

**UNITED STATES
SECURITIES AND EXCHANGE COMMISSION
Washington, D.C. 20549**
FORM 10-Q

(Mark One)

QUARTERLY REPORT PURSUANT TO SECTION 13 OR 15(d) OF THE SECURITIES EXCHANGE ACT OF 1934

For the quarterly period ended September 30, 2015

or

TRANSITION REPORT PURSUANT TO SECTION 13 OR 15(d) OF THE SECURITIES EXCHANGE ACT OF 1934

For the transition period from **to** **.**

Commission File Number 1-11921

E*TRADE Financial Corporation

(Exact Name of Registrant as Specified in its Charter)

Delaware
(State or other jurisdiction
of incorporation or organization)

94-2844166
(I.R.S. Employer
Identification Number)

1271 Avenue of the Americas, 14th Floor, New York, New York 10020
(Address of principal executive offices and Zip Code)

(646) 521-4300
(Registrant's telephone number, including area code)

Indicate by check mark whether the registrant (1) has filed all reports required to be filed by Section 13 or 15(d) of the Securities Exchange Act of 1934 during the preceding 12 months (or for such shorter period that the registrant was required to file such reports) and (2) has been subject to such filing requirements for the past 90 days. Yes No

Indicate by check mark whether the registrant has submitted electronically and posted on its corporate Website, if any, every Interactive Data File required to be submitted and posted pursuant to Rule 405 of Regulation S-T during the preceding 12 months (or for such shorter period that the registrant was required to submit and post such files). Yes No

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 definitions of "large accelerated filer," "accelerated filer" and "smaller reporting company" in Rule 12b-2 of the Exchange Act.

Large accelerated filer <input checked="" type="checkbox"/>	Accelerated filer <input type="checkbox"/>
Non-accelerated filer <input type="checkbox"/> (Do not check if a smaller reporting company)	Smaller reporting company <input type="checkbox"/>

Indicate by check mark whether the registrant is a shell company (as defined in Rule 12b-2 of the Exchange Act). Yes No

Indicate the number of shares outstanding of each of the issuer's classes of common stock, as of the latest practicable date:
As of October 31, 2015, there were 292,967,985 shares of common stock outstanding.

E*TRADE FINANCIAL CORPORATION
FORM 10-Q QUARTERLY REPORT
For the Quarter Ended September 30, 2015
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*Unless otherwise indicated, references to "the Company," "we," "us," "our" and "E*TRADE" mean E*TRADE Financial Corporation and its subsidiaries.*

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PART I

FORWARD-LOOKING STATEMENTS

This report contains forward-looking statements, within the meaning of the Private Securities Litigation Reform Act of 1995, that involve risks and uncertainties. These statements discuss, among other things, our future plans, objectives, outlook, strategies, expectations and intentions relating to our business and future financial and operating results and the assumptions that underlie these matters and include any statement that is not historical in nature. These statements may be identified by the use of words such as "assume," "expect," "believe," "may," "will," "should," "anticipate," "intend," "plan," "estimate," "continue" and similar expressions. We caution that actual results could differ materially from those discussed in these forward-looking statements. Important factors that could contribute to our actual results differing materially from any forward-looking statements include, but are not limited to, those discussed under Part I. Item 2. Management's Discussion and Analysis of Financial Condition and Results of Operations of this Form 10-Q; and Part I. Item 1A. Risk Factors of our Annual Report on Form 10-K for the year ended December 31, 2014, filed with the SEC, which are incorporated herein by reference. By their nature forward-looking statements are not guarantees of future performance or results and are subject to risks, uncertainties and assumptions that are difficult to predict or quantify. Actual future results may vary materially from expectations expressed or implied in this report or any of our prior communications. The forward-looking statements contained in this report reflect our expectations only as of the date of this report. You should not place undue reliance on forward-looking statements, as we do not undertake to update or revise forward-looking statements to reflect the impact of circumstances or events that arise after the date the forward-looking statements were made, except as required by law.

ITEM 2. MANAGEMENT'S DISCUSSION AND ANALYSIS OF FINANCIAL CONDITION AND RESULTS OF OPERATIONS

The following discussion should be read in conjunction with the consolidated financial statements and the related notes that appear elsewhere in this document and with the Annual Report on Form 10-K for the year ended December 31, 2014.

GLOSSARY OF TERMS

In analyzing and discussing our business, we utilize certain metrics, ratios and other terms that are defined in the Glossary of Terms, which is located at the end of this item.

OVERVIEW

Strategy

Our business strategy is centered on two core objectives: accelerating the growth of our core brokerage business to improve market share, and strengthening our overall financial and franchise position.

Accelerate Growth of Core Brokerage Business

- *Capitalize on secular growth within the direct brokerage industry.*
The direct brokerage industry is growing at a faster rate than the traditional brokerage industry. We are focused on capitalizing on this growth through ensuring our customers' trading and investing needs are met through our direct relationships.
- *Enhance digital and offline customer experience.*
We are focused on maintaining our competitive position in trading, margin lending and cash management, while expanding our customer share of wallet in retirement, investing and savings. Through these offerings, we aim to continue acquiring new customers while also deepening the engagement of both new and existing customers.
- *Capitalize on value of corporate services business.*
Our corporate services business is a strategically important driver of brokerage account growth for us. We are leveraging our industry-leading position to improve client acquisition, and are bolstering awareness among plan participants of our full suite of offerings.

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- *Maximize value of customer deposits while improving balance sheet efficiency.*
Our brokerage business generates a significant amount of stable, low-cost deposits, which we monetize through E*TRADE Bank by investing primarily in low-risk, agency mortgage-backed securities.

Strengthen Overall Financial and Franchise Position

- *Manage down legacy investments and mitigate credit losses.*
We continue to manage down the size and risks associated with our legacy loan portfolio, while mitigating credit losses where possible.
- *Continue to execute on our capital plan.*
Our capital plan was laid out in 2012 with a key goal of distributing capital from E*TRADE Bank to the parent company, with the key objective of reducing corporate debt which we completed in March 2015. We are now focused on deploying excess capital created through earnings and lower capital requirements at E*TRADE Bank, while continuing to demonstrate the sustainability of our enterprise risk management culture and capabilities.

Key Factors Affecting Financial Performance

Our financial performance is affected by a number of factors outside of our control, including:

- customer demand for financial products and services;
- weakness or strength of the residential real estate and credit markets;
- performance, volume and volatility of the equity and capital markets;
- customer perception of the financial strength of our franchise;
- market demand and liquidity in the secondary market for mortgage loans and securities;
- the level and volatility of interest rates;
- our ability to move capital to our parent company from our subsidiaries subject to various regulatory approvals; and
- changes to the rules and regulations governing the financial services industry.

In addition to the items noted above, our success in the future will depend upon, among other things, our ability to:

- have continued success in the acquisition, growth and retention of brokerage customers;
- generate meaningful growth in our retirement, investing and savings customer products;
- demonstrate the sustainability of our enterprise risk management culture and capabilities;
- mitigate credit costs;
- manage to a lower Tier 1 leverage ratio at E*TRADE Bank, as stated in our capital plan;
- generate capital sufficient to meet operating needs;
- evaluate opportunities and deploy excess capital to maximize shareholder value;
- assess and manage interest rate risk;
- maintain expense control and improved operational efficiency; and
- compete in a technology-intensive industry characterized by rapid innovation.

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Management monitors a number of metrics in evaluating the Company's performance. The most significant of these are shown in the table and discussed in the text below:

	Three Months Ended September 30,			Variance 2015 vs. 2014	Nine Months Ended September 30,			Variance 2015 vs. 2014
	2015	2014			2015	2014		
Customer Activity Metrics:								
Daily average revenue trades ("DARTs")	155,985	153,494		2 %	158,326	168,526		(6)%
Average commission per trade	\$ 10.87	\$ 11.05		(2)%	\$ 10.92	\$ 10.79		1 %
Margin receivables (dollars in billions)	\$ 7.9	\$ 8.1		(2)%	\$ 7.9	\$ 8.1		(2)%
End of period brokerage accounts ⁽¹⁾	3,203,531	3,126,476		2 %	3,203,531	3,126,476		2 %
Net new brokerage accounts ⁽¹⁾	2,205	23,510		(91)%	59,608	128,417		(54)%
Annualized brokerage account attrition rate ⁽¹⁾	11.4%	9.1%		2 %	10.0%	8.5%		2 %
Customer assets (dollars in billions)	\$ 276.6	\$ 281.7		(2)%	\$ 276.6	\$ 281.7		(2)%
Net new brokerage assets (dollars in billions)	\$ 2.1	\$ 2.3		(9)%	\$ 6.5	\$ 7.4		(12)%
Brokerage related cash (dollars in billions)	\$ 40.2	\$ 40.4		— %	\$ 40.2	\$ 40.4		— %
Company Financial Metrics:								
Corporate cash (dollars in millions)	\$ 432	\$ 610		(29)%	\$ 432	\$ 610		(29)%
E*TRADE Financial Tier 1 leverage ratio ⁽²⁾	8.5%	7.7%		0.8 %	8.5%	7.7%		0.8 %
E*TRADE Bank Tier 1 leverage ratio ⁽²⁾⁽³⁾	9.2%	10.4%		(1.2)%	9.2%	10.4%		(1.2)%
Special mention loan delinquencies (dollars in millions)	\$ 113	\$ 159		(29)%	\$ 113	\$ 159		(29)%
Allowance for loan losses (dollars in millions)	\$ 376	\$ 401		(6)%	\$ 376	\$ 401		(6)%
Enterprise net interest spread	2.58%	2.54%		0.04 %	2.57%	2.52%		0.05 %
Enterprise interest-earning assets (average dollars in billions)	\$ 40.4	\$ 41.3		(2)%	\$ 41.3	\$ 41.6		(1)%

- (1) Net new brokerage accounts and end of period brokerage accounts were impacted by the shutdown of the Company's global trading platform. The shutdown resulted in the closure of 16,818 and 20,143 accounts during the three and nine months ended September 30, 2015, respectively. Net new and end of period brokerage accounts during the nine months ended September 30, 2015 were also impacted by the closure of 3,484 accounts related to the escheatment of unclaimed property. Excluding the impact of these items, annualized brokerage account attrition rate was 9.3% and 9.0% for the three and nine months ended September 30, 2015, respectively.
- (2) Beginning in the first quarter of 2015, E*TRADE Financial and E*TRADE Bank calculate regulatory capital under the Basel III framework using the Standardized Approach, subject to transition provisions. Prior to the first quarter of 2015, the risk-based capital guidelines that applied to E*TRADE Bank were based upon the 1988 capital accords of the Basel Committee on Banking Supervision ("BCBS"), a committee of central banks and bank supervisors, as implemented by the U.S. Federal banking agencies, including the OCC, commonly known as Basel I. As a savings and loan holding company, E*TRADE Financial was not previously subject to specific statutory capital requirements. Therefore, E*TRADE Financial's Tier 1 leverage ratio as of September 30, 2014 was a non-GAAP measure and was calculated based on the Federal Reserve's well-capitalized requirements then applicable to bank holding companies. See Liquidity and Capital Resources in Item 2. Management's Discussion and Analysis of Financial Condition and Results of Operations for a reconciliation of this non-GAAP measure to the comparable GAAP measure.
- (3) E*TRADE Clearing LLC ("E*TRADE Clearing") was moved out from under E*TRADE Bank in July 2015.

Customer Activity Metrics

- DARTs are the predominant driver of commissions revenue from our customers.
- Average commission per trade is an indicator of changes in our customer mix, product mix and/or product pricing.

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- Margin receivables represent credit extended to customers to finance their purchases of securities by borrowing against securities they own and are a key driver of net operating interest income.
- End of period brokerage accounts, net new brokerage accounts and brokerage account attrition rate are indicators of our ability to attract and retain brokerage customers. The brokerage account attrition rate is calculated by dividing attriting brokerage accounts, which are gross new brokerage accounts less net new brokerage accounts, by total brokerage accounts at the previous period end. This rate is presented on an annualized basis.
- Changes in customer assets are an indicator of the value of our relationship with the customer. An increase in customer assets generally indicates that the use of our products and services by existing and new customers is expanding. Changes in this metric are also driven by changes in the valuations of our customers' underlying securities.
- Net new brokerage assets are total inflows to all new and existing brokerage accounts less total outflows from all closed and existing brokerage accounts and are a general indicator of the use of our products and services by new and existing brokerage customers.
- Brokerage related cash is an indicator of the level of engagement with our brokerage customers and is a key driver of net operating interest income as well as fees earned on customer assets held by third parties outside the Company.

Company Financial Metrics

- Corporate cash is an indicator of the liquidity at the parent company. It is the primary source of capital above and beyond the capital deployed in our regulated subsidiaries. See Liquidity and Capital Resources in Item 2. Management's Discussion and Analysis of Financial Condition and Results of Operations for a reconciliation of this non-GAAP measure to the comparable GAAP measure.
- Tier 1 leverage ratio is an indication of capital adequacy for E*TRADE Financial and E*TRADE Bank. Tier 1 leverage ratio is Tier 1 capital divided by adjusted average total assets for leverage capital purposes. Beginning in the first quarter of 2015, E*TRADE Financial and E*TRADE Bank calculate regulatory capital under the Basel III framework using the Standardized Approach, subject to transition provisions. Prior to Basel III becoming effective, E*TRADE Financial capital ratios were non-GAAP measures as the parent company was not yet held to regulatory capital requirements. See Liquidity and Capital Resources in Item 2. Management's Discussion and Analysis of Financial Condition and Results of Operations for additional information, including the calculation of regulatory capital ratios and a reconciliation of previously non-GAAP capital ratios to the comparable GAAP measures.
- Special mention loan delinquencies are loans 30-89 days past due and are an indicator of the expected trend for charge-offs in future periods as these loans have a greater propensity to migrate into nonaccrual status and ultimately be charged-off.
- Allowance for loan losses is an estimate of probable losses inherent in the loan portfolio as of the balance sheet date, as well as the forecasted losses, including economic concessions to borrowers, over the estimated remaining life of loans modified as troubled debt restructurings ("TDR").
- Enterprise interest-earning assets, in conjunction with our enterprise net interest spread, are indicators of our ability to generate net operating interest income.

Significant Events in the Third Quarter of 2015

Terminated \$4.4 billion of Legacy Wholesale Funding Obligations

- We terminated \$4.4 billion of legacy wholesale funding obligations, including repurchase agreements and FHLB advances, in September 2015. In connection with the termination, we recorded a pre-tax charge of \$413 million during the third quarter of 2015. We expect the termination of the legacy wholesale funding obligations to significantly reduce our funding costs, thereby improving our ability to generate net income.

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*E*TRADE Bank Issued a \$114 million Dividend to the Parent Company*

- We received approval from our regulators for a \$114 million dividend from E*TRADE Bank to the parent company, totaling \$756 million in quarterly dividends from E*TRADE Bank to the parent company since the third quarter of 2013 and continuing to reflect significant progress in our capital plan. Subsequently, in connection with the termination of the legacy wholesale funding obligations, the parent company contributed \$110 million of corporate cash to E*TRADE Bank in order to maintain targeted capital levels.

*Move of Broker-Dealer from under E*TRADE Bank and Dividends Issued to the Parent Company*

- E*TRADE Clearing was moved out from under E*TRADE Bank in July 2015.
- E*TRADE Securities issued a \$30 million dividend to the parent company, totaling \$515 million in dividends from E*TRADE Securities to the parent company since E*TRADE Securities was moved out from under E*TRADE Bank in February 2015.

Enhancements to Our Trading and Investing Products and Services

- On our active trader platform, E*TRADE Pro, we made a series of significant enhancements to the options analyzer that enable traders to build multiple options strategies, run various scenarios based on expiration date and price point, more easily customize graphing features, and seamlessly send any strategy directly for trade execution.
- We added considerable capabilities to our mobile applications, including an improved ability to view market data directly on the Apple Watch face, conditional orders and rolling options for our core smartphone apps, and enhanced tablet functionality.

EARNINGS OVERVIEW

We generated net income (loss) of \$(153) million and \$179 million, or \$(0.53) and \$0.61 per diluted share, on total net revenue of \$73 million and \$974 million for the three and nine months ended September 30, 2015, respectively. During the third quarter of 2015, we terminated \$4.4 billion of legacy wholesale funding obligations. We expect this action to significantly reduce our funding costs, thereby improving our ability to generate net income. In connection with this termination, we recorded a pre-tax charge of \$413 million on our consolidated statement of income (loss), including \$43 million of losses on early extinguishment of debt, and \$370 million of losses that were reclassified from accumulated comprehensive loss related to cash flow hedges and included in the gains (losses) on securities and other line item. Net operating interest income decreased 1% to \$263 million and increased 1% to \$801 million for the three and nine months ended September 30, 2015, respectively, compared to the same periods in 2014. Commissions, fees and service charges and other revenue increased 2% to \$170 million and decreased 1% to \$513 million for the three and nine months ended September 30, 2015, respectively, compared to the same periods in 2014. Provision (benefit) for loan losses was \$(25) million and \$(17) million for the three and nine months ended September 30, 2015, respectively, compared to \$10 million and \$26 million for the same periods in 2014. Total operating expenses increased 6% to \$293 million and 6% to \$902 million for the three and nine months ended September 30, 2015, respectively, compared to the same periods in 2014.

The following sections describe in detail the changes in key operating factors and other changes and events that affected net revenue, provision (benefit) for loan losses, operating expense, other income (expense) and income tax expense (benefit).

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Revenue

The components of revenue and the resulting variances are as follows (dollars in millions):

	Three Months Ended September 30,		Variance 2015 vs. 2014		Nine Months Ended September 30,		Variance 2015 vs. 2014	
	2015	2014	Amount	%	2015	2014	Amount	%
	Net operating interest income	\$ 263	\$ 265	\$ (2)	(1)%	\$ 801	\$ 795	\$ 6
Commissions	108	108	—	—%	325	341	(16)	(5)%
Fees and service charges	52	49	3	6 %	159	148	11	7 %
Principal transactions	—	—	—	*	—	10	(10)	(100)%
Gains (losses) on securities and other	(360)	8	(368)	*	(340)	30	(370)	*
Other revenues	10	10	—	—%	29	29	—	—%
Total non-interest income (loss)	(190)	175	(365)	*	173	558	(385)	*
Total net revenue	\$ 73	\$ 440	\$ (367)	(83)%	\$ 974	\$ 1,353	\$ (379)	(28)%

* Percentage not meaningful.

Net Operating Interest Income

Net operating interest income decreased 1% to \$263 million and increased 1% to \$801 million for the three and nine months ended September 30, 2015, respectively, compared to the same periods in 2014. Net operating interest income is earned primarily through investing deposits and customer payables in assets including: available-for-sale securities, held-to-maturity securities, margin receivables and real estate loans.

The following table presents enterprise average balance sheet data and enterprise income and expense data for our operations, as well as the related net interest spread, yields and rates prepared on the basis required by the SEC's Industry Guide 3, "Statistical Disclosure by Bank Holding Companies" (dollars in millions):

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Three Months Ended September 30,

	2015			2014		
	Average Balance	Operating Interest Inc./Exp.	Average Yield/Cost	Average Balance	Operating Interest Inc./Exp.	Average Yield/Cost
Enterprise interest-earning assets:						
Loans ⁽¹⁾	\$ 5,453	\$ 58	4.25 %	\$ 6,871	\$ 70	4.05%
Available-for-sale securities	12,584	57	1.83 %	12,595	70	2.23%
Held-to-maturity securities	11,879	85	2.84 %	11,366	81	2.84%
Margin receivables	7,984	70	3.51 %	7,645	67	3.47%
Cash and equivalents	1,720	1	0.19 %	1,316	—	0.15%
Segregated cash	318	1	0.18 %	904	—	0.06%
Securities borrowed and other	461	26	22.43 %	649	28	16.89%
Total enterprise interest-earning assets	40,399	298	2.93 %	41,346	316	3.04%
Non-operating interest-earning and non-interest earning assets ⁽²⁾	4,306			4,523		
Total assets	\$ 44,705			\$ 45,869		
Enterprise interest-bearing liabilities:						
Deposits	\$ 25,659	1	0.01 %	\$ 25,068	2	0.03%
Customer payables	6,348	2	0.07 %	6,624	2	0.13%
Securities sold under agreements to repurchase ⁽³⁾	2,558	18	2.64 %	3,753	30	3.07%
FHLB advances and other borrowings ⁽³⁾	1,024	12	4.89 %	1,290	16	4.75%
Securities loaned	1,749	1	0.32 %	1,634	—	0.03%
Total enterprise interest-bearing liabilities	37,338	34	0.35 %	38,369	50	0.50%
Non-operating interest-bearing and non-interest bearing liabilities ⁽⁴⁾	1,596			2,270		
Total liabilities	38,934			40,639		
Total shareholders' equity	5,771			5,230		
Total liabilities and shareholders' equity	\$ 44,705			\$ 45,869		
Excess of enterprise interest-earning assets over enterprise interest-bearing liabilities/Enterprise net interest income/Spread⁽⁵⁾	\$ 3,061	\$ 264	2.58 %	\$ 2,977	\$ 266	2.54%
Enterprise net interest margin (net yield on enterprise interest-earning assets)			2.61 %			2.57%
Ratio of enterprise interest-earning assets to enterprise interest-bearing liabilities			108.20 %			107.76%
Return on average: ⁽⁶⁾						
Total assets			(1.38)%			0.75%
Total shareholders' equity			(10.66)%			6.59%
Average equity to average total assets			12.91 %			11.40%

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	Nine Months Ended September 30,					
	2015			2014		
	Average Balance	Operating Interest Inc./Exp.	Average Yield/Cost	Average Balance	Operating Interest Inc./Exp.	Average Yield/Cost
Enterprise interest-earning assets:						
Loans ⁽¹⁾	\$ 5,838	\$ 177	4.04%	\$ 7,556	\$ 231	4.07%
Available-for-sale securities	12,838	189	1.97%	12,940	221	2.28%
Held-to-maturity securities	12,173	259	2.83%	11,075	240	2.88%
Margin receivables	7,997	208	3.48%	7,307	194	3.56%
Cash and equivalents	1,513	2	0.19%	1,258	1	0.15%
Segregated cash	335	1	0.14%	847	1	0.09%
Securities borrowed and other	575	88	20.48%	633	66	13.84%
Total enterprise interest-earning assets	41,269	924	2.99%	41,616	954	3.06%
Non-operating interest-earning and non-interest earning assets ⁽²⁾	4,707			4,331		
Total assets	\$ 45,976			\$ 45,947		
Enterprise interest-bearing liabilities:						
Deposits	\$ 25,667	4	0.02%	\$ 25,331	6	0.03%
Customer payables	6,438	4	0.08%	6,416	7	0.15%
Securities sold under agreements to repurchase ⁽³⁾	3,305	69	2.74%	4,071	95	3.07%
FHLB advances and other borrowings ⁽³⁾	1,209	43	4.72%	1,285	50	5.09%
Securities loaned	1,779	2	0.18%	1,457	—	0.03%
Total enterprise interest-bearing liabilities	38,398	122	0.42%	38,560	158	0.54%
Non-operating interest-bearing and non-interest bearing liabilities ⁽⁴⁾	1,977			2,285		
Total liabilities	40,375			40,845		
Total shareholders' equity	5,601			5,102		
Total liabilities and shareholders' equity	\$ 45,976			\$ 45,947		
Excess of enterprise interest-earning assets over enterprise interest-bearing liabilities/Enterprise net interest income/Spread⁽⁵⁾	\$ 2,871	\$ 802	2.57%	\$ 3,056	\$ 796	2.52%
Enterprise net interest margin (net yield on enterprise interest-earning assets)			2.59%			2.55%
Ratio of enterprise interest-earning assets to enterprise interest-bearing liabilities			107.48%			107.93%
Return on average:⁽⁶⁾						
Total assets			0.52%			0.73%
Total shareholders' equity			4.25%			6.58%
Average equity to average total assets			12.18%			11.10%

- (1) Nonaccrual loans are included in the average loan balances. Interest payments received on nonaccrual loans are recognized on a cash basis in operating interest income until it is doubtful that full payment will be collected, at which point payments are applied to principal.
- (2) Non-operating interest-earning and non-interest earning assets consist of property and equipment, net, goodwill, other intangibles, net and other assets that do not generate operating interest income. Some of these assets generate corporate interest income.
- (3) In September 2015, we terminated \$4.4 billion of legacy wholesale funding obligations and recorded a pre-tax charge of \$413 million on our consolidated statement of income (loss).
- (4) Non-operating interest-bearing and non-interest bearing liabilities consist of corporate debt and other liabilities that do not generate operating interest expense. Some of these liabilities generate corporate interest expense.
- (5) Enterprise net interest spread represents the taxable equivalent rate earned on average enterprise interest-earning assets less the rate paid on average enterprise interest-bearing liabilities, excluding corporate interest-earning assets and liabilities. The taxable equivalent adjustment to reconcile to net operating interest income was \$1 million for both the three and nine months ended September 30, 2015 and 2014, respectively.
- (6) Return on average ratios are calculated using net income divided by average total assets or average total shareholders' equity. Net income (loss) for the three and nine months ended September 30, 2015 includes the impact of the termination of legacy wholesale funding obligations.

