-24 of Department of Labor Regulations) and it shall be enforced in accordance with ERISA. Any Participant or other person filing an action related to this Plan shall be subject to the jurisdiction and venue of the federal or state courts of the State of California.

2. Severability. In the event any provision of this Plan shall be held illegal or invalid for any reason, the illegality or invalidity shall not affect the remaining parts of this Plan, and this Plan shall be construed and enforced as if the illegal or invalid provision had not been included. Further, the captions of this Plan are not part of the provisions hereof and shall have no force and effect.

3. WARN Act. Notwithstanding anything herein to the contrary, a Participant's Severance Payment hereunder shall be reduced by the amount of any severance or benefits payable to the Participant pursuant to the Worker Adjustment and Retraining Notification Act of 1988 or other applicable law.

4. Effect of Plan. This Plan, as amended, shall completely replace and supersede any prior version of this Plan and any other verbal or written document or communication concerning the Severance Benefits. In addition, Severance Benefits shall not be counted as "compensation," or any equivalent term, for purposes of determining benefits under other plans, programs or practices owing to the Participant from the Company, except to the extent expressly provided therein. Except as otherwise specifically provided for in this Plan, the Participant's rights under all such agreements, plans, provisions, and practices continue to be subject to the respective terms and conditions thereof.

**THE GYMBOREE CORPORATION
MANAGEMENT SEVERANCE PLAN
NOTICE OF PARTICIPATION**

To: Name

Date: _____, 201_

The Plan Administrator has designated you as a Participant in the Plan, a copy of which is attached hereto. The terms and conditions of your participation in the Plan are as set forth in the Plan and herein. The terms defined in the Plan shall have the same defined meanings in this Notice of Participation. As a condition to receiving benefits under the Plan, you must sign a general waiver and release in the form provided by the Company.

In the event that you are entitled to a Severance Benefits under the Plan, you will receive, in accordance with the Plan:

1) A Severance Payment equal to [●]% (the "Severance Payment Percentage") of your Base Compensation payable as salary continuation, less applicable withholding. Notwithstanding the foregoing sentence, the Company will not pay any unpaid portion of the Severance Payment, and you will be required to repay any portion of the Severance Payment that has already been paid, in the event you compete against the Company or violate the Company's Code of Conduct, Code of Ethics or applicable restrictive covenants, as further described in Article V of the Plan.

2) Reimbursement of premium payments for COBRA continuation coverage for a COBRA Premiums Continuation Period of [●] months.

Please return the signed copy of this Notice of Participation within ten (10) days of the date set forth above to:

Vice President, HR & Total Rewards
The Gymboree Corporation
500 Howard Street
San Francisco, California 94105

Please retain a copy of this Notice of Participation, along with a copy of the Plan, for your records.

Date: _____

Signature: _____