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The fluctuation in enterprise interest-earning assets is driven primarily by changes in enterprise interest-bearing liabilities, specifically deposits and customer payables. Average enterprise interest-earning assets decreased 2% to \$40.4 billion and 1% to \$41.3 billion for the three and nine months ended September 30, 2015, respectively, compared to the same periods in 2014. The decrease for the three and nine months ended September 30, 2015 was primarily due to decreases in loans, partially offset by increases in held-to-maturity securities and margin receivables.

Average enterprise interest-bearing liabilities decreased 3% to \$37.3 billion and slightly decreased to \$38.4 billion for the three and nine months ended September 30, 2015, respectively, compared to the same periods in 2014. The decrease for the three and nine months ended September 30, 2015 was primarily due to the termination of \$4.4 billion of legacy wholesale funding obligations during the third quarter of 2015, partially offset by increases in deposits.

At September 30, 2015, \$13.8 billion of our customers' assets were held at third party institutions. Approximately 70% of these off-balance sheet assets resulted from our deleveraging efforts completed in prior periods. We estimate the impact of our deleveraging efforts on net operating interest income at September 30, 2015 to be approximately 110 basis points based on the estimated current re-investment rates on these assets, less approximately 8 basis points of cost associated with holding these assets on our balance sheet, primarily FDIC insurance premiums. We maintain the ability to transfer the majority of these customer assets to our balance sheet with notification to the third party institutions and customer consent, as appropriate. During the fourth quarter of 2015 and in early 2016, we intend to transfer a portion of customer assets held by third parties to our balance sheet and expect to reach our targeted consolidated balance sheet size in early 2016.

Enterprise net interest spread increased by 4 basis points to 2.58% and 5 basis points to 2.57% for the three and nine months ended September 30, 2015, respectively, compared to the same periods in 2014. Enterprise net interest spread is driven by changes in average balances and average interest rates earned or paid on those balances. During the three and nine months ended September 30, 2015, the increase in enterprise net interest spread was primarily due to lower borrowing costs driven by the termination of \$4.4 billion of legacy wholesale funding obligations during the third quarter of 2015. In addition, for the nine months ended September 30, 2015, revenue earned from our securities lending activities also increased. These increases were partially offset by the continued run-off of our legacy loan portfolio along with lower rates earned on investment securities. Enterprise net interest spread may further fluctuate based on the size and mix of the balance sheet, as well as the impact from the interest rate environment.

Commissions

Commissions revenue remained unchanged at \$108 million and decreased 5% to \$325 million for the three and nine months ended September 30, 2015, respectively, compared to the same periods in 2014. The main factors that affect commissions are DARTs, average commission per trade and the number of trading days.

DART volume increased 2% to 155,985 and decreased 6% to 158,326 for the three and nine months ended September 30, 2015, respectively, compared to the same periods in 2014. Option-related DARTs as a percentage of total DARTs represented 23% of trading volume for both the three and nine months ended September 30, 2015, compared to 23% and 22% for the same periods in 2014. DARTs via mobile applications as a percentage of total DARTs represented 15% and 14% of trading volume for the three and nine months ended September 30, 2015, respectively, compared to 11% for both periods in 2014.

Average commission per trade decreased 2% to \$10.87 and increased 1% to \$10.92 for the three and nine months ended September 30, 2015, respectively, compared to the same periods in 2014. Average commission per trade is impacted by customer mix and the different commission rates on various trade types (e.g. equities, options, fixed income, stock plan, exchange-traded funds, mutual funds, forex and cross border).

Fees and Service Charges

Fees and service charges increased 6% to \$52 million and 7% to \$159 million for the three and nine months ended September 30, 2015 respectively, compared to the same periods in 2014. The table below shows the components of fees and service charges and the resulting variances (dollars in millions):

	Three Months Ended		Variance		Nine Months		Variance	
	September 30,		2015 vs. 2014		Ended September 30,		2015 vs. 2014	
	2015	2014	Amount	%	2015	2014	Amount	%
Order flow revenue	\$ 21	\$ 22	\$ (1)	(5)%	\$ 65	\$ 69	\$ (4)	(6)%
Mutual fund service fees	7	6	1	17 %	19	17	2	12 %
Advisor management fees	6	6	—	— %	20	17	3	18 %
Foreign exchange revenue	3	4	(1)	(25)%	12	12	—	— %
Reorganization fees	3	1	2	200 %	8	5	3	60 %
Money market funds and sweep deposits revenue ⁽¹⁾	7	4	3	75 %	18	10	8	80 %
Other fees and service charges	5	6	(1)	(17)%	17	18	(1)	(6)%
Total fees and service charges	<u>\$ 52</u>	<u>\$ 49</u>	<u>\$ 3</u>	6 %	<u>\$ 159</u>	<u>\$ 148</u>	<u>\$ 11</u>	7 %

(1) Includes revenue earned on average customer assets held by third parties outside the Company, including money market funds and sweep deposit accounts at unaffiliated financial institutions. Fees earned on these customer assets are based on the federal funds rate or LIBOR plus a negotiated spread or other contractual arrangement with the third party institutions.

The increases in fees and services charges for the three and nine months ended September 30, 2015, compared to the same periods in 2014, were primarily driven by increased money market funds and sweep deposits revenue. This increase was driven primarily by the increased rate earned on sweep deposits and the increased rate earned and balance of customer assets in money market funds.

Principal Transactions

There was no principal transactions revenue for the nine months ended September 30, 2015, compared to \$10 million for the same period in 2014. Principal transactions were derived from our market making business in which we acted as a market-maker for our brokerage customers' orders as well as orders from third party customers. On February 10, 2014, we completed the sale of the market making business and no longer generate principal transactions revenue.

Gains (Losses) on Securities and Other

The table below shows the components of gains (losses) on securities and other and the resulting variances (dollars in millions):

	Three Months Ended		Variance		Nine Months		Variance	
	September 30,		2015 vs. 2014		Ended September 30,		2015 vs. 2014	
	2015	2014	Amount	%	2015	2014	Amount	%
Reclassification of deferred losses on cash flow hedges	\$ (370)	\$ —	\$ (370)	*	\$ (370)	\$ —	\$ (370)	*
Hedge ineffectiveness	(2)	(1)	(1)	100 %	—	(8)	8	(100)%
Gains on available-for-sale securities, net	11	12	(1)	(8)%	29	34	(5)	(15)%
Gains (losses) on loans, net	1	(3)	4	(133)%	1	4	(3)	(75)%
Gains (losses) on securities and other	<u>\$ (360)</u>	<u>\$ 8</u>	<u>\$ (368)</u>	*	<u>\$ (340)</u>	<u>\$ 30</u>	<u>\$ (370)</u>	*

* Percentage not meaningful.

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Gains (losses) on securities and other was \$(360) million and \$(340) million for the three and nine months ended September 30, 2015, respectively, compared to \$8 million and \$30 million for the same periods in 2014. The gains (losses) on securities and other for the three and nine months ended September 30, 2015 included \$370 million of losses reclassified from accumulated comprehensive loss related to cash flow hedges as a result of the termination of \$4.4 billion legacy wholesale funding obligations during the third quarter of 2015. Gains (losses) on securities and other for the nine months ended September 30, 2014 included a gain of \$7 million on the sale of one- to four-family loans modified as TDRs and a \$6 million gain recognized on the sale of our remaining \$17 million in amortized cost of available-for-sale non-agency CMOs.

Provision (Benefit) for Loan Losses

Provision (benefit) for loan losses was \$(25) million and \$(17) million for the three and nine months ended September 30, 2015, respectively, compared to \$10 million and \$26 million for the same periods in 2014. The benefit for loan losses reflected continued improvement in economic conditions, charge-off recoveries and loan portfolio run-off, offset by the impact of enhancements to our modeling practices for the allowance for loan losses during the nine months ended September 30, 2015. The timing and magnitude of the provision (benefit) for loan losses is affected by many factors and we anticipate variability, particularly as mortgage loans reach the end of their interest-only period. For additional information on management's estimate of the allowance for loan losses, see Summary of Critical Accounting Policies and Estimates in Item 2. Management's Discussion and Analysis of Financial Condition and Results of Operations.

Operating Expense

The components of operating expense and the resulting variances are as follows (dollars in millions):

	Three Months Ended		Variance		Nine Months		Variance	
	September 30,		2015 vs. 2014		Ended September 30,		2015 vs. 2014	
	2015	2014	Amount	%	2015	2014	Amount	%
Compensation and benefits	\$ 123	\$ 108	\$ 15	14 %	\$ 354	\$ 305	\$ 49	16 %
Advertising and market development	23	21	2	10 %	89	88	1	1 %
Clearing and servicing	23	21	2	10 %	72	72	—	— %
FDIC insurance premiums	7	18	(11)	(61)%	36	61	(25)	(41)%
Professional services	24	27	(3)	(11)%	77	79	(2)	(3)%
Occupancy and equipment	21	22	(1)	(5)%	64	59	5	8 %
Communications	24	17	7	41 %	62	53	9	17 %
Depreciation and amortization	21	19	2	11 %	61	60	1	2 %
Amortization of other intangibles	5	5	—	— %	15	16	(1)	(6)%
Restructuring and other exit activities	2	2	—	— %	8	6	2	33 %
Other operating expenses	20	17	3	18 %	64	52	12	23 %
Total operating expense	\$ 293	\$ 277	\$ 16	6 %	\$ 902	\$ 851	\$ 51	6 %

Compensation and Benefits

Compensation and benefits increased 14% to \$123 million and 16% to \$354 million for the three and nine months ended September 30, 2015, respectively, compared to the same periods in 2014. The increases were primarily due to increased salaries expense driven by higher headcount and increased incentive compensation, compared to the same periods in 2014. The increases during the nine months ended September 30, 2015 also included \$6 million of executive severance costs recorded in the second quarter of 2015.

FDIC Insurance Premiums

FDIC insurance premiums decreased 61% to \$7 million and 41% to \$36 million for the three and nine months ended September 30, 2015, respectively, compared to the same periods in 2014. The decreases were primarily driven by reduced rate assessments due to continued improvement and quality of our balance sheet, improving capital

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ratios and overall risk profile, compared to the same periods in 2014. These drivers and the resulting decreases in FDIC insurance premiums are indications of the important progress made on our capital plan.

Other Operating Expenses

Other operating expenses increased 18% to \$20 million and 23% to \$64 million for the three and nine months ended September 30, 2015, respectively, compared to the same periods in 2014. The increases during the nine months ended September 30, 2015 were primarily driven by a \$9 million expense related to a third party contract amendment executed during the second quarter of 2015.

Other Income (Expense)

Other income (expense) was a net expense of \$51 million and \$155 million for the three and nine months ended September 30, 2015, respectively, as shown in the following table (dollars in millions):

	Three Months Ended		Variance		Nine Months		Variance	
	September 30,		2015 vs. 2014		Ended September 30,		2015 vs. 2014	
	2015	2014	Amount	%	2015	2014	Amount	%
Corporate interest expense	\$ (14)	\$ (29)	\$ 15	(52)%	\$ (50)	\$ (86)	\$ 36	(42)%
Losses on early extinguishment of debt	(39)	—	(39)	*	(112)	(12)	(100)	833 %
Other	2	1	1	100 %	7	3	4	133 %
Total other income (expense)	\$ (51)	\$ (28)	\$ (23)	82 %	\$ (155)	\$ (95)	\$ (60)	63 %

* Percentage not meaningful.

Losses on early extinguishment of debt were \$39 million and \$112 million for the three and nine months ended September 30, 2015, respectively. During the third quarter of 2015 we terminated \$4.4 billion of legacy wholesale funding obligations which resulted in a pre-tax charge of \$43 million in the losses on early extinguishment of debt line item. We also repurchased \$14 million of trust preferred securities in advance of maturity during the third quarter of 2015 and recorded a gain on early extinguishment of debt of \$4 million.

Additionally, during the nine months ended September 30, 2015, we issued \$460 million of 4⁵/₈% Senior Notes and we used the net proceeds, together with \$432 million of existing corporate cash, to redeem \$800 million of 6³/₈% Senior Notes which resulted in a \$73 million loss on early extinguishment of debt. During the nine months ended September 30, 2014 we recorded \$12 million loss on early extinguishment of debt as a result of the early extinguishment of \$100 million in repurchase agreements.

Total other income (expense) also includes corporate interest expense of \$14 million and \$50 million for three and nine months ended September 30, 2015, respectively, compared to \$29 million and \$86 million for the same periods in 2014. The decrease in corporate interest expense was driven by \$740 million in cumulative corporate debt reductions since the first quarter of 2014 which reduced our annual debt service cost from approximately \$110 million as of September 30, 2014 to \$50 million as of September 30, 2015.

Income Tax Expense (Benefit)

Income tax benefit was \$93 million and \$245 million for the three and nine months ended September 30, 2015, respectively, compared to income tax expense of \$39 million and \$129 million for the same periods in 2014. The effective tax rate was 38% and 372% for the three and nine months ended September 30, 2015, respectively, compared to 31% and 34% for the same periods in 2014.

In May 2015, we settled the IRS examination of our 2007, 2009 and 2010 federal tax returns resulting in the recognition of a \$220 million income tax benefit in the second quarter of 2015. The income tax benefit resulted from the release of related reserves for uncertain tax positions, the majority of which increased our deferred tax assets. See Balance Sheet Overview in Item 2. Management's Discussion and Analysis of Financial Condition and Results of Operations for further discussion on deferred tax assets at September 30, 2015. During the third quarter of 2009, we incurred a loss on the exchange of \$1.7 billion interest-bearing corporate debt for non-interest-bearing convertible debentures. The uncertain tax positions were primarily related to whether certain components of that loss were

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considered deductible or non-deductible for tax purposes. Excluding the impact of the settled IRS examination, the effective tax rate would have been 38% and 37% for the three and nine months ended September 30, 2015, respectively, calculated in the following table (dollars in millions):

	Three Months Ended September 30, 2015			Nine Months Ended September 30, 2015		
	Pre-tax Loss	Tax Benefit	Tax Rate	Pre-tax Loss	Tax Benefit	Tax Rate
Income taxes and tax rate before impact of settled IRS examination	\$ (246)	\$ (93)	38%	\$ (66)	\$ (25)	37%
Impact of settled IRS examination	—	—	—%	—	(220)	334%
Income taxes and tax rate as reported	<u>\$ (246)</u>	<u>\$ (93)</u>	38%	<u>\$ (66)</u>	<u>\$ (245)</u>	372%

SEGMENT RESULTS REVIEW

We report operating results in two segments: 1) trading and investing; and 2) balance sheet management. Trading and investing includes retail brokerage products and services; investor-focused banking products; and corporate services. Balance sheet management includes the management of asset allocation; loans previously originated by the Company or purchased from third parties; deposits and customer payables; and credit, liquidity and interest rate risk for the Company as described in the Risk Management section in Item 2. Management's Discussion and Analysis of Financial Condition and Results of Operations. Costs associated with certain functions that are centrally-managed are separately reported in a corporate/other category. For more information on our segments, see Note 15—Segment Information in Item 1. Consolidated Financial Statements (Unaudited).

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Trading and Investing

The following table summarizes trading and investing financial information and key customer activity metrics as of and for the three and nine months ended September 30, 2015 and 2014 (dollars in millions, except for key metrics):

	Three Months Ended September 30,		Variance 2015 vs. 2014		Nine Months Ended September 30,		Variance 2015 vs. 2014	
	2015	2014	Amount	%	2015	2014	Amount	%
	Net operating interest income	\$ 174	\$ 161	\$ 13	8 %	\$ 517	\$ 449	\$ 68
Commissions	108	108	—	— %	325	341	(16)	(5)%
Fees and service charges	51	49	2	4 %	158	147	11	7 %
Principal transactions	—	—	—	*	—	10	(10)	(100)%
Other revenues	9	9	—	— %	25	25	—	— %
Total net revenue	342	327	15	5 %	1,025	972	53	5 %
Total operating expense	197	183	14	8 %	614	574	40	7 %
Trading and investing income	\$ 145	\$ 144	\$ 1	1 %	\$ 411	\$ 398	\$ 13	3 %

Key Customer Activity Metrics:

DARTs	155,985	153,494	2,491	2 %	158,326	168,526	(10,200)	(6)%
Average commission per trade	\$ 10.87	\$ 11.05	\$ (0.18)	(2)%	\$ 10.92	\$ 10.79	\$ 0.13	1 %
Margin receivables (dollars in billions)	\$ 7.9	\$ 8.1	\$ (0.2)	(2)%	\$ 7.9	\$ 8.1	\$ (0.2)	(2)%
End of period brokerage accounts ⁽¹⁾	3,203,531	3,126,476	77,055	2 %	3,203,531	3,126,476	77,055	2 %
Net new brokerage accounts ⁽¹⁾	2,205	23,510	(21,305)	(91)%	59,608	128,417	(68,809)	(54)%
Annualized brokerage account attrition rate ⁽¹⁾	11.4%	9.1%	2.3%	*	10.0%	8.5%	1.5%	*
Customer assets (dollars in billions)	\$ 276.6	\$ 281.7	\$ (5.1)	(2)%	\$ 276.6	\$ 281.7	\$ (5.1)	(2)%
Net new brokerage assets (dollars in billions)	\$ 2.1	\$ 2.3	\$ (0.2)	(9)%	\$ 6.5	\$ 7.4	\$ (0.9)	(12)%
Brokerage related cash (dollars in billions)	\$ 40.2	\$ 40.4	\$ (0.2)	— %	\$ 40.2	\$ 40.4	\$ (0.2)	— %

* Percentage not meaningful.

(1) Net new brokerage accounts and end of period brokerage accounts were impacted by the shutdown of the Company's global trading platform. The shutdown resulted in the closure of 16,818 and 20,143 accounts during the three and nine months ended September 30, 2015, respectively. Net new and end of period brokerage accounts during the nine months ended September 30, 2015 were also impacted by the closure of 3,484 accounts related to the escheatment of unclaimed property. Excluding the impact of these items, annualized brokerage account attrition rate was 9.3% and 9.0% for the three and nine months ended September 30, 2015, respectively.

The trading and investing segment offers products and services to individual retail investors, generating revenue from these customer relationships and from corporate services activities. This segment currently generates four main sources of revenue: net operating interest income; commissions; fees and service charges; and other revenues. Net operating interest income is generated primarily from margin receivables and from a deposit transfer pricing arrangement with the balance sheet management segment. The balance sheet management segment utilizes deposits and customer payables and compensates the trading and investing segment via a market-based transfer pricing arrangement. This compensation is reflected in segment results as operating interest income for the trading and investing segment and operating interest expense for the balance sheet management segment, and is eliminated in consolidation. Other revenues include results from providing software and services for managing equity compensation plans from corporate customers, as we ultimately service retail investors through these corporate relationships. For the

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three months ended September 30, 2015 and 2014, our brokerage products contributed 77% and 79%, respectively, and our banking products contributed 23% and 21%, respectively, of total trading and investing net revenue. For the nine months ended September 30, 2015 and 2014, our brokerage products contributed 79% and 80%, respectively, and our banking products contributed 21% and 20%, respectively, of total trading and investing net revenue.

Trading and investing income increased 1% to \$145 million for the three months ended September 30, 2015, compared to the same period in 2014 primarily driven by increased net operating interest income and fees and service charges, partially offset by increased operating expense. Trading and investing income increased 3% to \$411 million for the nine months ended September 30, 2015, compared to the same period in 2014, primarily driven by increased net operating interest income and fees and service charges, partially offset by decreased commissions revenue and increased operating expense.

Trading and investing net operating interest income increased 8% to \$174 million and 15% to \$517 million for the three and nine months ended September 30, 2015, respectively, compared to the same periods in 2014. The increase for the three months ended September 30, 2015 was driven by increased interest income from the deposit transfer pricing arrangement with the balance sheet management segment when compared to the same period in 2014. The increase for the nine months ended September 30, 2015 was primarily driven by increased interest income on margin receivables, increased revenue earned on securities lending activities along with increased interest income from the deposit transfer pricing arrangement with the balance sheet management segment, when compared to the same period in 2014.

Trading and investing commissions revenue remained unchanged at \$108 million and decreased 5% to \$325 million for the three and nine months ended September 30, 2015, respectively, compared to the same periods in 2014. Commissions revenue during the three months ended September 30, 2015 remained unchanged as the increase in DARTs was offset by a decrease in average commission per trade compared to the same period in 2014. Commissions revenue decreased during the nine months ended September 30, 2015 primarily due to a decrease in DARTs of 6% to 158,326 during the nine months ended September 30, 2015, compared to the same period in 2014.

Trading and investing fees and service charges increased 4% to \$51 million and 7% to \$158 million for the three and nine months ended September 30, 2015, compared to the same periods in 2014. The increase in fees and services charges was driven primarily by increased money market funds and sweep deposits revenue and increased advisor management fees revenue, offset by decreased order flow revenue. The increase in sweep deposits and money market funds revenue was driven primarily by the increase rate earned on sweep deposits and the increased rate earned and balance of customer assets in money market funds, which averaged \$7.5 billion over the nine months ended September 30, 2015, compared to an average of \$6.4 billion for the same period in 2014. The increase in advisor management fees was driven by an increase in assets in managed accounts within our retirement, investing and savings products, which averaged \$3.2 billion over the nine months ended September 30, 2015, compared to an average of \$2.8 billion for the same period in 2014.

There was no principal transactions revenue for the nine months ended September 30, 2015, compared to \$10 million for the same period in 2014. Principal transactions were derived from our market making business in which we acted as a market-maker for our brokerage customers' orders as well as orders from third party customers. On February 10, 2014, we completed the sale of the market making business and no longer generate principal transactions revenue.

Trading and investing operating expense increased 8% to \$197 million and 7% to \$614 million for the three and nine months ended September 30, 2015, compared to the same periods in 2014. The increases for the three and nine months were primarily driven by increased compensation and benefits expenses, driven by higher headcount and increased incentive compensation, and increased communications expense, partially offset by decreases in fees paid for professional services, compared to the same periods in 2014. In addition, the increase for the nine months ended September 30, 2015 was also driven by a \$9 million expense related to a third party contract amendment executed during the second quarter of 2015.

As of September 30, 2015, we had approximately 3.2 million brokerage accounts, 1.4 million stock plan accounts and 0.3 million banking accounts.

Balance Sheet Management

The following table summarizes balance sheet management financial information and key financial metrics as of and for the three and nine months ended September 30, 2015 and 2014 (dollars in millions):

	Three Months Ended		Variance		Nine Months Ended		Variance	
	September 30,		2015 vs. 2014		September 30,		2015 vs. 2014	
	2015	2014	Amount	%	2015	2014	Amount	%
Net operating interest income	\$ 89	\$ 104	\$ (15)	(14)%	\$ 283	\$ 346	\$ (63)	(18)%
Fees and service charges	1	—	1	*	1	1	—	—%
Gains (losses) on securities and other	(360)	8	(368)	*	(340)	30	(370)	*
Other revenues	1	1	—	—%	4	4	—	—%
Total net revenue	(269)	113	(382)	*	(52)	381	(433)	*
Provision (benefit) for loan losses	(25)	10	(35)	(350)%	(17)	26	(43)	(165)%
Total operating expense	23	36	(13)	(36)%	85	113	(28)	(25)%
Balance sheet management income (loss)	\$ (267)	\$ 67	\$ (334)	*	\$ (120)	\$ 242	\$ (362)	*
Key Financial Metrics:								
Special mention loan delinquencies	\$ 113	\$ 159	\$ (46)	(29)%	\$ 113	\$ 159	\$ (46)	(29)%
Allowance for loan losses	\$ 376	\$ 401	\$ (25)	(6)%	\$ 376	\$ 401	\$ (25)	(6)%

* Percentage not meaningful.

The balance sheet management segment primarily generates revenue through net operating interest income. Net operating interest income is generated from interest earned on investments in securities and the loan portfolio, net of interest paid on wholesale borrowings and on a deposit transfer pricing arrangement with the trading and investing segment. The balance sheet management segment utilizes deposits and customer payables to invest in available-for-sale and held-to-maturity securities, and compensates the trading and investing segment via a market-based transfer pricing arrangement. This compensation is reflected in segment results as operating interest income for the trading and investing segment and operating interest expense for the balance sheet management segment and is eliminated in consolidation.

The balance sheet management segment income (loss) was \$(267) million and \$(120) million for the three and nine months ended September 30, 2015, respectively, compared to \$67 million and \$242 million for the same periods in 2014. The segment losses during the three and nine months ended September 30, 2015 were primarily driven by the termination of \$4.4 billion of legacy wholesale funding obligations during the third quarter of 2015.

The balance sheet management net operating interest income decreased 14% to \$89 million and 18% to \$283 million for the three and nine months ended September 30, 2015, compared to the same periods in 2014. The decrease for the three and nine months ended September 30, 2015 was driven by the decrease in the interest earned on the loan portfolio as average loan balances decreased, partially offset by the growth in average balances of our held-to-maturity securities portfolio.

Gains (losses) on securities and other were losses of \$(360) million and \$(340) million for the three and nine months ended September 30, 2015, respectively, compared to gains of \$8 million and \$30 million for the same periods in 2014. The gains (losses) on securities and other for the three and nine months ended September 30, 2015 included the reclassification of \$370 million of losses on cash flow hedges from accumulated comprehensive loss into earnings as a result of the termination of \$4.4 billion legacy wholesale funding obligations during the third quarter of 2015. Gains (losses) on securities and other for the nine months ended September 30, 2014 included \$7 million of gain on the sale of one- to four-family loans modified as TDRs during the second quarter of 2014, and \$6 million of gain recognized on the sale of our remaining \$17 million in amortized cost of available-for-sale non-agency CMOs in the first quarter of 2014.

Provision (benefit) for loan losses was \$(25) million and \$(17) million for the three and nine months ended September 30, 2015, respectively, compared to \$10 million and \$26 million for the same periods in 2014. The benefit

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for loan losses reflected continued improvement in economic conditions, charge-off recoveries and loan portfolio run-off, offset by the impact of enhancements to our modeling practices for the allowance for loan losses during the nine months ended September 30, 2015. The timing and magnitude of the provision (benefit) for loan losses is affected by many factors and we anticipate variability, particularly as mortgage loans reach the end of their interest-only period. For additional information on management's estimate of the allowance for loan losses, see Summary of Critical Accounting Policies and Estimates in Item 2. Management's Discussion and Analysis of Financial Condition and Results of Operations.

Total balance sheet management operating expense decreased 36% to \$23 million and 25% to \$85 million for the three and nine months ended September 30, 2015, compared to the same periods in 2014. The decrease in operating expense for the three and nine months ended September 30, 2015 resulted primarily from lower FDIC insurance premiums and reduced servicing expenses due to lower loan balances compared to the same periods in 2014.

Corporate/Other

The following table summarizes corporate/other financial information for the three and nine months ended September 30, 2015, and 2014 (dollars in millions):

	Three Months Ended September 30,		Variance 2015 vs. 2014		Nine Months Ended September 30,		Variance 2015 vs. 2014	
	2015	2014	Amount	%	2015	2014	Amount	%
Total net revenue	\$ —	\$ —	\$ —	*	\$ 1	\$ —	\$ 1	*
Compensation and benefits	40	32	8	25%	111	83	28	34%
Professional services	13	10	3	30%	38	34	4	12%
Occupancy and equipment	4	4	—	—%	11	11	—	—%
Communications	1	—	1	*	2	1	1	100%
Depreciation and amortization	5	4	1	25%	14	13	1	8%
Restructuring and other exit activities	2	2	—	—%	8	6	2	33%
Other operating expenses	8	6	2	33%	19	16	3	19%
Total operating expense	73	58	15	26%	203	164	39	24%
Operating loss	(73)	(58)	(15)	26%	(202)	(164)	(38)	23%
Total other income (expense)	(51)	(28)	(23)	82%	(155)	(95)	(60)	63%
Corporate/other loss	\$ (124)	\$ (86)	\$ (38)	44%	\$ (357)	\$ (259)	\$ (98)	38%

* Percentage not meaningful.

The corporate/other category includes costs that are centrally-managed, technology related costs incurred to support centrally-managed functions, restructuring and other exit activities, corporate debt and corporate investments.

The corporate/other loss before income taxes was \$124 million and \$357 million for the three and nine months ended September 30, 2015, respectively, compared to \$86 million and \$259 million for the same periods in 2014.

The operating loss increased 26% to \$73 million and 23% to \$202 million for the three and nine months ended September 30, 2015, respectively compared to the same period in 2014. The increases for the three and nine months ended September 30, 2015 were primarily due to increased salaries expense driven by higher headcount and increased incentive compensation, compared to the same periods in 2014. The increase for the nine months ended September 30, 2015 also included \$6 million of executive severance costs recorded in the second quarter of 2015.

Total other income (expense) includes losses on early extinguishment of debt of \$39 million and \$112 million for the three and nine months ended September 30, 2015, respectively. During the third quarter of 2015, we terminated \$4.4 billion of legacy wholesale funding obligations which resulted in a pre-tax charge of \$43 million in the losses on early extinguishment of debt line item. We also repurchased \$14 million of trust preferred securities in advance of maturity during the third quarter of 2015 and recorded a gain on early extinguishment of debt of \$4 million.

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Additionally, during the nine months ended September 30, 2015, we issued \$460 million of 4 5/8% Senior Notes and we used the net proceeds, together with \$432 million of existing corporate cash, to redeem \$800 million of 6 3/8% Senior Notes which resulted in a \$73 million loss on early extinguishment of debt. During the nine months ended September 30, 2014 we recorded \$12 million loss on early extinguishment of debt as a result of the termination of \$100 million in repurchase agreements.

Total other income (expense) also includes corporate interest expense of \$14 million and \$50 million for three and nine months ended September 30, 2015, respectively, compared to \$29 million and \$86 million for the same periods in 2014. The decrease in corporate interest expense was driven by \$740 million in cumulative corporate debt reductions since the first quarter of 2014 which reduced our annual debt service cost from approximately \$110 million as of September 30, 2014 to \$50 million as of September 30, 2015.

BALANCE SHEET OVERVIEW

The following table sets forth the significant components of the consolidated balance sheet (dollars in millions):

	September 30, 2015	December 31, 2014	Variance 2015 vs. 2014	
			Amount	%
Assets:				
Cash and equivalents	\$ 1,453	\$ 1,783	\$ (330)	(19)%
Segregated cash	143	555	(412)	(74)%
Securities ⁽¹⁾	22,266	24,636	(2,370)	(10)%
Margin receivables	7,933	7,675	258	3 %
Loans receivable, net	4,906	5,979	(1,073)	(18)%
Investment in FHLB stock	15	88	(73)	(83)%
Other ⁽²⁾	4,489	4,814	(325)	(7)%
Total assets	\$ 41,205	\$ 45,530	\$ (4,325)	(9)%
Liabilities and shareholders' equity:				
Deposits	\$ 25,610	\$ 24,890	\$ 720	3 %
Wholesale borrowings ⁽³⁾	414	4,971	(4,557)	(92)%
Customer payables	6,040	6,455	(415)	(6)%
Corporate debt	1,023	1,366	(343)	(25)%
Other liabilities	2,306	2,473	(167)	(7)%
Total liabilities	35,393	40,155	(4,762)	(12)%
Shareholders' equity	5,812	5,375	437	8 %
Total liabilities and shareholders' equity	\$ 41,205	\$ 45,530	\$ (4,325)	(9)%

(1) Includes balance sheet line items available-for-sale and held-to-maturity securities.

(2) Includes balance sheet line items property and equipment, net, goodwill, other intangibles, net and other assets, which includes deferred tax assets, deposits paid for securities borrowed and other.

(3) Includes balance sheet line items securities sold under agreements to repurchase ("repurchase agreements") and FHLB advances and other borrowings.

Cash and Equivalents

Cash and equivalents decreased by 19% to \$1.5 billion during the nine months ended September 30, 2015. The decrease in our cash and equivalents is partially due to the redemption of our 6³/₈% Senior Notes during the first quarter of 2015. Also, during the third quarter of 2015, we used cash together with the cash proceeds from the sale of available-for-sale securities to terminate \$4.4 billion of our legacy wholesale funding obligations.

Segregated Cash

Segregated cash decreased by 74% to \$143 million during the nine months ended September 30, 2015. The level of cash required to be segregated under federal or other regulations, or segregated cash, is driven largely by customer cash and securities lending balances we hold as a liability in excess of the amount of margin receivables and securities borrowed balances we hold as an asset. The excess represents customer cash that we are required by our regulators to segregate for the exclusive benefit of our brokerage customers.

Securities

Available-for-sale and held-to-maturity securities are summarized as follows (dollars in millions):

	September 30, 2015	December 31, 2014	Variance 2015 vs. 2014	
			Amount	%
Available-for-sale securities:				
Debt securities:				
Agency residential mortgage-backed securities and CMOs	\$ 10,039	\$ 11,164	\$ (1,125)	(10)%
Other debt securities	609	1,191	(582)	(49)%
Total debt securities	10,648	12,355	(1,707)	(14)%
Publicly traded equity securities ⁽¹⁾	32	33	(1)	(3)%
Total available-for-sale securities	\$ 10,680	\$ 12,388	\$ (1,708)	(14)%
Held-to-maturity securities:				
Agency residential mortgage-backed securities and CMOs	\$ 9,109	\$ 9,793	\$ (684)	(7)%
Other debt securities	2,477	2,455	22	1 %
Total held-to-maturity securities	\$ 11,586	\$ 12,248	\$ (662)	(5)%
Total investments in securities	\$ 22,266	\$ 24,636	\$ (2,370)	(10)%

(1) Publicly traded equity securities consisted of investments in a mutual fund related to the Community Reinvestment Act.

Securities represented 54% of total assets at both September 30, 2015 and December 31, 2014. We classify debt securities as available-for-sale or held-to-maturity based on our investment strategy and management's assessment of our intent and ability to hold the debt securities until maturity. The decrease in total investments in securities during the nine months ended September 30, 2015 was primarily due to the sale of \$2.3 billion of available-for-sale securities to fund the termination of legacy wholesale funding obligations during the third quarter of 2015.

Loans Receivable, Net

Loans receivable, net are summarized as follows (dollars in millions):

	September 30, 2015	December 31, 2014	Variance 2015 vs. 2014	
			Amount	%
One- to four-family	\$ 2,620	\$ 3,060	\$ (440)	(14)%
Home equity	2,270	2,834	(564)	(20)%
Consumer and other	366	455	(89)	(20)%
Total loans receivable	5,256	6,349	(1,093)	(17)%
Unamortized premiums, net	26	34	(8)	(24)%
Allowance for loan losses	(376)	(404)	28	(7)%
Total loans receivable, net	\$ 4,906	\$ 5,979	\$ (1,073)	(18)%

Loans receivable, net decreased 18% to \$4.9 billion at September 30, 2015 from \$6.0 billion at December 31, 2014. We are continuing our strategy of reducing balance sheet risk through loan portfolio run-off, which we plan to do for the foreseeable future. Loan portfolio run-off is impacted by a variety of factors. As our portfolio ages and we gather substantive performance history for loans converting from interest-only to amortizing, we will continue to assess the economic environment and the value of our portfolio in the marketplace. While it is our intention to continue to hold these loans, if the markets improve our strategy could change. For additional information on management's estimate of the allowance for loan losses, see Summary of Critical Accounting Policies and Estimates in Item 2. Management's Discussion and Analysis of Financial Condition and Results of Operations.

Other Assets

Other assets decreased 7% to \$4.5 billion due primarily to the decrease in deposits paid for securities borrowed during the nine months ended September 30, 2015, partially offset by the increase in deferred tax assets during the nine months ended September 30, 2015. In May 2015, we settled the IRS examination of our 2007, 2009 and 2010 federal tax returns resulting in the recognition of a \$220 million income tax benefit in the second quarter of 2015, and increasing our deferred tax assets.

Deposits

Deposits are summarized as follows (dollars in millions):

	September 30, 2015	December 31, 2014	Variance 2015 vs. 2014	
			Amount	%
Sweep deposits	\$ 20,272	\$ 19,119	\$ 1,153	6 %
Complete savings deposits	3,374	3,753	(379)	(10)%
Checking deposits	1,129	1,137	(8)	(1)%
Other money market and savings deposits	795	833	(38)	(5)%
Time deposits	40	48	(8)	(17)%
Total deposits	\$ 25,610	\$ 24,890	\$ 720	3 %

Deposits represented 72% and 62% of total liabilities at September 30, 2015 and December 31, 2014, respectively. At September 30, 2015, 88% of our customer deposits were covered by FDIC insurance. Deposits provide the benefit of lower interest costs compared with wholesale funding alternatives.

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The majority of the deposits balance, specifically sweep deposits, is included in brokerage related cash and reported as a customer activity metric of \$40.2 billion and \$41.1 billion at September 30, 2015 and December 31, 2014, respectively. The total brokerage related cash balance is summarized as follows (dollars in millions):

			Variance	
			2015 vs. 2014	
	September 30, 2015	December 31, 2014	Amount	%
Deposits	\$ 25,610	\$ 24,890	\$ 720	3 %
Less: bank related cash ⁽¹⁾	(5,338)	(5,771)	433	(8)%
Sweep deposits at banking subsidiaries ⁽²⁾	20,272	19,119	1,153	6 %
Customer payables	6,040	6,455	(415)	(6)%
Customer assets held by third parties ⁽³⁾	13,847	15,520	(1,673)	(11)%
Total brokerage related cash	\$ 40,159	\$ 41,094	\$ (935)	(2)%

(1) Bank related cash includes complete savings deposits, checking deposits, other money market and savings deposits and time deposits.

(2) A sweep product transfers brokerage customer balances to banking subsidiaries, which hold these funds as customer deposits in FDIC insured demand deposit and money market deposit accounts.

(3) Customer assets held by third parties are not reflected on our consolidated balance sheet and are not immediately available for liquidity purposes.

The components of customer assets held by third parties are as follows (dollars in millions):

			Variance	
			2015 vs. 2014	
	September 30, 2015	December 31, 2014	Amount	%
Money market fund	\$ 7,101	\$ 7,169	\$ (68)	(1)%
Sweep deposits at unaffiliated financial institutions	3,285	4,744	(1,459)	(31)%
Subtotal	10,386	11,913	(1,527)	(13)%
Municipal funds and other	3,461	3,607	(146)	(4)%
Customer assets held by third parties ⁽¹⁾	\$ 13,847	\$ 15,520	\$ (1,673)	(11)%

(1) Approximately 70% of these off-balance sheet assets resulted from our deleveraging efforts that we completed in prior periods. We maintain the ability to transfer the majority of these customer assets to our balance sheet with notification to the third party financial institutions and customer consent, as appropriate.

Customer assets held by third parties are maintained at third party financial institutions. These customer assets included \$3.3 billion and \$4.7 billion of customer sweep deposits at September 30, 2015 and December 31, 2014, respectively, in the extended insurance sweep deposit account program ("ESDA") that we have in place for brokerage customers.

The ESDA program utilizes E*TRADE Bank in combination with additional third party program banks to allow certain customers the ability to insure at least \$1,250,000 of the cash they hold in the ESDA program. Subject to notification of third party institutions and customer consent, as appropriate, we plan to convert customer assets held in the money market fund sweep product to sweep deposits participating in the ESDA program.

During the first quarter of 2015, we converted approximately \$15.1 billion of customer assets already in the ESDA program to a new sweep deposit platform. This platform enables us to more efficiently manage our balance sheet size. We utilized this platform to direct customer sweep deposits to our balance sheet during the nine months ended September 30, 2015. During the fourth quarter of 2015 and in early 2016, we intend to transfer a portion of customer assets held by third parties to our balance sheet and expect to reach our targeted consolidated balance sheet size in early 2016.

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Wholesale Borrowings

Wholesale borrowings, which consist of securities sold under agreements to repurchase and FHLB advances and other borrowings, are summarized as follows (dollars in millions):

	September 30, 2015	December 31, 2014	Variance 2015 vs. 2014	
			Amount	%
Trust preferred securities	\$ 414	\$ 428	\$ (14)	(3)%
Securities sold under agreements to repurchase and FHLB advances:				
Securities sold under agreements to repurchase	—	3,672	(3,672)	(100)%
FHLB advances	—	920	(920)	(100)%
Fair value hedge adjustments and deferred costs	—	(49)	49	(100)%
Total securities sold under agreements to repurchase and FHLB advances	—	4,543	(4,543)	(100)%
Total wholesale borrowings	\$ 414	\$ 4,971	\$ (4,557)	(92)%

Wholesale borrowings represented 1% and 12% of total liabilities at September 30, 2015 and December 31, 2014, respectively. The decrease is primarily due to the termination of \$4.4 billion of repurchase agreements and FHLB advances during the third quarter of 2015. We expect the termination of these legacy wholesale funding obligations to significantly reduce our funding costs, thereby improving our ability to generate net income.

We also repurchased \$14 million of trust preferred securities in advance of maturity during the third quarter of 2015 and recorded a gain on early extinguishment of debt of \$4 million.

Corporate Debt

Corporate debt by type is shown as follows (dollars in millions):

	Face Value	Discount	Net
September 30, 2015			
Interest-bearing notes:			
5 ³ / ₈ % Notes, due 2022	\$ 540	\$ (6)	\$ 534
4 ⁵ / ₈ % Notes, due 2023	460	(5)	455
Total interest-bearing notes	1,000	(11)	989
Non-interest-bearing debt:			
0% Convertible debentures, due 2019	34	—	34
Total corporate debt	\$ 1,034	\$ (11)	\$ 1,023
December 31, 2014			
Interest-bearing notes:			
6 ³ / ₈ % Notes, due 2019	\$ 800	\$ (5)	\$ 795
5 ³ / ₈ % Notes, due 2022	540	(7)	533
Total interest-bearing notes	1,340	(12)	1,328
Non-interest-bearing debt:			
0% Convertible debentures, due 2019	38	—	38
Total corporate debt	\$ 1,378	\$ (12)	\$ 1,366

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During the first quarter of 2015, we issued an aggregate principal amount of \$460 million in 4 5/8% Notes, due 2023. We used the net proceeds from the issuance of the 4 5/8% Notes, along with \$432 million of existing corporate cash, to redeem all of the outstanding 6 3/8% Notes due 2019.

Shareholders' Equity

The activity in shareholders' equity during the nine months ended September 30, 2015 is summarized as follows (dollars in millions):

	Common Stock / Additional Paid-In Capital	Accumulated Deficit / Other Comprehensive Loss	Total
Beginning balance, December 31, 2014	\$ 7,353	\$ (1,978)	\$ 5,375
Net income	—	179	179
Net change from available-for-sale securities	—	(21)	(21)
Net change from cash flow hedging instruments	—	261	261
Other ⁽¹⁾	18	—	18
Ending balance, September 30, 2015	<u>\$ 7,371</u>	<u>\$ (1,559)</u>	<u>\$ 5,812</u>

(1) Other includes employee share-based compensation and conversions of convertible debentures.

The decrease in accumulated other comprehensive loss was primarily due to the reclassification of deferred losses on cash flow hedges into earnings as a result of the termination of our legacy wholesale funding obligations in September 2015.

LIQUIDITY AND CAPITAL RESOURCES

We have established liquidity and capital policies to support the successful execution of our business strategies, while ensuring ongoing and sufficient liquidity through the business cycle. We believe liquidity is of critical importance to the Company and especially important within E*TRADE Bank and our broker-dealer subsidiaries. The objective of our policies is to ensure that we can meet our corporate, banking and broker-dealer liquidity needs under both normal operating conditions and under periods of stress in the financial markets.

Liquidity

Our corporate liquidity needs are primarily driven by capital needs at E*TRADE Bank and E*TRADE Clearing as well as by the amount of principal and interest due on our corporate debt. Our banking and brokerage liquidity needs are driven primarily by the level and volatility of our customer activity. Management maintains a set of liquidity sources and monitors certain business trends and market metrics closely in an effort to ensure we have sufficient liquidity and to avoid dependence on other more expensive sources of funding.

Management believes the following are the key sources of liquidity that impact our ability to meet our liquidity needs: corporate cash, bank cash, deposits, securities lending, customer payables, unused FHLB borrowing capacity, E*TRADE Clearing's liquidity lines and the revolving credit facility at the parent company.

[Table of Contents](#)*Consolidated Cash and Equivalents*

The consolidated cash and equivalents balance decreased by \$330 million to \$1.5 billion at September 30, 2015 when compared to December 31, 2014. The majority of this balance was cash held in regulated subsidiaries outlined as follows (dollars in millions):

	September 30, 2015	December 31, 2014	September 30, 2014
Corporate cash	\$ 432	\$ 233	\$ 610
Bank cash ⁽¹⁾	443	1,523	1,175
U.S. broker-dealers ⁽¹⁾	549	N/A	N/A
International brokerage and other cash	29	27	24
Total consolidated cash and equivalents	\$ 1,453	\$ 1,783	\$ 1,809

(1) U.S. broker-dealers include E*TRADE Securities and E*TRADE Clearing. E*TRADE Securities and E*TRADE Clearing were moved out from under E*TRADE Bank effective February 1, 2015 and July 1, 2015, respectively. Bank cash included \$764 million and \$691 million of cash held by U.S. broker-dealers at December 31, 2014 and September 30, 2014, respectively.

Corporate cash is the primary source of liquidity at the parent company. We define corporate cash as cash held at the parent company as well as cash held in certain subsidiaries, not including bank and broker-dealer subsidiaries, that can distribute cash to the parent company without any regulatory approval or notification. We believe corporate cash is a useful measure of the parent company's liquidity as it is the primary source of capital above and beyond the capital deployed in our regulated subsidiaries. Corporate cash can fluctuate in any given quarter and is impacted primarily by tax settlements, approval and timing of subsidiary dividends, debt service costs and other overhead cost sharing arrangements.

Corporate cash ended the third quarter of 2015 at \$432 million, up from \$233 million at December 31, 2014. Corporate cash included dividends of \$281 million from E*TRADE Bank and \$515 million from E*TRADE Securities to the parent company during the nine months ended September 30, 2015. We used \$432 million of corporate cash along with the net proceeds from the issuance of \$460 million of corporate debt to redeem \$800 million in aggregate principal amount of our higher cost corporate debt during the first quarter of 2015. This transaction decreased our annual debt service costs from \$80 million to \$50 million and reduced our total corporate debt to \$1.0 billion. We target corporate cash to cover at least two times our scheduled annual corporate debt service payments and scheduled maturities over the next 12 months. As such, our target is approximately \$100 million as we do not have any corporate debt with scheduled maturities in the next 12 months.

The senior secured revolving credit facility enhances our ability to meet liquidity needs at the parent company. During the first quarter of 2015, we increased our revolving credit facility at the parent company by an additional \$50 million to a total available line of credit of \$250 million. We have the ability to borrow against this revolving credit facility for working capital and general corporate purposes. Our revolving credit facility contains certain maintenance covenants, including the requirement for the parent company to maintain unrestricted cash of at least \$100 million. At September 30, 2015, there was no outstanding balance under this credit facility. Additionally, the parent company had \$749 million in net deferred tax assets at September 30, 2015, which will ultimately become sources of corporate cash as the parent company's subsidiaries reimburse the parent company for the use of its deferred tax assets.

Deposits

Management believes that within deposits, sweep deposits are of particular importance as they are the most stable source of liquidity for E*TRADE Bank when compared to non-sweep deposits. While in recent periods we have transferred customer sweep deposits to third party banks that participate in our ESDA program as well as to third party money market funds, we maintain the ability to transfer the majority of these off-balance sheet deposits to E*TRADE Bank's balance sheet with notification to the third party financial institutions and customer consent, as appropriate.

During the first quarter of 2015, we converted approximately \$15.1 billion of customer assets already in the ESDA program to a new sweep deposit platform. This platform enables us to more efficiently manage our balance sheet size. During the fourth quarter of 2015 and in early 2016, we intend to transfer a portion of customer assets held by third parties to our balance sheet and expect to reach our targeted consolidated balance sheet size in early 2016.

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We also have the ability to generate liquidity in the form of additional deposits by raising the yield on our customer deposit products.

Liquidity Available from Subsidiaries

Liquidity available to us from our subsidiaries is limited by regulatory requirements. Loans by E*TRADE Bank to the parent company and its other non-bank subsidiaries are subject to various quantitative, arm's length, collateralization and other requirements. E*TRADE Bank and its subsidiaries require regulatory approval prior to the payment of dividends to the parent company. As E*TRADE Securities and E*TRADE Clearing are no longer subsidiaries of E*TRADE Bank, they can pay dividends to the parent company with proper regulatory notifications.

Other Sources of Liquidity

In September 2015, we terminated \$4.4 billion of our legacy wholesale funding obligations at E*TRADE Bank. We may continue utilizing wholesale funding sources for short-term liquidity and contingency funding requirements. Our ability to borrow these funds is dependent upon the continued availability of funding in the wholesale borrowings market. In addition, we can borrow from the Federal Reserve Bank's discount window to meet short-term liquidity requirements, although it is not viewed as a primary source of funding. At September 30, 2015, E*TRADE Bank had approximately \$3.4 billion and \$0.9 billion in additional collateralized borrowing capacity with the FHLB and the Federal Reserve Bank, respectively.

We have historically relied on securities lending, customer payables, lines of credit with E*TRADE Bank and the parent company, and committed and uncommitted lines of credit with unaffiliated banks to provide liquidity and finance margin lending at E*TRADE Clearing. E*TRADE Clearing maintains secured committed lines of credit with two unaffiliated banks, aggregating to \$175 million at September 30, 2015, that are scheduled to mature in June 2016. E*TRADE Clearing also maintains uncommitted lines of credit with several unaffiliated banks, which increased by \$75 million during the third quarter of 2015 to \$450 million at September 30, 2015. During the second quarter of 2015, E*TRADE Clearing entered into a 364-day, \$345 million senior unsecured revolving credit facility with a syndicate of banks, which brought its total liquidity lines to \$970 million. The credit facility contains maintenance covenants related to E*TRADE Clearing's minimum consolidated tangible net worth and regulatory net capital ratio. There were no outstanding balances for these lines at September 30, 2015. Also, prior to E*TRADE Clearing moving out from under E*TRADE Bank in July 2015, E*TRADE Bank contributed \$150 million of capital to E*TRADE Clearing in June 2015.

Capital Resources

Executing on our capital plan remains a priority for us. We submitted an initial capital plan to the OCC and Federal Reserve in 2012 and have subsequently updated the plan annually. The plan includes our five-year business strategy; forecasts of our business results and capital ratios; capital distribution plans in current and adverse operating conditions; and internally developed stress tests. We believe we have made important progress since we laid out our capital plan, as evidenced by:

- \$756 million in quarterly dividends that our regulators approved from E*TRADE Bank since 2013, including \$281 million during the nine months ended September 30, 2015;
- regulatory approval to operate E*TRADE Bank at a 9.0% Tier 1 leverage ratio; and
- the decline in FDIC insurance premiums.

We also received regulatory approval to move our U.S. broker-dealers, E*TRADE Securities and E*TRADE Clearing, out from under E*TRADE Bank. E*TRADE Securities was moved out from under E*TRADE Bank in February 2015 and subsequently paid dividends totaling \$515 million to the parent company. E*TRADE Clearing was moved out from under E*TRADE Bank in July 2015, after bolstering its standalone capital and liquidity levels. See the *Other Sources of Liquidity* section above for more information. The revised organizational structure provides increased capital flexibility as it enables us to dividend excess regulatory capital at our broker-dealers to the parent company.

We do not intend to seek a dividend from E*TRADE Bank during the fourth quarter of 2015, but intend to resume requesting regulatory approval in the first quarter of 2016 to issue a dividend each quarter equivalent to E*TRADE Bank's net income from the previous quarter.

Bank Capital Requirements

The Dodd-Frank Act requires all companies, including savings and loan holding companies, that directly or indirectly control an insured depository institution to serve as a source of strength for the institution. The implementation of holding company capital requirements impacted us as the parent company was not previously subject to regulatory capital requirements. These requirements became effective for us during the first quarter of 2015, subject to a phase-in period for certain requirements over several years, as further explained below.

In July 2013, the U.S. Federal banking agencies finalized a rule to implement Basel III in the U.S., which provides an updated framework for the calculation of a banking organization's regulatory capital and risk-weighted assets. The Basel III rule established Common Equity Tier 1 capital as a new tier of capital, raised the minimum thresholds for required capital, increased minimum required risk-based capital ratios, narrowed the eligibility criteria for regulatory capital instruments, provided for new regulatory capital deductions and adjustments, and modified methods for calculating risk-weighted assets (the denominator of risk-based capital ratios) by, among other things, strengthening counterparty credit risk capital requirements. We are currently in compliance with the Basel III capital requirements now applicable to us and we have no plans to raise additional capital as a result of these new requirements.

The Basel III final rule also introduces a capital conservation buffer that limits a banking organization's ability to make capital distributions and discretionary bonus payments to executive officers if a banking organization fails to maintain a Common Equity Tier 1 capital conservation buffer of more than 2.5%, on a fully phased-in basis, of total risk-weighted assets above each of the following minimum risk-based capital ratio requirements: Common Equity Tier 1 (4.5%), Tier 1 (6.0%), and total risk-based capital (8.0%). This requirement will begin to take effect on January 1, 2016, and will be fully phased in by 2019. Certain new regulatory deductions and adjustments are subject to a phase-in period over the next four years, beginning at 40% in 2015 and fully implemented at 100% in 2018.

Several elements of the final rule had a meaningful impact to us. The vast majority of our margin receivables qualified for 0% risk-weighting and we included a larger portion of our deferred tax assets in regulatory capital, both having a favorable impact on our current capital ratios. A portion of this benefit was offset as we are phasing out trust preferred securities from the parent company's capital. In addition, in the first quarter of 2015 we made the one-time permanent election to exclude accumulated other comprehensive income ("AOCI") from the calculation of Common Equity Tier 1 capital.

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At September 30, 2015, our regulatory capital ratios for E*TRADE Bank were well above the minimum ratios required to be "well capitalized." E*TRADE Bank's capital ratios are calculated as follows (dollars in millions):

	September 30, 2015 ⁽¹⁾	December 31, 2014 ⁽¹⁾	September 30, 2014 ⁽¹⁾
E*TRADE Bank shareholders' equity ⁽²⁾	\$ 3,171	\$ 6,102	\$ 6,014
Deduct:			
Losses in other comprehensive income on available-for-sale debt securities and cash flow hedges, net of tax	(14)	(255)	(304)
Goodwill and other intangible assets, net of deferred tax liabilities	38	1,467	1,482
Disallowed deferred tax assets	187	342	397
E*TRADE Bank Tier 1 capital/Common Equity Tier 1 capital ⁽²⁾⁽³⁾	2,960	4,548	4,439
Add:			
Allowable allowance for loan losses	108	224	228
E*TRADE Bank total capital ⁽²⁾	\$ 3,068	\$ 4,772	\$ 4,667
E*TRADE Bank average/total assets ⁽²⁾⁽⁴⁾	\$ 32,466	\$ 44,672	\$ 44,510
Deduct:			
Disallowed deferred tax assets	187	342	397
Goodwill and other intangible assets, net of deferred tax liabilities	38	1,467	1,482
Other	—	(13)	(51)
E*TRADE Bank adjusted average/total assets for leverage capital purposes ⁽¹⁾	\$ 32,241	\$ 42,876	\$ 42,682
E*TRADE Bank total risk-weighted assets ⁽²⁾⁽⁵⁾	\$ 8,230	\$ 17,717	\$ 18,035
E*TRADE Bank Tier 1 leverage ratio (Tier 1 capital / Adjusted total assets for leverage capital purposes) ⁽²⁾	9.2%	10.6%	10.4%
E*TRADE Bank Tier 1 capital / Total risk-weighted assets ⁽²⁾	36.0%	25.7%	24.6%
E*TRADE Bank total capital / Total risk-weighted assets ⁽²⁾	37.3%	26.9%	25.9%
E*TRADE Bank Common Equity Tier 1 capital ⁽³⁾ / Total risk-weighted assets ⁽²⁾	36.0%	N/A	N/A

- (1) Due to the change in regulatory requirements described above, the 2015 ratios were calculated under Basel III requirements and the 2014 ratios were calculated under Basel I requirements.
- (2) Amounts presented for E*TRADE Bank in 2015 exclude E*TRADE Securities as of February 1, 2015, the date the subsidiary was transferred out from under E*TRADE Bank. E*TRADE Clearing was moved out from under E*TRADE Bank in July 2015.
- (3) Common Equity Tier 1 capital under Basel III replaced Tier 1 common capital. Prior to Basel III becoming effective, E*TRADE Bank's Tier 1 common ratio was a non-GAAP measure that management believes is an important measure of capital strength. E*TRADE Bank's Tier 1 common ratio was 25.7% and 24.6% as of December 31, 2014 and September 30, 2014, respectively.
- (4) As of September 30, 2015, E*TRADE Bank's Tier 1 Leverage ratio was calculated using average total assets. Prior to Basel III becoming effective for E*TRADE Bank, E*TRADE Bank's Tier 1 Leverage ratio was calculated using end of period total assets.
- (5) Under the regulatory guidelines for risk-based capital, on-balance sheet assets and credit equivalent amounts of derivatives and off-balance sheet items are assigned to one of several broad risk categories according to the obligor or, if relevant, the guarantor or the nature of any collateral. The aggregate dollar amount in each risk category is then multiplied by the risk weight associated with that category. The resulting weighted values from each of the risk categories are aggregated for determining total risk-weighted assets. Due to the change in regulatory requirements described above, in 2015 the vast majority of our margin receivables qualified for 0% risk-weighting.

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At September 30, 2015, our regulatory capital ratios for E*TRADE Financial were well above the minimum ratios required to be "well capitalized." E*TRADE Financial's capital ratios are calculated as follows (dollars in millions):

	September 30, 2015 ⁽¹⁾	December 31, 2014 ⁽¹⁾	September 30, 2014 ⁽¹⁾
E*TRADE Financial shareholders' equity	\$ 5,812	\$ 5,375	\$ 5,274
Deduct:			
Losses in other comprehensive income on available-for-sale debt securities and cash flow hedges, net of tax	(14)	(255)	(304)
Goodwill and other intangible assets, net of deferred tax liabilities	1,428	1,592	1,609
Disallowed deferred tax assets	873	1,008	1,063
Other ⁽²⁾	(105)	—	—
E*TRADE Financial Common Equity Tier 1 capital ⁽³⁾	3,630	3,030	2,906
Add:			
Qualifying restricted core capital elements (trust preferred securities) ⁽²⁾	—	433	433
E*TRADE Financial Tier 1 capital	3,630	3,463	3,339
Add:			
Allowable allowance for loan losses	126	223	228
Non-qualifying capital instruments subject to phase-out (trust preferred securities) ⁽²⁾	314	—	—
E*TRADE Financial total capital	\$ 4,070	\$ 3,686	\$ 3,567
E*TRADE Financial average total assets	\$ 44,732	\$ 45,445	\$ 45,869
Deduct:			
Goodwill and other intangible assets, net of deferred tax liabilities	1,428	1,592	1,609
Disallowed deferred tax assets	873	1,008	1,063
Other ⁽²⁾	(105)	—	—
E*TRADE Financial adjusted average total assets for leverage capital purposes	\$ 42,536	\$ 42,845	\$ 43,197
E*TRADE Financial total risk-weighted assets ⁽⁴⁾	\$ 9,196	\$ 17,683	\$ 18,070
E*TRADE Financial Tier 1 leverage ratio (Tier 1 capital / Adjusted average total assets for leverage capital purposes)	8.5%	8.1%	7.7%
E*TRADE Financial Tier 1 capital / Total risk-weighted assets	39.5%	19.6%	18.5%
E*TRADE Financial total capital / Total risk-weighted assets	44.3%	20.8%	19.7%
E*TRADE Financial Common Equity Tier 1 capital ⁽³⁾ / Total risk-weighted assets	39.5%	N/A	N/A

- (1) Due to the change in regulatory requirements described above, the 2015 ratios were calculated under Basel III requirements. The 2014 capital ratios were non-GAAP measures as the parent company was not yet held to regulatory capital requirements and were calculated based on the Federal Reserve's well-capitalized requirements then applicable to bank holding companies. Management believes the non-GAAP ratios are an important measure of the Company's capital strength and managed capital against ratios then applicable to bank holding companies in preparation for the application of these requirements.
- (2) As a result of applying the transition provisions under Basel III, the Company included 25% of the trust preferred securities ("TRUPs") in the calculation of E*TRADE Financial's Tier 1 capital and 75% of the TRUPs in the calculation of E*TRADE Financial's total capital. Prior to Basel III becoming effective for E*TRADE Financial, the Company included 100% of the TRUPs in E*TRADE Financial's Tier 1 capital due to the regulatory agencies' delay in the implementation of the TRUPs phase-out until January 1, 2015.
- (3) Common Equity Tier 1 capital under Basel III replaced Tier 1 common capital. E*TRADE Financial's Tier 1 common ratio was 17.1% and 16.1% as of December 31, 2014 and September 30, 2014, respectively.
- (4) Under the regulatory guidelines for risk-based capital, on-balance sheet assets and credit equivalent amounts of derivatives and off-balance sheet items are assigned to one of several broad risk categories according to the obligor or, if relevant, the guarantor or the nature of any collateral. The aggregate dollar amount in each risk category is then multiplied by the risk weight associated with that category. The resulting weighted values from each of the risk categories are aggregated for determining total risk-weighted assets. Due to the change in regulatory requirements described above, in 2015 the vast majority of our margin receivables qualified for 0% risk-weighting.

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Broker-Dealer Capital Requirements

Our broker-dealer subsidiaries are subject to capital requirements determined by their respective regulators. At September 30, 2015, all of our brokerage subsidiaries met their minimum net capital requirements, ending the period with excess net capital of \$830 million.

E*TRADE Clearing was moved out from under E*TRADE Bank in July 2015. Prior to this move, E*TRADE Bank contributed \$150 million of capital to E*TRADE Clearing in June 2015. Excess net capital at E*TRADE Clearing is \$774 million, at September 30, 2015.

Stress Testing

On October 9, 2012, the U.S. Federal banking agencies, including the OCC and the Federal Reserve, issued final rules implementing provisions of the Dodd-Frank Act that require banking organizations with total consolidated assets of more than \$10 billion but less than \$50 billion to conduct annual company-run stress tests, report the results to their primary federal regulator and the Federal Reserve and publish a summary of the results. Under the rules, stress tests must be conducted using certain scenarios (baseline, adverse and severely adverse), which the OCC and Federal Reserve will publish by November 15 of each year.

Under the OCC stress test regulations, E*TRADE Bank is required to conduct stress testing using the prescribed stress-testing methodologies. E*TRADE Bank submitted the results of its second annual stress test prior to March 31, 2015, as required. In the second quarter of 2015 we received notification from the OCC on our stress test submission, noting that we remained well above the regulatory well-capitalized levels for all capital ratios across all scenarios. We are satisfied with the feedback around our stress testing process, approach and methodologies.

Under the final Federal Reserve regulations, the parent company will be required to conduct its first stress test using financial statement data as of September 30, 2016. We will be required to report the results of its first stress test to the Federal Reserve on or before March 31, 2017, and to disclose a summary of its first stress test results in June 2017.

FDIC Deposit Insurance Fund Assessment Proposal

On October 22, 2015, the FDIC released a notice of a proposed rulemaking to add a surcharge to the regular deposit insurance fund assessments of banks with \$10 billion or more in assets which would include E*TRADE Bank. If this rule were finalized as proposed, E*TRADE Bank would be subject to an additional surcharge applied to its assessment base, beginning sometime in 2016 and likely continuing through 2018. There is a 60-day comment period and the Company is continuing to monitor the developments related to this proposed rulemaking.

Off-Balance Sheet Arrangements

We enter into various off-balance-sheet arrangements in the ordinary course of business, primarily to meet the needs of our customers and to reduce our own exposure to interest rate risk. These arrangements include firm commitments to extend credit and letters of credit. Additionally, we enter into guarantees and other similar arrangements as part of transactions in the ordinary course of business. For additional information on each of these arrangements, see Item 1. Consolidated Financial Statements (Unaudited).

RISK MANAGEMENT

As a financial services company, our business exposes us to certain risks. The identification, mitigation and management of existing and potential risks are keys to effective enterprise risk management. There are certain risks that are inherent to our business (e.g. execution of transactions) whereas other risks will present themselves through the conduct of that business. We seek to monitor and manage our significant risk exposures through a set of board approved limits as well as Key Risk Indicators or metrics. We have in place a governance framework that regularly reports metrics, major risks and exposures to senior management and the Board of Directors. As of July 1, 2015, our risk management framework became subject to the risk committee requirement for publicly traded bank holding companies with total consolidated assets of greater than \$10 billion and less than \$50 billion, contained in the Federal Reserve's enhanced prudential standards for bank holding companies and foreign banking organizations. Our framework, as described below, is in compliance with all applicable requirements.

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We have a Board-approved Risk Appetite Statement ("RAS") which we disseminate to employees. The RAS specifies the significant risks we are exposed to and our tolerance of those risks. As described in the RAS, our business exposes us to the following nine major categories of risk:

- *Credit Risk*—the risk of loss arising from the inability or failure of a borrower or counterparty to meet its credit obligations.
- *Interest Rate Risk*—the risk to earnings or capital arising from movements in interest rates. This includes convexity risk, which arises primarily from the mortgage holders' option to prepay their mortgages and deposit holders' option to withdraw their deposits.
- *Liquidity Risk*—the potential inability to meet contractual and contingent financial obligations either on- or off-balance sheet, as they come due.
- *Market Risk*—the risk that asset values or income streams will be adversely affected by changes in market conditions.
- *Operational Risk*—the risk of loss due to failure of people, processes and systems, or damage to physical assets caused by unexpected events.
- *IT and Cyber Security Risk*—the risk of loss of customer or company data, integrity, or availability of systems through the compromise of our electronic digital media (e.g., computers, mobile devices).
- *Strategic Risk*—the risk of loss of market size, market share or margin in any business, leading to lost revenues and potentially significant reductions to net income.
- *Reputational Risk*—the potential that negative perceptions regarding our conduct or business practices will adversely affect valuation, profitability, operations or customer base or require costly litigation or other measures.
- *Legal, Regulatory and Compliance Risk*—the current and prospective risk to earnings or capital arising from violations of, or non-conformance with, laws, rules, regulations, prescribed practices, internal policies, and procedures, or ethical standards.

For additional information about our interest rate risk, see Item 3. Quantitative and Qualitative Disclosures about Market Risk. For additional information on liquidity risk, see Liquidity and Capital Resources in Item 2. Management's Discussion and Analysis of Financial Condition and Results of Operations. Market risk, operational risk, strategic risk, reputational risk and legal, regulatory and compliance risk and the management of risk are more fully described in Item 7. Management's Discussion and Analysis of Financial Condition and Results of Operations in our Annual Report on Form 10-K for the year ended December 31, 2014. We are also subject to other risks that could impact our business, financial condition, results of operations or cash flows in future periods. See Item 1A. Risk Factors in the Annual Report on Form 10-K for the year ended December 31, 2014.

Credit Risk Management

Credit risk is the risk of loss arising from the inability or failure of a borrower or counterparty to meet its credit obligations. We are exposed to credit risk in the following areas:

- We hold credit risk exposure in our loan portfolio. We are not currently originating or purchasing loans, and we are continuing our strategy of reducing balance sheet risk through loan portfolio run-off.
- We extend margin loans to our brokerage customers which exposes us to the risk of credit losses in the event we cannot liquidate collateral during significant market movements.
- We engage in financial transactions with counterparties which expose us to credit losses in the event a counterparty cannot meet its obligations. These financial transactions include our invested cash, securities lending, repurchase agreements and derivatives contracts, as well as the settlement of trades.

Credit risk is monitored by our Credit Committee and Margin Risk Committee. The Credit Committee's objective is to evaluate current and expected credit performance of the Company's loans, investments, borrowers and counterparties relative to market conditions and the probable impact on the Company's financial performance. They establish credit risk guidelines in accordance with the Company's strategic objectives and existing policies. The Credit

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Committee reviews investment and lending activities involving credit risk to ensure consistency with those established guidelines. These reviews involve an analysis of portfolio balances, delinquencies, losses, recoveries, default management and collateral liquidation performance, as well as any credit risk mitigation efforts relating to the portfolios. The Margin Risk Committee is responsible for identifying, monitoring and mitigating, where necessary, risks arising from margin lending activities, including the associated credit risk. The Margin Risk Committee is also responsible for reviewing and approving margin risk limits and for monitoring adherence to the margin risk limits. In addition, the Credit Committee reviews and approves credit related counterparties engaged in financial transactions with the Company.

Loss Mitigation on the Loan Portfolio

Our credit risk operations team focuses on the mitigation of potential losses in the loan portfolio. Through a variety of strategies, including voluntary line closures, automatically freezing lines on all delinquent accounts, and freezing lines on loans with materially reduced home equity, we reduced our exposure to open home equity lines from a high of over \$7 billion in 2007 to approximately \$90 million at September 30, 2015.

We have loan modification programs that focus on the mitigation of potential losses in the one- to four- family and home equity mortgage loan portfolio by targeting borrowers experiencing financial difficulties. During the nine months ended September 30, 2015 and 2014, we modified \$10 million and \$17 million of one- to four-family loans, respectively, and \$11 million of home equity loans for both periods, under these programs in which the modifications were considered TDRs. We have also begun offering a loan modification program to a subset of borrowers with home equity lines of credit whose original loan terms provided the borrowers the option to accelerate their date of conversion to amortizing loans. As certain terms of our offer represented economic concessions, such as longer amortization periods than were in the original loan agreements, this program resulted in \$14 million of TDRs and \$44 million of modifications not classified as TDRs during the first quarter of 2015. Loan modification volume may increase in future periods to mitigate potential losses as the volume of mortgage loans reaching the end of their interest-only period increases.

We also process minor modifications on a number of loans through traditional collections actions taken in the normal course of servicing delinquent accounts. Minor modifications resulting in an insignificant delay in the timing of payments are not considered economic concessions and therefore are not classified as TDRs. At September 30, 2015 and December 31, 2014, we had \$21 million and \$25 million, respectively, of mortgage loans with minor modifications that were not considered TDRs. Approximately 10% and 5% of these loans were classified as nonperforming at September 30, 2015 and December 31, 2014, respectively. We currently do not have any active loan modification program for consumer and other loans.

Currently, our entire loans receivable portfolio is serviced by other companies. To reduce vendor, operational and regulatory risks, we have an initiative to assess our servicing relationships and, where appropriate, consolidate loan servicing or transfer certain mortgage loans to servicers that specialize in managing troubled assets. During the nine months ended September 30, 2015, we completed servicer transfers of \$1.1 billion of mortgage loans as a result of this initiative. At September 30, 2015, \$3.3 billion gross unpaid principal balance of our mortgage loans were held at servicers that specialize in managing troubled assets. We believe this initiative has improved and will continue to improve the credit performance of the loans transferred compared to the expected credit performance of these same loans if they had not been transferred.

We continue to review the mortgage loan portfolio in order to identify loans to be repurchased by the originator; however, we consider this effort to be substantially complete. Our review has primarily focused on identifying loans with violations of transaction representations and warranties or material misrepresentation on the part of the seller. Any loans identified with these deficiencies are submitted to the original seller for repurchase. During the nine months ended September 30, 2015 and 2014, we received one-time payments of \$2 million and \$11 million, respectively, from certain third party mortgage originators to satisfy in full all pending and future repurchase requests with them. We recognized these settlements as recoveries to the allowance for loan losses, resulting in a corresponding reduction to net charge-offs as well as our provision (benefit) for loan losses. Approximately \$4 million of loans were repurchased by or settled with the original sellers during the nine months ended September 30, 2015, for a total of \$461 million of loans that were repurchased, including global settlements, since we actively started reviewing our purchased loan portfolio beginning in 2008.

CONCENTRATIONS OF CREDIT RISK**Loans**

One- to four-family loans include interest-only loans for a five to ten year period, followed by an amortizing period ranging from 20 to 25 years. At September 30, 2015, 40% of our one- to four-family portfolio were not yet amortizing. However, during the trailing twelve months ended September 30, 2015, approximately 16% of these borrowers made voluntary annual principal payments of at least \$2,500 and slightly over a third of those borrowers made voluntary annual principal payments of at least \$10,000.

The home equity loan portfolio is primarily second lien loans on residential real estate properties, which have a higher level of credit risk than first lien mortgage loans. Approximately 13% of the home equity loan portfolio was in the first lien position and we held both the first and second lien positions in less than 1% of the home equity loan portfolio at September 30, 2015. The home equity loan portfolio consisted of approximately 18% of home equity installment loans and approximately 82% of home equity lines of credit at September 30, 2015.

Home equity installment loans are primarily fixed rate and fixed term, fully amortizing loans that do not offer the option of an interest-only payment. The majority of home equity lines of credit convert to amortizing loans at the end of the draw period, which typically ranges from five to ten years. Approximately 5% of this portfolio will require the borrowers to repay the loan in full at the end of the draw period, commonly referred to as "balloon loans." At September 30, 2015, 65% of the home equity line of credit portfolio had not converted from the interest-only draw period and had not begun amortizing. However, during the trailing twelve months ended September 30, 2015, approximately 40% of these borrowers made annual principal payments of at least \$500 on their home equity lines of credit and slightly under half of those borrowers reduced their principal balance by at least \$2,500.

The following table outlines when one- to four-family and home equity lines of credit convert to amortizing by percentage of the one- to four-family and home equity line of credit portfolios, respectively, at September 30, 2015:

<u>Period of Conversion to Amortizing Loan</u>	<u>% of One- to Four-Family Portfolio</u>	<u>% of Home Equity Line of Credit Portfolio</u>
Already amortizing	60%	35%
Through December 31, 2015	1%	5%
Year ending December 31, 2016	17%	44%
Year ending December 31, 2017	22%	15%
Year ending December 31, 2018 or later	—%	1%

We track and review factors to predict and monitor credit risk in the mortgage loan portfolio on an ongoing basis. These factors include: loan type, estimated current LTV/CLTV ratios, delinquency history, borrowers' current credit scores, housing prices, loan vintage and geographic location of the property. We believe the LTV/CLTV ratios and credit scores are the key factors in determining future loan performance. The factors are updated on at least a quarterly basis. For the consumer and other loan portfolio, we track and review delinquency status to predict and monitor credit risk on at least a quarterly basis.

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The following tables show the distribution of the mortgage loan portfolios by credit risk factor at September 30, 2015 and December 31, 2014 (dollars in millions):

<u>Current LTV/CLTV (1)</u>	<u>One- to Four-Family</u>		<u>Home Equity</u>	
	<u>September 30, 2015</u>	<u>December 31, 2014</u>	<u>September 30, 2015</u>	<u>December 31, 2014</u>
<=80%	\$ 1,554	\$ 1,757	\$ 894	\$ 1,081
80%-100%	649	807	582	755
100%-120%	255	311	441	557
>120%	162	185	353	441
Total mortgage loans receivable	\$ 2,620	\$ 3,060	\$ 2,270	\$ 2,834
Average estimated current LTV/CLTV (2)	78%	79%	91%	92%
Average LTV/CLTV at loan origination (3)	71%	71%	81%	80%

- (1) Current CLTV calculations for home equity loans are based on the maximum available line for home equity lines of credit and outstanding principal balance for home equity installment loans. For home equity loans in the second lien position, the original balance of the first lien loan at origination date and updated valuations on the property underlying the loan are used to calculate CLTV. Current property values are updated on a quarterly basis using the most recent property value data available to us. For properties in which we did not have an updated valuation, we utilized home price indices to estimate the current property value.
- (2) The average estimated current LTV/CLTV ratio reflects the outstanding balance at the balance sheet date and the maximum available line for home equity lines of credit, divided by the estimated current value of the underlying property.
- (3) Average LTV/CLTV at loan origination calculations are based on LTV/CLTV at time of purchase for one- to four-family purchased loans and home equity installment loans and maximum available line for home equity lines of credit.

<u>Current FICO (1)</u>	<u>One- to Four-Family</u>		<u>Home Equity</u>	
	<u>September 30, 2015</u>	<u>December 31, 2014</u>	<u>September 30, 2015</u>	<u>December 31, 2014</u>
>=720	\$ 1,503	\$ 1,734	\$ 1,172	\$ 1,487
719 - 700	244	296	231	292
699 - 680	210	260	199	238
679 - 660	181	197	157	203
659 - 620	193	237	211	258
<620	289	336	300	356
Total mortgage loans receivable	\$ 2,620	\$ 3,060	\$ 2,270	\$ 2,834

- (1) FICO scores are updated on a quarterly basis; however, there were approximately \$40 million and \$49 million of one- to four-family loans at September 30, 2015 and December 31, 2014, respectively, and \$3 million and \$4 million of home equity loans, respectively, for which the updated FICO scores were not available. For these loans, the current FICO distribution included the most recent FICO scores where available, otherwise the original FICO score was used.

The average age of our mortgage loans receivable was 9.6 and 8.9 years at September 30, 2015 and December 31, 2014, respectively. Approximately 38% of our mortgage loans receivable were concentrated in California at both September 30, 2015 and December 31, 2014. No other state had concentrations of mortgage loans that represented 10% or more of our mortgage loans receivable at September 30, 2015 and December 31, 2014.

Allowance for Loan Losses

The allowance for loan losses is management's estimate of probable losses inherent in the loan portfolio at the balance sheet date, as well as the forecasted losses, including economic concessions to borrowers, over the estimated remaining life of loans modified as TDRs. The general allowance for loan losses includes a qualitative component to account for a variety of factors that present additional uncertainty that may not be fully considered in the quantitative loss model but are factors we believe may impact the level of credit losses. For additional information on management's estimate of the allowance for loan losses, see Summary of Critical Accounting Policies and Estimates in Item 2. Management's Discussion and Analysis of Financial Condition and Results of Operations.

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The following table presents the allowance for loan losses by loan portfolio at September 30, 2015 and December 31, 2014 (dollars in millions):

	One- to Four-Family		Home Equity		Consumer and Other		Total	
	September 30, 2015	December 31, 2014	September 30, 2015	December 31, 2014	September 30, 2015	December 31, 2014	September 30, 2015	December 31, 2014
General reserve:								
Quantitative component	\$ 26	\$ 11	\$ 264	\$ 281	\$ 7	\$ 9	\$ 297	\$ 301
Qualitative component	2	7	10	29	—	1	12	37
Specific valuation allowance	11	9	56	57	—	—	67	66
Total allowance for loan losses	\$ 39	\$ 27	\$ 330	\$ 367	\$ 7	\$ 10	\$ 376	\$ 404
Allowance as a % of loans receivable(1)	1.5%	0.9%	14.5%	12.9%	2.0%	2.1%	7.1%	6.3%

(1) Allowance as a percentage of loans receivable is calculated based on the gross loans receivable including net unamortized premiums for each respective category.

Total loans receivable designated as held-for-investment decreased \$1.1 billion during the nine months ended September 30, 2015. The allowance for loan losses was \$376 million, or 7% of total loans receivable, as of September 30, 2015 compared to \$404 million, or 6% of total loans receivable, as of December 31, 2014, reflecting continued improvement in economic conditions, charge-off recoveries and loan portfolio run-off, offset by the impact of enhancements to our modeling practices for the allowance for loan losses during the nine months ended September 30, 2015. For additional information on management's estimate of the allowance for loan losses, see Summary of Critical Accounting Policies and Estimates in Item 2. Management's Discussion and Analysis of Financial Condition and Results of Operations.

Troubled Debt Restructurings

TDRs include two categories of loans: (1) loan modifications completed under our loss mitigation programs in which economic concessions were granted to borrowers experiencing financial difficulty, and (2) loans that have been charged-off based on the estimated current value of the underlying property less estimated selling costs due to bankruptcy notification even if the loan has not been modified under the Company's programs. The following table shows total TDRs by category at September 30, 2015 and December 31, 2014 (dollars in millions):

	Loans Modified as TDRs ⁽¹⁾	Bankruptcy Loans	Total TDRs
September 30, 2015			
One- to four-family	\$ 175	\$ 121	\$ 296
Home equity	169	39	208
Total	\$ 344	\$ 160	\$ 504
December 31, 2014			
One- to four-family	\$ 185	\$ 131	\$ 316
Home equity	169	48	217
Total	\$ 354	\$ 179	\$ 533

(1) Includes loans modified as TDRs that also had received a bankruptcy notification of \$43 million and \$42 million at September 30, 2015 and December 31, 2014, respectively.

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The following table shows total TDRs by delinquency category at September 30, 2015 and December 31, 2014 (dollars in millions):

	TDRs Current	TDRs 30-89 Days Delinquent	TDRs 90-179 Days Delinquent	TDRs 180+ Days Delinquent	Total Recorded Investment in TDRs
September 30, 2015					
One- to four-family	\$ 224	\$ 18	\$ 8	\$ 46	\$ 296
Home equity	171	10	7	20	208
Total	\$ 395	\$ 28	\$ 15	\$ 66	\$ 504
December 31, 2014					
One- to four-family	\$ 232	\$ 24	\$ 12	\$ 48	\$ 316
Home equity	178	14	6	19	217
Total	\$ 410	\$ 38	\$ 18	\$ 67	\$ 533

TDRs on accrual status, which are current and have made six or more consecutive payments, were \$236 million and \$248 million at September 30, 2015 and December 31, 2014, respectively.

Troubled Debt Restructurings – Loan Modifications

We believe the distinction between loans modified as TDRs and total TDRs, which include bankruptcy loans, is important. Our loan modification programs focus on the mitigation of potential losses through making an economic concession to a borrower, whereas with loans for which we have received bankruptcy notification we have not taken any loss mitigation actions. The following table shows loans modified as TDRs by delinquency category at September 30, 2015 and December 31, 2014 (dollars in millions):

	Modifications Current	Modifications 30-89 Days Delinquent	Modifications 90-179 Days Delinquent	Modifications 180+ Days Delinquent	Total Recorded Investment in Modifications
September 30, 2015					
One- to four-family	\$ 148	\$ 8	\$ 5	\$ 14	\$ 175
Home equity	146	7	5	11	169
Total	\$ 294	\$ 15	\$ 10	\$ 25	\$ 344
December 31, 2014					
One- to four-family	\$ 152	\$ 14	\$ 7	\$ 12	\$ 185
Home equity	145	10	5	9	169
Total	\$ 297	\$ 24	\$ 12	\$ 21	\$ 354

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The following table shows loans modified as TDRs and the specific valuation allowance by loan portfolio as well as the percentage of total expected losses at September 30, 2015 and December 31, 2014 (dollars in millions):

	Recorded Investment in Modifications before Charge-offs	Charge-offs	Recorded Investment in Modifications	Specific Valuation Allowance	Net Investment in Modifications	Specific Valuation Allowance as a % of Modifications	Total Expected Losses
September 30, 2015							
One- to four-family	\$ 220	\$ (45)	\$ 175	\$ (11)	\$ 164	6%	26%
Home equity	294	(125)	169	(56)	113	33%	62%
Total	\$ 514	\$ (170)	\$ 344	\$ (67)	\$ 277	20%	46%
December 31, 2014							
One- to four-family	\$ 231	\$ (46)	\$ 185	\$ (9)	\$ 176	5%	24%
Home equity	305	(136)	169	(57)	112	34%	63%
Total	\$ 536	\$ (182)	\$ 354	\$ (66)	\$ 288	19%	46%

The recorded investment in loans modified as TDRs includes the charge-offs related to certain loans that were written down to the estimated current value of the underlying property less estimated selling costs. These charge-offs were recorded on modified loans that were delinquent in excess of 180 days, in bankruptcy, or when certain characteristics of the loan, including CLTV, borrower's credit and type of modification, cast substantial doubt on the borrower's ability to repay the loan.

Included in allowance for loan losses was a specific valuation allowance of \$67 million and \$66 million that was established for loans modified as TDRs at September 30, 2015 and December 31, 2014, respectively. The specific valuation allowance for these individually impaired loans represents the forecasted losses over the remaining life of the loan, including the economic concession to the borrower.

The total expected loss on loans modified as TDRs includes both the previously recorded charge-offs and the specific valuation allowance. Total expected losses on loans modified as TDRs remained at 46% as a percentage of total recorded investments in modifications before charge-offs at September 30, 2015 and December 31, 2014.

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Net Charge-offs

The following table provides an analysis of net charge-offs for the three and nine months ended September 30, 2015 and 2014 (dollars in millions):

	<u>Charge-offs</u>	<u>Recoveries⁽¹⁾</u>	<u>Net Charge-Offs</u>	<u>% of Average Loans (Annualized)</u>
<u>Three Months Ended September 30, 2015</u>				
One- to four-family	\$ —	\$ —	\$ —	—%
Home equity	(7)	7	—	0.01%
Consumer and Other	(2)	1	(1)	0.97%
Total	<u>\$ (9)</u>	<u>\$ 8</u>	<u>\$ (1)</u>	0.05%
<u>Three Months Ended September 30, 2014</u>				
One- to four-family	\$ (1)	\$ —	\$ (1)	0.03%
Home equity	(13)	7	(6)	0.86%
Consumer and Other	(4)	1	(3)	2.84%
Total	<u>\$ (18)</u>	<u>\$ 8</u>	<u>\$ (10)</u>	0.62%
<u>Nine Months Ended September 30, 2015</u>				
One- to four-family	\$ (3)	\$ —	\$ (3)	0.13%
Home equity	(26)	21	(5)	0.25%
Consumer and Other	(8)	5	(3)	0.86%
Total	<u>\$ (37)</u>	<u>\$ 26</u>	<u>\$ (11)</u>	0.23%
<u>Nine Months Ended September 30, 2014</u>				
One- to four-family	\$ (44)	\$ 11	\$ (33)	1.20%
Home equity	(54)	18	(36)	1.50%
Consumer and Other	(13)	4	(9)	2.05%
Total	<u>\$ (111)</u>	<u>\$ 33</u>	<u>\$ (78)</u>	1.39%

(1) Recoveries include the impact of mortgage originator settlements.

Loan losses are recognized when, based on management's estimate, it is probable that a loss has been incurred. The charge-off policy for both one- to four-family and home equity loans is to assess the value of the property when the loan has been delinquent for 180 days or has received bankruptcy notification, regardless of whether or not the property is in foreclosure, and charge off the amount of the loan balance in excess of the estimated current value of the underlying property less estimated selling costs. Modified loans considered TDRs are charged off when they are identified as collateral dependent based on certain terms of the modification, which includes assigning a higher level of risk to loans in which the LTV or CLTV is greater than 110% or 125%, respectively, a borrower's credit score is less than 600 and certain types of modifications, such as interest-only payments. Closed-end consumer loans are charged off when the loan has been 120 days delinquent or when it is determined that collection is not probable.

Net charge-offs for the three and nine months ended September 30, 2015 compared to the same periods in 2014 decreased by \$9 million and \$67 million, respectively. The higher net charge-offs during the nine months ended September 30, 2014 was mainly due to a charge-off of \$42 million related to our sale of one- to four-family loans modified as TDRs. Additionally, net charge-offs for the nine months ended September 30, 2015 and 2014 included \$2 million and \$11 million of benefit recorded from settlements with third party mortgage originators, respectively. The decrease in net charge-offs for the nine months ended September 30, 2015 compared to 2014 also reflected the improving economic conditions, as evidenced by home price improvement and portfolio run-off. The timing and magnitude of charge-offs are affected by many factors and we anticipate variability from quarter to quarter, particularly as home equity lines of credit begin converting to amortizing loans.

[Table of Contents](#)*Delinquent Loans*

We believe the distinction between loans delinquent 90 to 179 days and loans delinquent 180 days and greater is important as loans delinquent 180 days and greater have been written down to their expected recovery value, whereas loans delinquent 90 to 179 days have not (unless they are in process of bankruptcy or are modifications that have substantial doubt as to the borrower's ability to repay the loan). We believe loans delinquent 90 to 179 days are an important measure because these loans will likely be charged off. Additional charge-offs on loans delinquent 180 days and greater are possible if home prices decline beyond current expectations, but we do not anticipate these charge-offs to be significant. The following table shows the comparative data for loans delinquent 90 to 179 days at September 30, 2015 and December 31, 2014 (dollars in millions):

	September 30, 2015	December 31, 2014
One- to four-family	\$ 22	\$ 28
Home equity	28	29
Consumer and other	1	1
Total loans delinquent 90-179 days	\$ 51	\$ 58
Loans delinquent 90-179 days as a percentage of gross loans receivable	1.0%	0.9%

In addition, we monitor loans in which a borrower's current credit history casts doubt on their ability to repay a loan. We classify loans as special mention when they are between 30 and 89 days past due. The following table shows the comparative data for special mention loans at September 30, 2015 and December 31, 2014 (dollars in millions):

	September 30, 2015	December 31, 2014
One- to four-family	\$ 60	\$ 88
Home equity	47	60
Consumer and other	6	7
Total special mention loans	\$ 113	\$ 155
Special mention loans receivable as a percentage of gross loans receivable	2.2%	2.4%

The trend in special mention loan balances is generally indicative of the expected trend for charge-offs in future periods, as these loans have a greater propensity to migrate into nonaccrual status and ultimately charge-off. One- to four-family loans are generally secured in a first lien position by real estate assets, reducing the potential loss when compared to an unsecured loan. Home equity loans are generally secured by real estate assets; however, the majority of these loans are secured in a second lien position, which substantially increases the potential loss when compared to a first lien position. The loss severity of our second lien home equity loans was approximately 95% for a trailing twelve-month period as of September 30, 2015.

Nonperforming Assets

We classify loans as nonperforming when they are no longer accruing interest, which includes loans that are 90 days and greater past due, TDRs that are on nonaccrual status for all classes of loans (including loans in bankruptcy) and certain junior liens that have a delinquent senior lien. The following table shows the comparative data for nonperforming loans and assets at September 30, 2015 and December 31, 2014 (dollars in millions):

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	September 30, 2015	December 31, 2014
One- to four-family	\$ 269	\$ 294
Home equity	151	165
Consumer and other	1	1
Total nonperforming loans receivable	421	460
Real estate owned and other repossessed assets, net	27	38
Total nonperforming assets, net	\$ 448	\$ 498
Nonperforming loans receivable as a percentage of gross loans receivable	8.0%	7.2%
One- to four-family allowance for loan losses as a percentage of one- to four-family nonperforming loans receivable	14.5%	9.1%
Home equity allowance for loan losses as a percentage of home equity nonperforming loans receivable	218.2%	222.5%
Consumer and other allowance for loan losses as a percentage of consumer and other nonperforming loans receivable	851.3%	774.6%
Total allowance for loan losses as a percentage of total nonperforming loans receivable	89.3%	87.8%

Nonperforming assets, net decreased by \$50 million to \$448 million at September 30, 2015 when compared to December 31, 2014. This decrease reflected continued improvement in economic conditions and loan portfolio run-off.

Securities

We focus primarily on security type and credit rating to monitor credit risk in our securities portfolios. We consider securities backed by the U.S. government or its agencies to have low credit risk as the long-term debt rating of the U.S. government is AA+ by S&P and AAA by Moody's and Fitch at September 30, 2015. The amortized cost of these securities accounted for over 99% of our total securities portfolio at September 30, 2015. We review the remaining debt securities that were not backed by the U.S. government or its agencies according to their credit ratings from S&P, Moody's and Fitch where available. At September 30, 2015, all municipal bonds and corporate bonds were rated investment grade (defined as a rating equivalent to a Moody's rating of "Baa3" or higher, or a S&P or Fitch rating of "BBB-" or higher).

SUMMARY OF CRITICAL ACCOUNTING POLICIES AND ESTIMATES

The discussion and analysis of our financial condition and results of operations are based on our consolidated financial statements, which have been prepared in conformity with GAAP. Note 1—Organization, Basis of Presentation and Summary of Significant Accounting Policies in Part II, Item 8. Financial Statements and Supplementary Data in the Company's Annual Report on Form 10-K for the year ended December 31, 2014 contains a summary of our significant accounting policies, many of which require the use of estimates and assumptions that affect the amounts reported in the consolidated financial statements and related notes for the periods presented. We believe that of our significant accounting policies, the following are critical because they are based on estimates and assumptions that require complex and subjective judgments by management: allowance for loan losses; valuation of goodwill and other intangible assets; estimates of effective tax rates, deferred taxes and valuation allowance; classification and valuation of certain investments; accounting for derivative instruments; and fair value measurements. Changes in these estimates or assumptions could materially impact our financial condition and results of operations, and actual results could differ from our estimates. We updated our accounting policy for the allowance for loan losses in the second quarter of 2015 to reflect significant changes in management's estimates and assumptions. Our remaining critical accounting policies are more fully described in Summary of Critical Accounting Policies and Estimates in Part II, Item 7. Management's Discussion and Analysis of Financial Condition and Results of Operations in our Annual Report on Form 10-K for the year ended December 31, 2014.

Allowance for Loan Losses

Description

The allowance for loan losses is management's estimate of probable losses inherent in the loan portfolio as of the balance sheet date. In determining the adequacy of the allowance, we perform ongoing evaluations of the loan portfolio and loss forecasting assumptions. As of September 30, 2015, the allowance for loan losses was \$376 million on \$5.3 billion of total loans receivable designated as held-for-investment.

Judgments

Determining the adequacy of the allowance is complex and requires judgment by management about the effect of matters that are inherently uncertain. Subsequent evaluations of the loan portfolio, in light of the factors then prevailing, may result in significant changes in the allowance for loan losses in future periods. For loans that are not TDRs, we established a general allowance and we evaluated the adequacy of the allowance for loan losses by loan portfolio segment: one- to four-family, home equity and consumer and other. For modified loans accounted for as TDRs that are valued using the discounted cash flow model, we established a specific allowance by forecasting losses, including economic concessions to borrowers, over the estimated remaining life of these loans.

The estimate of the allowance for loan losses continues to be based on a variety of quantitative and qualitative factors, including:

- the composition and quality of the portfolio;
- delinquency levels and trends;
- current and historical charge-off and loss experience;
- our historical loss mitigation experience;
- the condition of the real estate market and geographic concentrations within the loan portfolio;
- the interest rate climate;
- the overall availability of housing credit; and
- general economic conditions.

Total loans receivable designated as held-for-investment decreased \$1.1 billion during the nine months ended September 30, 2015. The allowance for loan losses was \$376 million, or 7% of total loans receivable, as of September 30, 2015 compared to \$404 million, or 6% of total loans receivable, as of December 31, 2014. The decrease in the allowance for loan losses primarily resulted from the following factors:

- better than expected loan performance, including favorable delinquency trends, faster prepayments across the portfolios and lower than expected defaults on balloon loans maturing; and
- the resolution of uncertainties related to servicer transfers, which drove the majority of the decrease in the qualitative component.

During the nine months ended September 30, 2015, we also enhanced our modeling practices for forecasting loan losses in our one- to four-family and home equity loan portfolios. We implemented a new loss forecasting model during the second quarter of 2015; however, there were no material changes in assumptions and methodologies in the new model and the implementation did not have a material impact on our allowance for loan losses. The implementation process triggered a re-evaluation of the time period of forecasted loan losses included in the general allowance. Based on our review of recent loan performance, current economic conditions and their impact on borrower behavior, we extended the loss emergence period from 12 months to 18 months for both portfolios. The extended emergence period resulted in approximately \$40 million of additional allowance for loan losses as of June 30, 2015. The new loss forecasting model continues to be sensitive to key risk factors within our one- to four-family and home equity loan portfolios, which include but are not limited to loan type, delinquency history, LTV/CLTV ratio and borrowers' credit scores and the forecasted loan losses are estimated based on these types of loan-level attributes. We utilize historical mortgage loan performance data to develop the forecast of delinquency and default for these risk segments.

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We also made the following enhancements to our quantitative allowance methodology for identifying higher risk loans in one- to four-family and home equity loan portfolios that resulted in approximately \$40 million of additional allowance as of September 30, 2015:

- During the second quarter of 2015, we extended the period of our forecasted loan losses captured within the general allowance to include the total probable loss over the remaining life on a subset of higher risk interest-only loans in the one- to four-family loan portfolio.
- During the third quarter of 2015, we further refined the criteria utilized in identifying higher risk home equity lines of credit for which we include the total probable loss over the remaining life within the general allowance.

The general allowance for loan losses also included a qualitative component to account for a variety of factors that present additional uncertainty that may not be fully considered in the quantitative loss model but are factors we believe may impact the level of credit losses. We utilize a qualitative factor framework whereby, on a quarterly basis, management assesses the risk associated with three main factors: external factors, internal factors, and portfolio specific factors. The uncertainty related to these factors may expand over time, temporarily increasing the qualitative component in advance of the more precise identification of these probable losses being captured within the quantitative component of the general allowance. The total qualitative component was \$12 million and \$37 million as of September 30, 2015 and December 31, 2014, respectively.

Effects if Actual Results Differ

It is difficult to estimate how potential changes in the quantitative and qualitative factors, including the impact of home equity lines of credit converting from interest only to amortizing loans or requiring borrowers to repay the loan in full at the end of the draw period, might impact the allowance for loan losses. Our underlying assumptions and judgments could prove to be inaccurate, which could materially impact our regulatory capital position and results of operations in future periods.

During the normal course of conducting examinations, our banking regulators, the OCC and Federal Reserve, continue to review our business and practices. This process is dynamic and ongoing and we cannot be certain that additional changes or actions will not result from their continuing review.

Accounting for Derivative Instruments

Description

We enter into derivative transactions primarily to protect against interest rate risk on the value of certain assets, liabilities and future cash flows. Accounting for derivatives differs significantly depending on whether a derivative is designated as a hedge based on the applicable accounting guidance and, if designated as a hedge, the type of hedge designation. Derivative instruments in hedging relationships that mitigate exposure to changes in the fair value of assets or liabilities are considered fair value hedges. Derivative instruments designated in hedging relationships that mitigate exposure to the variability in expected future cash flows or other forecasted transactions are considered cash flow hedges. In order to qualify for hedge accounting treatment, our documentation must indicate the intention to designate the derivative as a hedge of a specific asset or liability or a future cash flow at its inception. Effectiveness of the hedge must be monitored over the life of the derivative instrument.

Each derivative instrument is recorded on the consolidated balance sheet at fair value as a freestanding asset or liability. Fair value hedges are accounted for by recording the fair value of the derivative instrument and the fair value of the asset or liability being hedged on the consolidated balance sheet. Changes in the fair value of both (1) the derivative instrument and (2) the underlying assets or liabilities are recognized in the gains (losses) on securities and other line item in the consolidated statement of income (loss). Cash flow hedges are accounted for by recording the fair value of the derivative instrument on the consolidated balance sheet. The effective portion of the change in fair value of the derivative instrument in a cash flow hedge is reported as a component of accumulated other comprehensive loss, net of tax in the consolidated balance sheet, for both active and terminated hedges. Amounts are reclassified from accumulated other comprehensive loss into net operating interest income as a yield adjustment in the same period the hedged forecasted transaction affects earnings. The ineffective portion of the change in fair value of

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the derivative instrument in a cash flow hedge is reported in the gains (losses) on securities and other line item in the consolidated statement of income (loss).

Judgments

Cash flow hedge relationships are treated as effective hedges as long as the hedged forecasted transactions remain probable of occurring and the hedges continue to meet the requirements of the applicable accounting guidance. At December 31, 2014, accumulated other comprehensive loss attributable to cash flow hedges, pre-tax, was \$422 million. These cash flow hedges were used to hedge the forecasted transactions related to repurchase agreements and FHLB advances. Following E*TRADE Clearing's move out from under E*TRADE Bank on July 1, 2015, we evaluated the sufficiency of our capital and liquidity position and, in early September, management and the Board concluded that E*TRADE Bank would deploy excess capital to terminate the \$4.4 billion of legacy wholesale funding obligations. As the Company's intent changed and the hedged forecasted transactions became probable of not occurring, the Company reclassified \$370 million of pre-tax losses on cash flow hedges from accumulated other comprehensive loss into earnings during the third quarter of 2015.

Effects if Actual Results Differ

If our hedging strategies were to no longer meet the effectiveness criteria or our assumptions about the nature and timing of forecasted transactions were to be inaccurate, we could no longer apply hedge accounting which could have a material adverse effect on our regulatory capital position and results of operations.

GLOSSARY OF TERMS

Active accounts—Accounts with a balance of \$25 or more or a trade in the last six months.

Active customers—Customers that have an account with a balance of \$25 or more or a trade in the last six months.

Active trader—The customer group that includes those who execute 30 or more trades per quarter.

Adjusted average total assets—Assets composed of average total assets plus/(less) unrealized losses (gains) on available-for-sale securities and cash flow hedges, less disallowed deferred tax assets, goodwill and certain other intangible assets, and other applicable adjustments.

Agency—U.S. Government sponsored enterprises and federal agencies, such as Federal National Mortgage Association, Federal Home Loan Mortgage Corporation, Government National Mortgage Association, the Small Business Administration and the Federal Home Loan Bank.

ALCO—Asset Liability Committee.

Average commission per trade—Total trading and investing segment commissions revenue divided by total number of revenue trades.

Average equity to average total assets—Average total shareholders' equity divided by average total assets.

Basis point—One one-hundredth of a percentage point.

BCBS—International Basel Committee on Banking Supervision.

Brokerage account attrition rate—Attriting brokerage accounts, which are gross new brokerage accounts less net new brokerage accounts, divided by total brokerage accounts at the previous period end.

Brokerage related cash—Customer sweep deposits held at banking subsidiaries, customer payables and customer assets held by third parties.

Cash flow hedge—A derivative instrument designated in a hedging relationship that mitigates exposure to variability in expected future cash flows attributable to a particular risk.

CFTC—Commodity Futures Trading Commission.

Charge-off—The result of removing a loan or portion of a loan from an entity's balance sheet because the loan is considered to be uncollectible.

CLTV—Combined loan-to-value.

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CMOs—Collateralized mortgage obligations.

Consumer loans—Loans that are secured by real personal property, such as recreational vehicles.

Corporate cash—Cash held at the parent company as well as cash held in certain subsidiaries that can distribute cash to the parent company without any regulatory approval or notification.

Customer assets—Market value of all customer assets held by the Company including security holdings, deposits and customer payables, as well as customer assets held by third parties and vested unexercised options.

Daily average revenue trades ("DARTs")—Total revenue trades in a period divided by the number of trading days during that period.

Derivative—A financial instrument or other contract, the price of which is directly dependent upon the value of one or more underlying securities, interest rates or any agreed upon pricing index. Derivatives cover a wide assortment of financial contracts, including options and swaps.

Economic Value of Equity ("EVE")—The present value of expected cash inflows from existing assets, minus the present value of expected cash outflows from existing liabilities, plus the expected cash inflows and outflows from existing derivatives and forward commitments.

Enterprise interest-bearing liabilities—Liabilities such as customer deposits, repurchase agreements, FHLB advances and other borrowings, certain customer credit balances and securities loaned programs on which the Company pays interest; excludes customer money market balances held by third parties.

Enterprise interest-earning assets—Assets such as loans, available-for-sale securities, held-to-maturity securities, margin receivables, securities borrowed balances and cash and investments required to be segregated under regulatory guidelines that earn interest for the Company.

Enterprise net interest income—The taxable equivalent basis net operating interest income excluding corporate interest income and corporate interest expense.

Enterprise net interest margin—The enterprise net operating interest income divided by total enterprise interest-earning assets.

Enterprise net interest spread—The taxable equivalent rate earned on average enterprise interest-earning assets less the rate paid on average enterprise interest-bearing liabilities, excluding corporate interest-earning assets and liabilities.

ESDA—Extended insurance sweep deposit accounts.

Fair value—The price that would be received to sell an asset or paid to transfer a liability in an orderly transaction between market participants at the measurement date.

Fair value hedge—A derivative instrument designated in a hedging relationship that mitigates exposure to changes in the fair value of a recognized asset or liability or a firm commitment.

FASB—Financial Accounting Standards Board.

FDIC—Federal Deposit Insurance Corporation.

Federal Reserve—Board of Governors of the Federal Reserve System.

FHLB—Federal Home Loan Bank.

FICO—Fair Isaac Credit Organization.

FINRA—Financial Industry Regulatory Authority.

Forex—A type of trade that involves buying one currency while simultaneously selling another. Currencies are traded in pairs consisting of a "base currency" and a "quote currency."

Generally Accepted Accounting Principles ("GAAP")—Accounting principles generally accepted in the United States of America.

Gross loans receivable—Includes unpaid principal balances and premiums (discounts).

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Interest rate cap—An option contract that puts an upper limit on a floating exchange rate. The writer of the cap has to pay the holder of the cap the difference between the floating rate and the upper limit when that upper limit is breached. There is usually a premium paid by the buyer of such a contract.

Interest rate floor—An option contract that puts a lower limit on a floating exchange rate. The writer of the floor has to pay the holder of the floor the difference between the floating rate and the lower limit when that lower limit is breached. There is usually a premium paid by the buyer of such a contract.

Interest rate swaps—Contracts that are entered into primarily as an asset/liability management strategy to reduce interest rate risk. Interest rate swap contracts are exchanges of interest rate payments, such as fixed-rate payments for floating-rate payments, based on notional principal amounts.

LIBOR—London Interbank Offered Rate. LIBOR is the interest rate at which banks borrow funds from other banks in the London wholesale money market (or interbank market).

LTV—Loan-to-value.

Net new brokerage assets—The total inflows to all new and existing brokerage customer accounts less total outflows from all closed and existing brokerage customer accounts, excluding the effects of market movements in the value of brokerage customer assets.

NFA—National Futures Association.

Nonperforming assets—Assets originally acquired to earn income (nonperforming loans) and those not intended to earn income (real estate owned). Loans are classified as nonperforming when they are no longer accruing interest, which includes loans that are 90 days and greater past due, TDRs that are on nonaccrual status for all classes of loans (including loans in bankruptcy) and certain junior liens that have a delinquent senior lien.

Notional amount—The specified dollar amount underlying a derivative on which the calculated payments are based.

OCC—Office of the Comptroller of the Currency.

Options—Contracts that grant the purchaser, for a premium payment, the right, but not the obligation, to either purchase or sell the associated financial instrument at a set price during a period or at a specified date in the future.

Real estate owned and other repossessed assets—Ownership or physical possession of real property by the Company, generally acquired as a result of foreclosure or repossession.

Recovery—Cash proceeds received on a loan that had been previously charged off.

Repurchase agreement—An agreement giving the seller of an asset the right or obligation to buy back the same or similar securities at a specified price on a given date. These agreements are generally collateralized by mortgage-backed or investment-grade securities.

Return on average total assets—Annualized net income divided by average assets.

Return on average total shareholders' equity—Annualized net income divided by average shareholders' equity.

Risk-weighted assets—Primarily computed by the assignment of specific risk-weightings assigned by the regulators to assets and off-balance sheet instruments for capital adequacy calculations.

S&P—Standard & Poor's.

SEC—U.S. Securities and Exchange Commission.

Special mention loans—Loans where a borrower's current credit history casts doubt on their ability to repay a loan. Loans are classified as special mention when loans are between 30 and 89 days past due.

Sweep deposit accounts—Accounts with the functionality to transfer customer deposit balances to and from a FDIC insured account.

Taxable equivalent interest adjustment—The operating interest income earned on certain assets is completely or partially exempt from federal and/or state income tax. These tax-exempt instruments typically yield lower returns than a taxable investment. To provide more meaningful comparison of yields and margins for all interest-earning assets, the interest income earned on tax exempt assets is increased to make it fully equivalent to interest income on

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other taxable investments. This adjustment is done for the analytic purposes in the net enterprise interest income/spread calculation and is not made on the consolidated statement of income (loss), as that is not permitted under GAAP.

Tier 1 capital—Adjusted equity capital used in the calculation of capital adequacy ratios. Tier 1 capital equals: total shareholders' equity, plus/(less) unrealized losses (gains) on available-for-sale securities and cash flow hedges, less disallowed servicing and deferred tax assets, goodwill and certain other intangible assets, and other applicable adjustments.

Troubled Debt Restructuring ("TDR")—A loan modification that involves granting an economic concession to a borrower who is experiencing financial difficulty, and loans that have been charged-off due to bankruptcy notification.

Wholesale borrowings—Borrowings that consist of securities sold under agreements to repurchase and FHLB advances and other borrowings.

ITEM 3. QUANTITATIVE AND QUALITATIVE DISCLOSURES ABOUT MARKET RISK

The following discussion about market risk includes forward-looking statements. Actual results could differ materially from those projected in the forward-looking statements as a result of certain factors, including, but not limited to, those set forth in Item 1A. Risk Factors in the Annual Report on Form 10-K for the year ended December 31, 2014 and as updated in this report.

Interest Rate Risk

Our exposure to interest rate risk is related primarily to interest-earning assets and interest-bearing liabilities, all of which are held for non-trading purposes. The management of interest rate risk is essential to profitability. The primary objective of the management of interest rate risk is to control exposure to interest rates within the Board-approved limits, as outlined in the scenario analysis below, and with limited exposure to earnings volatility resulting from interest rate fluctuations. Our general strategies to manage interest rate risk include balancing variable-rate and fixed-rate assets and liabilities and utilizing derivatives in a way that reduces overall exposure to changes in interest rates. Exposure to interest rate risk requires management to make complex assumptions regarding maturities, market interest rates and customer behavior. Changes in interest rates, including the following, could impact interest income and expense:

- Interest-earning assets and interest-bearing liabilities may re-price at different times or by different amounts creating a mismatch.
- The yield curve may steepen, flatten or change shape affecting the spread between short- and long-term rates. Widening or narrowing spreads could impact net interest income.
- Market interest rates may influence prepayments resulting in maturity mismatches. In addition, prepayments could impact yields as premiums and discounts amortize.

Exposure to interest rate risk is dependent upon the distribution and composition of interest-earning assets, interest-bearing liabilities and derivatives. The differing risk characteristics of each product are managed to mitigate our exposure to interest rate fluctuations. At September 30, 2015, 90% of our total assets were enterprise interest-earning assets.

At September 30, 2015, approximately 58% of total assets were residential real estate loans and available-for-sale and held-to-maturity mortgage-backed securities. The values of these assets are sensitive to changes in interest rates, as well as expected prepayment levels. As interest rates increase, fixed rate residential mortgages and mortgage-backed securities tend to exhibit lower prepayments. The inverse is true in a falling rate environment.

When real estate loans prepay, unamortized premiums and/or discounts are recognized immediately in operating interest income. Depending on the timing of the prepayment, these adjustments to operating income would impact anticipated yields. The ALCO reviews estimates of the impact of changing market rates on prepayments. This information is incorporated into our interest rate risk management strategy.

Our liability structure consists of two central sources of funding: deposits and customer payables. Deposit products, including sweep accounts, complete savings accounts and other money market and savings accounts, as well

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as customer payables re-price at management's discretion. We may continue utilizing wholesale funding sources for short-term liquidity and contingency funding requirements.

Derivative Instruments

We use derivative instruments to help manage interest rate risk. Interest rate swaps involve the exchange of fixed-rate and variable-rate interest payments between two parties based on a contractual underlying notional amount, but do not involve the exchange of the underlying notional amounts. Option products are utilized primarily to decrease the market value changes resulting from the prepayment dynamics of the mortgage portfolio, as well as to protect against increases in funding costs. The types of options employed include interest rate caps ("Caps"), "Payor Swaptions" and "Receiver Swaptions." Caps mitigate the market risk associated with increases in interest rates. Similarly, Payor and Receiver Swaptions mitigate the market risk associated with the respective increases and decreases in interest rates. See derivative instruments discussion in Note 7—Accounting for Derivative Instruments and Hedging Activities in Item 1. Consolidated Financial Statements (Unaudited).

Scenario Analysis

Scenario analysis is an advanced approach to estimating interest rate risk exposure. Under the Economic Value of Equity ("EVE") approach, the present value of all existing interest-earning assets, interest-bearing liabilities, derivatives and forward commitments are estimated and then combined to produce an EVE figure. The approach values only the current balance sheet in which the most significant assumptions are the prepayment rates of the loan portfolio and mortgage-backed securities and the repricing of deposits. This approach does not incorporate assumptions related to business growth, or liquidation and re-investment of instruments. This approach provides an indicator of future earnings and capital levels because changes in EVE indicate the anticipated change in the value of future cash flows. The sensitivity of this value to changes in interest rates is then determined by applying alternative interest rate scenarios, which include, but are not limited to, instantaneous parallel shifts up 100, 200 and 300 basis points and down 100 basis points. The change in EVE amounts fluctuate based on the parallel shifts in interest rates primarily due to the change in timing of cash flows in the Company's residential loan and mortgage-backed securities portfolios. Expected prepayment rates on residential mortgage loans and mortgage-backed securities increase as interest rates decline. In a rising interest rate environment, expected prepayment rates decrease.

The ALCO monitors our interest rate risk position using the EVE method. Prior to the move of E*TRADE Clearing out from under E*TRADE Bank in July 2015, the EVE method was monitored at the E*TRADE Bank level, as E*TRADE Bank had nearly 100% of interest-earning assets and 99% of interest-bearing liabilities at December 31, 2014. After this move, the EVE method is also monitored at the consolidated level, which also includes corporate debt. Changes in EVE sensitivity from December 31, 2014 to September 30, 2015 were also driven by the decreased balance sheet size as result of the termination of our legacy wholesale funding obligations and a lower interest rate environment. The sensitivity of EVE at the consolidated level at September 30, 2015 and the limits established by the Board of Directors are listed below (dollars in millions):

Parallel Change in Interest Rates (basis points)(2)	Change in EVE		
	September 30, 2015 ⁽¹⁾		
	Amount	Percentage ⁽³⁾	Board Limit
+300	\$ (109)	(2.1)%	(20)%
+200	\$ 80	1.5 %	(10)%
+100	\$ 104	2.0 %	(5)%
-100	\$ (228)	(4.4)%	(5)%

- (1) The EVE method at the consolidated level includes the parent company, E*TRADE Bank and the Company's broker-dealers and other subsidiaries.
- (2) Due to historically low interest rates for all yield curve points, the minus 200 and 300 basis points scenarios are not produced for the period ended September 30, 2015.
- (3) The percentage change represents the amount of change in EVE divided by the base EVE as calculated in the current interest rate environment.

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The sensitivity of EVE at the E*TRADE Bank level at September 30, 2015 and December 31, 2014 and the limits established by the Board of Directors are listed below (dollars in millions):

Parallel Change in Interest Rates (basis points)(2)	Change in EVE					
	September 30, 2015 ⁽¹⁾			December 31, 2014 ⁽¹⁾		
	Amount	Percentage ⁽³⁾	Board Limit	Amount	Percentage ⁽³⁾	Board Limit
+300	\$ (512)	(11.8)%	(25)%	\$ (626)	(11.6)%	(25)%
+200	\$ (195)	(4.5)%	(15)%	\$ (353)	(6.6)%	(15)%
+100	\$ (36)	(0.8)%	(7)%	\$ (127)	(2.4)%	(7)%
-100	\$ (111)	(2.6)%	(7)%	\$ (21)	(0.4)%	(7)%

- (1) E*TRADE Clearing and E*TRADE Securities were moved out from under E*TRADE Bank during the nine months ended September 30, 2015.
(2) Due to historically low interest rates for all yield curve points, the minus 200 and 300 basis points scenarios are not produced for the periods ended September 30, 2015 and December 31, 2014.
(3) The percentage change represents the amount of change in EVE divided by the base EVE as calculated in the current interest rate environment.

We actively manage interest rate risk positions. As interest rates change, we will adjust our strategy and mix of assets, liabilities and derivatives to optimize our position. For example, a 100 basis points increase in rates may not result in a change in value as indicated above. We compare the parallel shift in interest rate changes in EVE to the established board limits in order to assess interest rate risk on a monthly basis. In the event that the percentage change in EVE exceeds the board limits, our Chief Executive Officer, Chief Risk Officer, Chief Financial Officer and Treasurer must all be promptly notified in writing and decide upon a plan of remediation. In addition, the Board of Directors must be promptly notified of the exception and the planned resolution.

PART I—FINANCIAL INFORMATION
ITEM 1. CONSOLIDATED FINANCIAL STATEMENTS (UNAUDITED)

E*TRADE FINANCIAL CORPORATION AND SUBSIDIARIES
CONSOLIDATED STATEMENT OF INCOME (LOSS)
(In millions, except share data and per share amounts)
(Unaudited)

	Three Months Ended September 30,		Nine Months Ended September 30,	
	2015	2014	2015	2014
Revenue:				
Operating interest income	\$ 297	\$ 315	\$ 923	\$ 953
Operating interest expense	(34)	(50)	(122)	(158)
Net operating interest income	263	265	801	795
Commissions	108	108	325	341
Fees and service charges	52	49	159	148
Principal transactions	—	—	—	10
Gains (losses) on securities and other	(360)	8	(340)	30
Other revenues	10	10	29	29
Total non-interest income (loss)	(190)	175	173	558
Total net revenue	73	440	974	1,353
Provision (benefit) for loan losses	(25)	10	(17)	26
Operating expense:				
Compensation and benefits	123	108	354	305
Advertising and market development	23	21	89	88
Clearing and servicing	23	21	72	72
FDIC insurance premiums	7	18	36	61
Professional services	24	27	77	79
Occupancy and equipment	21	22	64	59
Communications	24	17	62	53
Depreciation and amortization	21	19	61	60
Amortization of other intangibles	5	5	15	16
Restructuring and other exit activities	2	2	8	6
Other operating expenses	20	17	64	52
Total operating expense	293	277	902	851
Income (loss) before other income (expense) and income tax expense (benefit)	(195)	153	89	476
Other income (expense):				
Corporate interest expense	(14)	(29)	(50)	(86)
Losses on early extinguishment of debt	(39)	—	(112)	(12)
Other	2	1	7	3
Total other income (expense)	(51)	(28)	(155)	(95)
Income (loss) before income tax expense (benefit)	(246)	125	(66)	381
Income tax expense (benefit)	(93)	39	(245)	129
Net income (loss)	\$ (153)	\$ 86	\$ 179	\$ 252
Basic earnings (loss) per share	\$ (0.53)	\$ 0.30	\$ 0.62	\$ 0.87
Diluted earnings (loss) per share	\$ (0.53)	\$ 0.29	\$ 0.61	\$ 0.86
Shares used in computation of per share data:				
Basic (in thousands)	290,480	288,843	290,105	288,536
Diluted (in thousands)	290,480	294,119	294,998	293,968

See accompanying notes to consolidated financial statements

E*TRADE FINANCIAL CORPORATION AND SUBSIDIARIES
CONSOLIDATED STATEMENT OF COMPREHENSIVE INCOME
(In millions)
(Unaudited)

	Three Months Ended September 30,		Nine Months Ended September 30,	
	2015	2014	2015	2014
Net income (loss)	\$ (153)	\$ 86	\$ 179	\$ 252
Other comprehensive income				
Available-for-sale securities:				
Unrealized gains (losses), net ⁽¹⁾	17	(20)	(3)	143
Reclassification into earnings, net ⁽²⁾	(7)	(7)	(18)	(21)
Net change from available-for-sale securities	10	(27)	(21)	122
Cash flow hedging instruments:				
Unrealized gains (losses), net ⁽³⁾	(5)	5	(10)	(27)
Reclassification into earnings, net ⁽⁴⁾	239	18	271	59
Net change from cash flow hedging instruments	234	23	261	32
Other comprehensive income	244	(4)	240	154
Comprehensive income	\$ 91	\$ 82	\$ 419	\$ 406

- (1) Amounts are net of provision of income taxes of \$11 million and benefit from income taxes of \$2 million for the three and nine months ended September 30, 2015, respectively, compared to benefit from income taxes of \$13 million and provision for income taxes of \$86 million for the three and nine months ended September 30, 2014.
- (2) Amounts are net of provision for income taxes of \$4 million and \$11 million for the three and nine months ended September 30, 2015, respectively, compared to provision for income taxes of \$5 million and \$13 million for the three and nine months ended September 30, 2014.
- (3) Amounts are net of benefit from income taxes of \$3 million and \$7 million for the three and nine months ended September 30, 2015, respectively, compared to provision for income taxes of \$2 million and benefit from income taxes of \$21 million for the three and nine months ended September 30, 2014.
- (4) Amounts are net of benefit from income taxes of \$148 million and \$168 million for the three and nine months ended September 30, 2015, respectively, compared to benefit from income taxes of \$12 million and \$38 million for the three and nine months ended September 30, 2014.

See accompanying notes to the consolidated financial statements

E*TRADE FINANCIAL CORPORATION AND SUBSIDIARIES
CONSOLIDATED BALANCE SHEET
(In millions, except share data)
(Unaudited)

	September 30, 2015	December 31, 2014
<u>ASSETS</u>		
Cash and equivalents	\$ 1,453	\$ 1,783
Cash required to be segregated under federal or other regulations	143	555
Available-for-sale securities	10,680	12,388
Held-to-maturity securities (fair value of \$11,883 and \$12,476 at September 30, 2015 and December 31, 2014, respectively)	11,586	12,248
Margin receivables	7,933	7,675
Loans receivable, net (net of allowance for loan losses of \$376 and \$404 at September 30, 2015 and December 31, 2014, respectively)	4,906	5,979
Investment in FHLB stock	15	88
Property and equipment, net	236	245
Goodwill	1,792	1,792
Other intangibles, net	179	194
Other assets	2,282	2,583
Total assets	<u>\$ 41,205</u>	<u>\$ 45,530</u>
<u>LIABILITIES AND SHAREHOLDERS' EQUITY</u>		
Liabilities:		
Deposits	\$ 25,610	\$ 24,890
Securities sold under agreements to repurchase	—	3,672
Customer payables	6,040	6,455
FHLB advances and other borrowings	414	1,299
Corporate debt	1,023	1,366
Other liabilities	2,306	2,473
Total liabilities	<u>35,393</u>	<u>40,155</u>
Commitments and contingencies (see Note 14)		
Shareholders' equity:		
Common stock, \$0.01 par value, shares authorized: 400,000,000 at September 30, 2015 and December 31, 2014; shares issued and outstanding: 290,428,994 and 289,272,576 at September 30, 2015 and December 31, 2014, respectively	3	3
Additional paid-in-capital	7,368	7,350
Accumulated deficit	(1,550)	(1,729)
Accumulated other comprehensive loss	(9)	(249)
Total shareholders' equity	<u>5,812</u>	<u>5,375</u>
Total liabilities and shareholders' equity	<u>\$ 41,205</u>	<u>\$ 45,530</u>

See accompanying notes to the consolidated financial statements

E*TRADE FINANCIAL CORPORATION AND SUBSIDIARIES
CONSOLIDATED STATEMENT OF SHAREHOLDERS' EQUITY
(In millions)
(Unaudited)

	Common Stock		Additional Paid-in Capital	Accumulated Deficit	Accumulated Other Comprehensive Loss	Total Shareholders' Equity
	Shares	Amount				
Balance, December 31, 2014	289	\$ 3	\$ 7,350	\$ (1,729)	\$ (249)	\$ 5,375
Net income	—	—	—	179	—	179
Other comprehensive income	—	—	—	—	240	240
Conversion of convertible debentures	—	—	4	—	—	4
Exercise of stock options and related tax effects	—	—	2	—	—	2
Issuance of restricted stock, net of forfeitures and retirements to pay taxes	1	—	(11)	—	—	(11)
Share-based compensation	—	—	23	—	—	23
Balance at September 30, 2015	<u>290</u>	<u>\$ 3</u>	<u>\$ 7,368</u>	<u>\$ (1,550)</u>	<u>\$ (9)</u>	<u>\$ 5,812</u>

	Common Stock		Additional Paid-in Capital	Accumulated Deficit	Accumulated Other Comprehensive Loss	Total Shareholders' Equity
	Shares	Amount				
Balance, December 31, 2013	287	\$ 3	\$ 7,328	\$ (2,022)	\$ (453)	\$ 4,856
Net income	—	—	—	252	—	252
Other comprehensive income	—	—	—	—	154	154
Conversion of convertible debentures	—	—	1	—	—	1
Exercise of stock options and related tax effects	1	—	6	—	—	6
Issuance of restricted stock, net of forfeitures and retirements to pay taxes	1	—	(13)	—	—	(13)
Share-based compensation	—	—	18	—	—	18
Balance at September 30, 2014	<u>289</u>	<u>\$ 3</u>	<u>\$ 7,340</u>	<u>\$ (1,770)</u>	<u>\$ (299)</u>	<u>\$ 5,274</u>

See accompanying notes to the consolidated financial statements

E*TRADE FINANCIAL CORPORATION AND SUBSIDIARIES
CONSOLIDATED STATEMENT OF CASH FLOWS
(In millions)
(Unaudited)

	Nine Months Ended September 30,	
	2015	2014
Cash flows from operating activities:		
Net income	\$ 179	\$ 252
Adjustments to reconcile net income to net cash provided by operating activities:		
Provision (benefit) for loan losses	(17)	26
Depreciation and amortization (including discount amortization and accretion)	271	245
Losses (gains) on securities and other	340	(30)
Losses on early extinguishment of debt	37	—
Share-based compensation	23	18
Deferred taxes expense (benefit)	(242)	128
Other	(7)	(5)
Net effect of changes in assets and liabilities:		
Decrease in cash required to be segregated under federal or other regulations	412	458
Increase in margin receivables	(258)	(1,764)
Increase (decrease) in customer payables	(415)	216
Decrease (increase) in other assets	365	(84)
Increase (decrease) in other liabilities	(20)	908
Net cash provided by operating activities	<u>668</u>	<u>368</u>
Cash flows from investing activities:		
Purchases of available-for-sale securities	(3,550)	(1,346)
Proceeds from sales, maturities of and principal payments on available-for-sale securities	5,095	2,592
Purchases of held-to-maturity securities	(898)	(2,437)
Proceeds from maturities of and principal payments on held-to-maturity securities	1,483	829
Proceeds from sale of loans	40	802
Net decrease in loans receivable	1,030	973
Capital expenditures for property and equipment	(52)	(62)
Proceeds and cash transferred from sale of G1 Execution Services, Inc.	—	67
Proceeds from sale of real estate owned and repossessed assets	24	27
Net cash flow from derivatives hedging assets	1	(6)
Other	75	(15)
Net cash provided by investing activities	<u>3,248</u>	<u>1,424</u>

E*TRADE FINANCIAL CORPORATION AND SUBSIDIARIES
CONSOLIDATED STATEMENT OF CASH FLOWS—(Continued)
(In millions)
(Unaudited)

	Nine Months Ended September 30,	
	2015	2014
Cash flows from financing activities:		
Net increase (decrease) in deposits	\$ 720	\$ (1,044)
Net decrease in securities sold under agreements to repurchase	(3,672)	(626)
Advances from FHLB	810	560
Payments on advances from FHLB	(1,730)	(560)
Net proceeds from issuance of senior notes	460	—
Payments on senior notes	(800)	—
Repurchase of trust preferred securities	(10)	—
Net cash flow from derivatives hedging liabilities	(16)	(156)
Other	(8)	5
Net cash used in financing activities	(4,246)	(1,821)
Decrease in cash and equivalents	(330)	(29)
Cash and equivalents, beginning of period	1,783	1,838
Cash and equivalents, end of period	\$ 1,453	\$ 1,809
Supplemental disclosures:		
Cash paid for interest	\$ 189	\$ 179
Cash paid (refund received) for income taxes	\$ 4	\$ (2)
Non-cash investing and financing activities:		
Transfers of loans held-for-investment to loans held-for-sale	\$ 39	\$ 795
Transfers from loans to other real estate owned and repossessed assets	\$ 20	\$ 40
Transfers from other real estate owned and repossessed assets to loans	\$ —	\$ 16
Conversion of convertible debentures to common stock	\$ 4	\$ 1

See accompanying notes to the consolidated financial statements

E*TRADE FINANCIAL CORPORATION AND SUBSIDIARIES
NOTES TO CONSOLIDATED FINANCIAL STATEMENTS (UNAUDITED)

NOTE 1—ORGANIZATION, BASIS OF PRESENTATION AND SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES

Organization—E*TRADE Financial Corporation is a financial services company that provides brokerage and related products and services primarily to individual retail investors under the brand "E*TRADE Financial." The Company also provides investor-focused banking products, primarily sweep deposits, to retail investors.

As of December 31, 2014, the Company's two U.S. broker-dealers, E*TRADE Clearing and E*TRADE Securities, were operating subsidiaries of E*TRADE Bank, a wholly-owned operating subsidiary of E*TRADE Financial Corporation. The Company received regulatory approval to move both E*TRADE Clearing and E*TRADE Securities out from under E*TRADE Bank. E*TRADE Securities was moved out from under E*TRADE Bank in February 2015. E*TRADE Clearing was moved out from under E*TRADE Bank in July 2015.

Basis of Presentation—The consolidated financial statements include the accounts of the Company and its majority-owned subsidiaries as determined under the voting interest model. Entities in which the Company has the ability to exercise significant influence but in which the Company does not possess control are generally accounted for by the equity method. Entities in which the Company does not have the ability to exercise significant influence are generally carried at cost. However, investments in marketable equity securities where the Company does not have the ability to exercise significant influence over the entities are accounted for as available-for-sale equity securities. The Company also evaluates its initial and continuing involvement with certain entities to determine if the Company is required to consolidate the entities under the variable interest entity ("VIE") model. This evaluation is based on a qualitative assessment of whether the Company is the primary beneficiary of the VIE, which requires the Company to possess both: 1) the power to direct activities that most significantly impact the economic performance of the VIE; and 2) the obligation to absorb losses or the right to receive benefits of the VIE that could potentially be significant to the VIE.

The Company's consolidated financial statements are prepared in accordance with GAAP. Intercompany accounts and transactions are eliminated in consolidation. Beginning in the first quarter of 2015, the Company reclassified the revenue earned on customer assets held by third parties from operating interest income to fees and service charges and prior periods have been reclassified to conform to the current period presentation. These consolidated financial statements reflect all adjustments, which are all normal and recurring in nature, necessary to present fairly the financial position, results of operations and cash flows for the periods presented.

The Company reports corporate interest expense separately from operating interest expense. The Company believes reporting these items separately provides a clearer picture of the financial performance of the Company's operations than would a presentation that combined these two items. Operating interest expense is generated from the operations of the Company. Corporate debt is the primary source of corporate interest expense.

Similarly, the Company reports corporate gains (losses) on sales of investments separately from gains (losses) on securities and other. The Company believes reporting these two items separately provides a clearer picture of the financial performance of the Company's operations than would a presentation that combined these two items. Gains (losses) on securities and other are the result of activities in the Company's operations, namely its balance sheet management segment. Corporate gains (losses) on sales of investments are reported in other income (expense) on the consolidated statement of income (loss).

The accompanying unaudited consolidated financial statements should be read in conjunction with the Annual Report on Form 10-K for the year ended December 31, 2014.

Use of Estimates—Preparing the Company's consolidated financial statements in accordance with GAAP requires management to make estimates and assumptions that affect the amounts reported in the consolidated financial statements and related notes for the periods presented. Actual results could differ from management's estimates. Certain significant accounting policies are critical because they are based on estimates and assumptions that require complex and subjective judgments by management. Changes in these estimates or assumptions could materially

impact the Company's financial condition and results of operations. Material estimates in which management believes changes could reasonably occur include: allowance for loan losses; valuation of goodwill and other intangible assets; estimates of effective tax rates, deferred taxes and valuation allowance; classification and valuation of certain investments; accounting for derivative instruments; and fair value measurements.

Financial Statement Descriptions and Related Accounting Policies

Margin Receivables—The fair value of securities that the Company received as collateral in connection with margin receivables and securities borrowing activities, where the Company is permitted to sell or re-pledge the securities, was approximately \$10.8 billion at both September 30, 2015 and December 31, 2014. Of this amount, \$3.1 billion and \$2.9 billion had been pledged or sold in connection with securities loans and deposits with clearing organizations at September 30, 2015 and December 31, 2014, respectively.

Allowance for Loan Losses—The allowance for loan losses is management's estimate of probable losses inherent in the loan portfolio as of the balance sheet date. In determining the adequacy of the allowance, the Company performs ongoing evaluations of the loan portfolio and loss forecasting assumptions. As of September 30, 2015, the allowance for loan losses was \$376 million on \$5.3 billion of total loans receivable designated as held-for-investment.

For loans that are not TDRs, the Company established a general allowance and evaluated the adequacy of the allowance for loan losses by loan portfolio segment: one- to four-family, home equity and consumer and other. For modified loans accounted for as TDRs that are valued using the discounted cash flow model, the Company established a specific allowance by forecasting losses, including economic concessions to borrowers, over the estimated remaining life of these loans.

The estimate of the allowance for loan losses continues to be based on a variety of quantitative and qualitative factors, including:

- the composition and quality of the portfolio;
- delinquency levels and trends;
- current and historical charge-off and loss experience;
- the Company's historical loss mitigation experience;
- the condition of the real estate market and geographic concentrations within the loan portfolio;
- the interest rate climate;
- the overall availability of housing credit; and
- general economic conditions.

Total loans receivable designated as held-for-investment decreased \$1.1 billion during the nine months ended September 30, 2015. The allowance for loan losses was \$376 million, or 7% of total loans receivable, as of September 30, 2015 compared to \$404 million, or 6% of total loans receivable, as of December 31, 2014. The decrease in the allowance for loan losses primarily resulted from the following factors:

- better than expected loan performance, including favorable delinquency trends, faster prepayments across the portfolios and lower than expected defaults on balloon loans maturing; and
- the resolution of uncertainties related to servicer transfers, which drove the majority of the decrease in the qualitative component.

During the nine months ended September 30, 2015, the Company also enhanced its modeling practices for forecasting loan losses in the one- to four-family and home equity loan portfolios. The Company implemented a new loss forecasting model during the second quarter of 2015; however, there were no material changes in assumptions and methodologies in the new model and the implementation did not have a material impact on the allowance for loan losses. The implementation process triggered a re-evaluation of the time period of forecasted loan losses included in the general allowance. Based on reviews of recent loan performance, current economic conditions and their impact on borrower behavior, the Company extended the loss emergence period from 12 months to 18 months for both portfolios. The extended emergence period resulted in approximately \$40 million of additional allowance for loan losses as of June 30, 2015. The new loss forecasting model continues to be sensitive to key risk factors within the one- to four-

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family and home equity loan portfolios, which include but are not limited to loan type, delinquency history, LTV/CLTV ratio and borrowers' credit scores and the forecasted loan losses are estimated based on these types of loan-level attributes. The Company utilizes historical mortgage loan performance data to develop the forecast of delinquency and default for these risk segments.

The Company also made the following enhancements to its quantitative allowance methodology for identifying higher risk loans in one- to four-family and home equity loan portfolios that resulted in approximately \$40 million of additional allowance for loan losses as of September 30, 2015:

- During the second quarter of 2015, the Company extended the period of our forecasted loan losses captured within the general allowance to include the total probable loss over the remaining life on a subset of higher risk interest-only loans in the one- to four-family loan portfolio.
- During the third quarter of 2015, the Company further refined the criteria utilized in identifying higher risk home equity lines of credit for which the total probable loss over the remaining life is included within the general allowance.

The general allowance for loan losses also included a qualitative component to account for a variety of factors that present additional uncertainty that may not be fully considered in the quantitative loss model but are factors the Company believes may impact the level of credit losses. The Company utilizes a qualitative factor framework whereby, on a quarterly basis, management assesses the risk associated with three main factors: external factors, internal factors, and portfolio specific factors. The uncertainty related to these factors may expand over time, temporarily increasing the qualitative component in advance of the more precise identification of these probable losses being captured within the quantitative component of the general allowance. The total qualitative component was \$12 million and \$37 million as of September 30, 2015 and December 31, 2014, respectively.

Share-Based Payments—The Company issues restricted stock awards to the Company's Board of Directors and restricted stock units to certain of the Company's officers and employees. Each restricted stock unit can be converted into one share of the Company's common stock upon vesting. These restricted stock awards and units are issued at the fair value on the date of grant and vest ratably over the requisite service period, generally one to four years. Beginning in 2015, the Company also issued performance share units to certain of the Company's officers. Each performance share unit can be converted into one share of the Company's common stock upon vesting. Vesting of performance share units is contingent upon achievement of certain predefined individual and Company performance targets. These performance share units are issued at the fair value on the date of grant and vest on a graded basis over the requisite service period, which is one to two years.

The Company records share-based compensation expense in accordance with the stock compensation accounting guidance. The Company recognizes compensation expense at the grant date fair value of a share-based payment award over the requisite service period less estimated forfeitures. Compensation expense for performance share units is also adjusted based on the Company's estimated outcome of meeting the performance conditions. Share-based compensation expense is included in the compensation and benefits line item.

New Accounting and Disclosure Guidance—Below is the new accounting and disclosure guidance that relates to activities in which the Company is engaged.

Accounting for Investments in Qualified Affordable Housing Projects

In January 2014, the FASB amended the accounting guidance for investments in qualified affordable housing projects. The amended accounting guidance permits reporting entities to make an accounting policy election to account for their investments in qualified affordable housing projects using the proportional amortization method if certain conditions are met. Under the proportional amortization method, the initial cost of the investment is amortized in proportion to the tax credits and other tax benefits received and the net investment performance is recognized in the consolidated statement of income (loss) as a component of income tax expense. The Company adopted the amended accounting guidance for its qualifying investments on a full retrospective basis for annual and interim periods beginning on January 1, 2015. The adoption of the amended guidance did not have a material impact on the Company's financial condition, results of operations or cash flows for the periods presented. As of September 30, 2015, the carrying value of these investments was \$34 million and is included within other assets in the consolidated balance sheet.

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Presentation and Disclosure of Discontinued Operations

In April 2014, the FASB amended the presentation and disclosure guidance on disposal transactions. The amended guidance raises the threshold for a disposal to qualify as a discontinued operation and requires new disclosures of both discontinued operations and certain other disposals that do not meet the definition of a discontinued operation. The amended guidance became effective for all disposals or classifications as held for sale occurring in annual and interim periods beginning on January 1, 2015 for the Company. The adoption of the amended guidance did not have a material impact on the Company's financial condition, results of operations or cash flows.

Revenue Recognition on Contracts with Customers

In May 2014, the FASB amended the guidance on revenue recognition on contracts with customers. The new standard outlines a single comprehensive model for entities to apply in accounting for revenue arising from contracts with customers. The amended guidance will be effective for annual and interim periods beginning on January 1, 2018 for the Company and may be applied on either a full retrospective or modified retrospective basis. Early adoption is permitted. While the Company is currently evaluating the impact of the new accounting guidance, the adoption of the amended guidance is not expected to have a material impact on the Company's financial condition, results of operations or cash flows.

Accounting and Disclosures for Repurchase Agreements

In June 2014, the FASB amended the accounting and disclosure guidance on repurchase agreements. The amended guidance requires entities to account for repurchase-to-maturity transactions as secured borrowings, eliminates accounting guidance on linked repurchase financing transactions, and expands the disclosure requirements related to transfers of financial assets accounted for as sales and as secured borrowings. The amended accounting guidance and the amended disclosure guidance for transfers of financial assets accounted for as sales became effective for annual and interim periods beginning on January 1, 2015 for the Company and was applied using a cumulative-effect approach as of that date. The adoption of this amended guidance did not have a material impact on the Company's financial condition, results of operations or cash flows. The amended disclosure guidance for transfers of financial assets accounted for as secured borrowings became effective for annual periods beginning on January 1, 2015 and interim periods beginning on April 1, 2015 for the Company. The Company's disclosures in Note 4—Offsetting Assets and Liabilities reflect the adoption of this amended disclosure guidance.

Classification of Government-Guaranteed Mortgage Loans upon Foreclosure

In August 2014, the FASB amended the accounting and disclosure guidance related to the classification of certain government-guaranteed mortgage loans upon foreclosure. The amended guidance requires entities to derecognize a mortgage loan and recognize a separate other receivable upon foreclosure if certain conditions are met. The separate other receivable is recorded based on the amount of principal and interest expected to be recovered under the guarantee. The amended guidance became effective for annual and interim periods beginning on January 1, 2015 for the Company and was applied on a modified retrospective basis to qualifying loans at that date. The adoption of the amended guidance did not have a material impact on the Company's financial condition, results of operations or cash flows.

Disclosures of Uncertainties about an Entity's Ability to Continue as a Going Concern

In August 2014, the FASB amended the guidance related to an entity's evaluations and disclosures of going concern uncertainties. The new guidance requires management to perform interim and annual assessments of the entity's ability to continue as a going concern within one year of the date the financial statements are issued, and to provide certain disclosures if conditions or events raise substantial doubt about the entity's ability to continue as a going concern. The amended guidance will be effective for the Company for annual periods beginning on January 1, 2016 and for interim periods beginning on January 1, 2017. Early adoption is permitted. The adoption of the amended guidance will not impact the Company's financial condition, results of operations or cash flows.

Consolidation

In February 2015, the FASB amended the guidance on consolidation of certain legal entities. The amended guidance modifies the evaluation of whether limited partnerships and similar legal entities are VIEs or voting interest

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entities, eliminates the presumption that a general partner should consolidate a limited partnership, and clarifies how to determine whether a group of equity holders has power over an entity. The amended guidance will be effective for annual and interim periods beginning on January 1, 2016 for the Company and may be applied on either a full retrospective or modified retrospective basis. While the Company is currently evaluating the impact of the new accounting guidance, the adoption of the amended guidance is not expected to have a material impact on the Company's financial condition, results of operations or cash flows.

Presentation of Debt Issuance Costs

In April 2015, the FASB amended the presentation guidance on debt issuance costs. The amended presentation guidance requires that debt issuance costs be presented in an entity's balance sheet as a direct deduction from the related debt liability rather than as an asset. In August 2015, the FASB issued additional guidance clarifying that debt issuance costs related to line-of-credit arrangements may be presented as an asset in an entity's balance sheet, regardless of whether there are any outstanding borrowings on the arrangement. As this guidance is consistent with the Company's historical presentation of debt issuance costs, the Company's adoption of the amended guidance as of January 1, 2015 did not impact the Company's financial condition, results of operations or cash flows.

Accounting for Customer Fees Paid in a Cloud Computing Arrangement

In April 2015, the FASB amended the accounting guidance on customer fees paid in a cloud computing arrangement. The amended guidance requires that internal-use software accessed by a customer in a cloud computing arrangement be accounted for as a software license if specific criteria are met; otherwise they should be accounted for as service contracts. The amended guidance will be effective for annual and interim periods beginning on January 1, 2016 for the Company and may be applied on either a full retrospective or prospective basis. While the Company is currently evaluating the impact of the new accounting guidance, the adoption of the amended guidance is not expected to have a material impact on the Company's financial condition, results of operations or cash flows.

NOTE 2—OPERATING INTEREST INCOME AND OPERATING INTEREST EXPENSE

The following table shows the components of operating interest income and operating interest expense (dollars in millions):

	Three Months Ended September 30,		Nine Months Ended September 30,	
	2015	2014	2015	2014
Operating interest income:				
Loans	\$ 58	\$ 70	\$ 177	\$ 231
Available-for-sale securities	56	69	188	220
Held-to-maturity securities	85	81	259	240
Margin receivables	70	67	208	194
Securities borrowed and other	28	28	91	68
Total operating interest income	297	315	923	953
Operating interest expense:				
Securities sold under agreements to repurchase ⁽¹⁾	(18)	(30)	(69)	(95)
FHLB advances and other borrowings ⁽¹⁾	(12)	(16)	(43)	(50)
Deposits	(1)	(2)	(4)	(6)
Customer payables and other	(3)	(2)	(6)	(7)
Total operating interest expense	(34)	(50)	(122)	(158)
Net operating interest income	\$ 263	\$ 265	\$ 801	\$ 795

(1) The Company terminated \$4.4 billion of repurchase agreements and FHLB advances at E*TRADE Bank in September 2015. See Note 8—Securities Sold Under Agreements to Repurchase, FHLB Advances and Other Borrowings for additional information.

NOTE 3—FAIR VALUE DISCLOSURES

Fair value is defined as the price that would be received to sell an asset or paid to transfer a liability in an orderly transaction between market participants at the measurement date. In determining fair value, the Company may use various valuation approaches, including market, income and/or cost approaches. The fair value hierarchy requires the Company to maximize the use of observable inputs and minimize the use of unobservable inputs when measuring fair value. Fair value is a market-based measure considered from the perspective of a market participant. Accordingly, even when market assumptions are not readily available, the Company's own assumptions reflect those that market participants would use in pricing the asset or liability at the measurement date. The fair value measurement accounting guidance describes the following three levels used to classify fair value measurements:

- Level 1—Unadjusted quoted prices in active markets for identical assets or liabilities that are accessible by the Company.
- Level 2—Quoted prices in markets that are not active or for which all significant inputs are observable, either directly or indirectly.
- Level 3—Unobservable inputs that are significant to the fair value of the assets or liabilities.

The availability of observable inputs can vary and in certain cases, the inputs used to measure fair value may fall into different levels of the fair value hierarchy. In such cases, the level within the fair value hierarchy is based on the lowest level of input that is significant to the fair value measurement. The Company's assessment of the significance of a particular input to a fair value measurement requires judgment and consideration of factors specific to the asset or liability.

Recurring Fair Value Measurement Techniques

Residential Mortgage-backed Securities

The Company's residential mortgage-backed securities portfolio primarily comprised agency mortgage-backed securities and CMOs. Agency mortgage-backed securities and CMOs are guaranteed by U.S. government sponsored enterprises and federal agencies. The weighted average coupon rates for the available-for-sale residential mortgage-backed securities at September 30, 2015 are shown in the following table:

	Weighted Average Coupon Rate
Agency mortgage-backed securities	2.94%
Agency CMOs	2.80%

The fair value of agency mortgage-backed securities was determined using a market approach with quoted market prices, recent market transactions and spread data for similar instruments. The fair value of agency CMOs was determined using market and income approaches with the Company's own trading activities for identical or similar instruments. Agency mortgage-backed securities and CMOs were categorized in Level 2 of the fair value hierarchy.

Other Debt Securities

The fair value measurements of agency debentures were classified as Level 2 of the fair value hierarchy as they were based on quoted market prices observable in the marketplace.

The fair value measurements of agency debt securities were determined using market and income approaches along with the Company's own trading activities for identical or similar instruments and were categorized in Level 2 of the fair value hierarchy.

The Company's municipal bonds are revenue bonds issued by state and other local government agencies. The valuation of corporate bonds is impacted by the credit worthiness of the corporate issuer. All of the Company's municipal bonds and corporate bonds were rated investment grade at September 30, 2015. These securities were valued using a market approach with pricing service valuations corroborated by recent market transactions for identical or similar bonds. Municipal bonds and corporate bonds were categorized in Level 2 of the fair value hierarchy.

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Publicly Traded Equity Securities

The fair value measurements of the Company's publicly traded equity securities were classified as Level 1 of the fair value hierarchy as they were based on quoted market prices in active markets.

Derivative Instruments

Interest rate swap and option contracts were valued with an income approach using pricing models that are commonly used by the financial services industry. The market observable inputs used in the pricing models include the swap curve, the volatility surface, and prime or overnight indexed swap basis from a financial data provider. The Company does not consider these models to involve significant judgment on the part of management, and the Company corroborated the fair value measurements with counterparty valuations. The Company's derivative instruments were categorized in Level 2 of the fair value hierarchy. The consideration of credit risk, the Company's or the counterparty's, did not result in an adjustment to the valuation of its derivative instruments in the periods presented.

Nonrecurring Fair Value Measurement Techniques

Certain other assets are recorded at fair value on a nonrecurring basis: 1) one- to four-family and home equity loans in which the amount of the loan balance in excess of the estimated current value of the underlying property less estimated selling costs has been charged-off; and 2) real estate owned that is carried at the lower of the property's carrying value or fair value less estimated selling costs.

The Company evaluates and reviews assets that have been subject to fair value measurement requirements on a quarterly basis in accordance with policies and procedures that were designed to be in compliance with guidance from the Company's regulators. These policies and procedures govern the frequency of the review, the use of acceptable valuation methods, and the consideration of estimated selling costs.

Loans Receivable

Loans that have been delinquent for 180 days or that are in bankruptcy and certain TDR loan modifications are charged-off based on the estimated current value of the underlying property less estimated selling costs. Property valuations for these one- to four-family and home equity loans are based on the most recent "as is" property valuation data available, which may include appraisals, broker price opinions, automated valuation models or updated values using home price indices. Subsequent to the recording of an initial fair value measurement, these loans continue to be measured at fair value on a nonrecurring basis, utilizing the estimated value of the underlying property less estimated selling costs. These property valuations are updated on a monthly, quarterly or semi-annual basis depending on the type of valuation initially used. If the value of the underlying property has declined, an additional charge-off is recorded. If the value of the underlying property has increased, previously charged-off amounts are not reversed. If the valuation data obtained is significantly different from the valuation previously received, the Company reviews additional property valuation data to corroborate or update the valuation.

Real Estate Owned

Property valuations for real estate owned are based on the lowest value of the most recent property valuation data available, which may include appraisals, listing prices or approved offer prices.

Nonrecurring fair value measurements on one- to four-family and home equity loans and real estate owned were classified as Level 3 of the fair value hierarchy as the valuations included unobservable inputs that were significant to the fair value. The following table presents additional information about significant unobservable inputs used in the valuation of assets measured at fair value on a nonrecurring basis that were categorized in Level 3 of the fair value hierarchy at September 30, 2015:

	Unobservable Inputs	Average	Range
Loans receivable:			
One- to four-family	Appraised value	\$ 378,500	\$15,000-\$1,750,000
Home equity	Appraised value	\$ 272,300	\$9,000-\$1,300,000
Real estate owned	Appraised value	\$ 336,900	\$23,500-\$1,400,000

Recurring and Nonrecurring Fair Value Measurements

Assets and liabilities measured at fair value at September 30, 2015 and December 31, 2014 are summarized in the following tables (dollars in millions):

	Level 1	Level 2	Level 3	Total Fair Value
September 30, 2015:				
Recurring fair value measurements:				
Assets				
Available-for-sale securities:				
Debt securities:				
Agency residential mortgage-backed securities and CMOs	\$ —	\$ 10,039	\$ —	\$ 10,039
Agency debentures	—	569	—	569
Municipal bonds	—	36	—	36
Corporate bonds	—	4	—	4
Total debt securities	—	10,648	—	10,648
Publicly traded equity securities	32	—	—	32
Total available-for-sale securities	32	10,648	—	10,680
Other assets:				
Derivative assets ⁽¹⁾	—	1	—	1
Total assets measured at fair value on a recurring basis ⁽²⁾	\$ 32	\$ 10,649	\$ —	\$ 10,681
Liabilities				
Derivative liabilities ⁽¹⁾	\$ —	\$ 89	\$ —	\$ 89
Total liabilities measured at fair value on a recurring basis ⁽²⁾	\$ —	\$ 89	\$ —	\$ 89
Nonrecurring fair value measurements:				
Loans receivable:				
One- to four-family	\$ —	\$ —	\$ 33	\$ 33
Home equity	—	—	19	19
Total loans receivable	—	—	52	52
Real estate owned	—	—	24	24
Total assets measured at fair value on a nonrecurring basis ⁽³⁾	\$ —	\$ —	\$ 76	\$ 76

(1) All derivative assets and liabilities were interest rate contracts at September 30, 2015. Information related to derivative instruments is detailed in Note 7—Accounting for Derivative Instruments and Hedging Activities.

(2) Assets and liabilities measured at fair value on a recurring basis represented 26% and less than 1% of the Company's total assets and total liabilities, respectively, at September 30, 2015.

(3) Represents the fair value of assets prior to deducting estimated selling costs that were carried on the consolidated balance sheet at September 30, 2015, and for which a fair value measurement was recorded during the period.

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	Level 1	Level 2	Level 3	Total Fair Value
December 31, 2014:				
Recurring fair value measurements:				
Assets				
Available-for-sale securities:				
Debt securities:				
Agency residential mortgage-backed securities and CMOs	\$ —	\$ 11,164	\$ —	\$ 11,164
Agency debentures	—	648	—	648
Agency debt securities	—	499	—	499
Municipal bonds	—	40	—	40
Corporate bonds	—	4	—	4
Total debt securities	—	12,355	—	12,355
Publicly traded equity securities	33	—	—	33
Total available-for-sale securities	33	12,355	—	12,388
Other assets:				
Derivative assets ⁽¹⁾	—	24	—	24
Total assets measured at fair value on a recurring basis ⁽²⁾	\$ 33	\$ 12,379	\$ —	\$ 12,412
Liabilities				
Derivative liabilities ⁽¹⁾	\$ —	\$ 66	\$ —	\$ 66
Total liabilities measured at fair value on a recurring basis ⁽²⁾	\$ —	\$ 66	\$ —	\$ 66
Nonrecurring fair value measurements:				
Loans receivable:				
One- to four-family	\$ —	\$ —	\$ 46	\$ 46
Home equity	—	—	32	32
Total loans receivable	—	—	78	78
Real estate owned	—	—	38	38
Total assets measured at fair value on a nonrecurring basis ⁽³⁾	\$ —	\$ —	\$ 116	\$ 116

(1) All derivative assets and liabilities were interest rate contracts at December 31, 2014. Information related to derivative instruments is detailed in Note 7—Accounting for Derivative Instruments and Hedging Activities.

(2) Assets and liabilities measured at fair value on a recurring basis represented 27% and less than 1% of the Company's total assets and total liabilities, respectively, at December 31, 2014.

(3) Represents the fair value of assets prior to deducting estimated selling costs that were carried on the consolidated balance sheet at December 31, 2014, and for which a fair value measurement was recorded during the period.

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The following table presents the gains and losses associated with the assets measured at fair value on a nonrecurring basis during the three and nine months ended September 30, 2015 and 2014 (dollars in millions):

	Three Months Ended September 30,		Nine Months Ended September 30,	
	2015	2014	2015	2014
One- to four-family	\$ 1	\$ 2	\$ 6	\$ 9
Home equity	4	5	12	25
Total losses on loans receivable measured at fair value	\$ 5	\$ 7	\$ 18	\$ 34
Losses (gains) on real estate owned measured at fair value	\$ —	\$ —	\$ 1	\$ (1)

Transfers Between Levels 1 and 2

For assets and liabilities measured at fair value on a recurring basis, the Company's transfers between levels of the fair value hierarchy are deemed to have occurred at the beginning of the reporting period on a quarterly basis. The Company had no transfers between Level 1 and 2 during the nine months ended September 30, 2015 and 2014.

Recurring Fair Value Measurements Categorized within Level 3

At both September 30, 2015 and December 31, 2014, no assets or liabilities measured at fair value on a recurring basis were categorized within Level 3 of the fair value hierarchy.

Fair Value of Financial Instruments Not Carried at Fair Value

The following table summarizes the carrying values, fair values and fair value hierarchy level classification of financial instruments that are not carried at fair value on the consolidated balance sheet at September 30, 2015 and December 31, 2014 (dollars in millions):

	September 30, 2015				
	Carrying Value	Level 1	Level 2	Level 3	Total Fair Value
Assets					
Cash and equivalents	\$ 1,453	\$ 1,453	\$ —	\$ —	\$ 1,453
Cash required to be segregated under federal or other regulations	\$ 143	\$ 143	\$ —	\$ —	\$ 143
Held-to-maturity securities:					
Agency mortgage-backed securities and CMOs	\$ 9,109	\$ —	\$ 9,342	\$ —	\$ 9,342
Agency debentures	37	—	38	—	38
Agency debt securities	2,430	—	2,493	—	2,493
Other non-agency debt securities	10	—	—	10	10
Total held-to-maturity securities	<u>\$ 11,586</u>	<u>\$ —</u>	<u>\$ 11,873</u>	<u>\$ 10</u>	<u>\$ 11,883</u>
Margin receivables	\$ 7,933	\$ —	\$ 7,933	\$ —	\$ 7,933
Loans receivable, net:					
One- to four-family	\$ 2,599	\$ —	\$ —	\$ 2,591	\$ 2,591
Home equity	1,944	—	—	1,780	1,780
Consumer and other	363	—	—	372	372
Total loans receivable, net ⁽¹⁾	<u>\$ 4,906</u>	<u>\$ —</u>	<u>\$ —</u>	<u>\$ 4,743</u>	<u>\$ 4,743</u>
Investment in FHLB stock	\$ 15	\$ —	\$ —	\$ 15	\$ 15
Deposits paid for securities borrowed	\$ 95	\$ —	\$ 95	\$ —	\$ 95
Liabilities					
Deposits	\$ 25,610	\$ —	\$ 25,610	\$ —	\$ 25,610
Customer payables	\$ 6,040	\$ —	\$ 6,040	\$ —	\$ 6,040
Other borrowings	\$ 414	\$ —	\$ —	\$ 252	\$ 252
Corporate debt	\$ 1,023	\$ —	\$ 1,125	\$ —	\$ 1,125
Deposits received for securities loaned	\$ 1,685	\$ —	\$ 1,685	\$ —	\$ 1,685

(1) The carrying value of loans receivable, net includes the allowance for loan losses of \$376 million and loans that are valued at fair value on a nonrecurring basis at September 30, 2015.

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	December 31, 2014				
	Carrying Value	Level 1	Level 2	Level 3	Total Fair Value
Assets					
Cash and equivalents	\$ 1,783	\$ 1,783	\$ —	\$ —	\$ 1,783
Cash required to be segregated under federal or other regulations	\$ 555	\$ 555	\$ —	\$ —	\$ 555
Held-to-maturity securities:					
Agency mortgage-backed securities and CMOs	\$ 9,793	\$ —	\$ 9,971	\$ —	\$ 9,971
Agency debentures	164	—	166	—	166
Agency debt securities	2,281	—	2,329	—	2,329
Other non-agency debt securities	10	—	—	10	10
Total held-to-maturity securities	<u>\$ 12,248</u>	<u>\$ —</u>	<u>\$ 12,466</u>	<u>\$ 10</u>	<u>\$ 12,476</u>
Margin receivables	\$ 7,675	\$ —	\$ 7,675	\$ —	\$ 7,675
Loans receivable, net:					
One- to four-family	\$ 3,053	\$ —	\$ —	\$ 2,742	\$ 2,742
Home equity	2,475	—	—	2,274	2,274
Consumer and other	451	—	—	449	449
Total loans receivable, net ⁽¹⁾	<u>\$ 5,979</u>	<u>\$ —</u>	<u>\$ —</u>	<u>\$ 5,465</u>	<u>\$ 5,465</u>
Investment in FHLB stock	\$ 88	\$ —	\$ —	\$ 88	\$ 88
Deposits paid for securities borrowed	\$ 474	\$ —	\$ 474	\$ —	\$ 474
Liabilities					
Deposits	\$ 24,890	\$ —	\$ 24,890	\$ —	\$ 24,890
Securities sold under agreements to repurchase	\$ 3,672	\$ —	\$ 3,681	\$ —	\$ 3,681
Customer payables	\$ 6,455	\$ —	\$ 6,455	\$ —	\$ 6,455
FHLB advances and other borrowings	\$ 1,299	\$ —	\$ 922	\$ 252	\$ 1,174
Corporate debt	\$ 1,366	\$ —	\$ 1,491	\$ —	\$ 1,491
Deposits received for securities loaned	\$ 1,649	\$ —	\$ 1,649	\$ —	\$ 1,649

(1) The carrying value of loans receivable, net includes the allowance for loan losses of \$404 million and loans that are valued at fair value on a nonrecurring basis at December 31, 2014.

The fair value measurement techniques for financial instruments not carried at fair value on the consolidated balance sheet at September 30, 2015 and December 31, 2014 are summarized as follows:

Cash and equivalents, cash required to be segregated under federal or other regulations, margin receivables, deposits paid for securities borrowed, customer payables and deposits received for securities loaned—Fair value is estimated to be carrying value.

Held-to-maturity securities—The held-to-maturity securities portfolio included agency mortgage-backed securities and CMOs, agency debentures, agency debt securities, and other non-agency debt securities. The fair value of agency mortgage-backed securities is determined using market and income approaches with quoted market prices, recent market transactions and spread data for similar instruments. The fair value of agency CMOs and agency debt securities is determined using market and income approaches with the Company's own trading activities for identical or similar instruments. The fair value of agency debentures is based on quoted market prices that were derived from assumptions observable in the marketplace. Fair value of other non-agency debt securities is estimated to be carrying value.

Loans receivable, net—Fair value is estimated using a discounted cash flow model. Loans are differentiated based on their individual portfolio characteristics, such as product classification, loan category, pricing features and remaining maturity. Assumptions for expected losses, prepayments and discount rates are adjusted to reflect the

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individual characteristics of the loans, such as credit risk, coupon, term, and payment characteristics, as well as the secondary market conditions for these types of loans.

Although the market for one- to four-family and home equity loan portfolios has improved, given the lack of observability of valuation inputs, these fair value measurements cannot be determined with precision and changes in the underlying assumptions used, including discount rates, could significantly affect the results of current or future fair value estimates. In addition, the amount that would be realized in a forced liquidation, an actual sale or immediate settlement could be significantly lower than both the carrying value and the estimated fair value of the portfolio.

Investment in FHLB stock—FHLB stock is carried at cost, which is considered to be a reasonable estimate of fair value.

Deposits—Fair value is the amount payable on demand at the reporting date for sweep deposits, complete savings deposits, other money market and savings deposits and checking deposits. For certificates of deposit, fair value is estimated by discounting future cash flows using discount factors derived from current observable rates implied for other similar instruments with similar remaining maturities.

Securities sold under agreements to repurchase and FHLB advances—Fair value for securities sold under agreements to repurchases and FHLB advances was determined by discounting future cash flows using discount factors derived from current observable rates implied for other similar instruments with similar remaining maturities at December 31, 2014. The Company terminated its repurchase agreements and FHLB advances during the third quarter of 2015. See Note 8—Securities Sold Under Agreements to Repurchase, FHLB Advances and Other Borrowings for additional information.

Other borrowings—For subordinated debentures, fair value is estimated by discounting future cash flows at the rate implied by dealer pricing quotes.

Corporate debt—For interest-bearing corporate debt, fair value is estimated using dealer pricing quotes. The fair value of the non-interest-bearing convertible debentures is directly correlated to the intrinsic value of the Company's underlying stock; therefore, as the price of the Company's stock increases relative to the conversion price, the fair value of the convertible debentures increases.

NOTE 4—OFFSETTING ASSETS AND LIABILITIES

For financial statement purposes, the Company does not offset derivative instruments, repurchase agreements, or securities borrowing and securities lending transactions. These activities are generally transacted under master agreements that are widely used by counterparties and that may allow for net settlements of payments in the normal course, as well as offsetting of all contracts with a given counterparty in the event of bankruptcy or default of one of the two parties to the transaction. The following table presents information about these transactions to enable the users of the Company's financial statements to evaluate the potential effect of rights of setoff between these recognized assets and recognized liabilities at September 30, 2015 and December 31, 2014 (dollars in millions):

	Gross Amounts of Recognized Assets and Liabilities		Gross Amounts Offset in the Consolidated Balance Sheet		Net Amounts Presented in the Consolidated Balance Sheet		Gross Amounts Not Offset in the Consolidated Balance Sheet		Net Amount			
							Financial Instruments	Collateral Received or Pledged (Including Cash)				
September 30, 2015												
Assets:												
Deposits paid for securities borrowed ⁽¹⁾⁽⁵⁾	\$	95	\$	—	\$	95	\$	(87)	\$	—	\$	8
Total	\$	95	\$	—	\$	95	\$	(87)	\$	—	\$	8
Liabilities:												
Deposits received for securities loaned ⁽²⁾⁽⁶⁾		1,685		—		1,685		(87)		(1,506)		92
Derivative liabilities ⁽²⁾⁽³⁾		20		—		20		—		(17)		3
Total	\$	1,705	\$	—	\$	1,705	\$	(87)	\$	(1,523)	\$	95

December 31, 2014

Assets:												
Deposits paid for securities borrowed ⁽¹⁾⁽⁵⁾	\$	474	\$	—	\$	474	\$	(188)	\$	(267)	\$	19
Derivative assets ⁽¹⁾⁽³⁾		24		—		24		(15)		(3)		6
Total	\$	498	\$	—	\$	498	\$	(203)	\$	(270)	\$	25
Liabilities:												
Repurchase agreements ⁽⁴⁾	\$	3,672	\$	—	\$	3,672	\$	—	\$	(3,671)	\$	1
Deposits received for securities loaned ⁽²⁾⁽⁶⁾		1,649		—		1,649		(188)		(1,332)		129
Derivative liabilities ⁽²⁾⁽³⁾		30		—		30		(15)		(15)		—
Total	\$	5,351	\$	—	\$	5,351	\$	(203)	\$	(5,018)	\$	130

(1) Net amounts presented in the consolidated balance sheet are reflected in the other assets line item.

(2) Net amounts presented in the consolidated balance sheet are reflected in the other liabilities line item.

(3) Excludes net accrued interest payable of \$3 million and \$7 million at September 30, 2015 and December 31, 2014, respectively.

(4) The Company pledges available-for-sale and held-to-maturity securities as collateral for amounts due on repurchase agreements and derivative liabilities. The collateral pledged included held-to-maturity securities at amortized cost for September 30, 2015 and available-for-sale securities at fair value and held-to-maturity securities at amortized cost for December 31, 2014. The Company terminated all of its repurchase agreements during the third quarter of 2015.

(5) Included in the gross amounts of deposits paid for securities borrowed was \$50 million and \$278 million at September 30, 2015 and December 31, 2014, respectively, transacted through a program with a clearing organization, which guarantees the return of cash to the Company. For presentation purposes, these amounts presented are based on the counterparties under the Company's master securities loan agreements.

(6) Included in the gross amounts of deposits received for securities loaned was \$929 million and \$1.1 billion at September 30, 2015 and December 31, 2014, respectively, transacted through a program with a clearing organization, which guarantees the return of securities to the Company. For presentation purposes, these amounts presented are based on the counterparties under the Company's master securities loan agreements.

Certain types of derivatives that the Company trades are subject to derivatives clearing agreements ("cleared derivatives contracts") under the Dodd-Frank Act. These cleared derivatives contracts enable clearing by a derivatives clearing organization through a clearing member. Under the contracts, the clearing member typically has a one-way right to offset all contracts in the event of the Company's default or bankruptcy. As such, the cleared derivatives contracts are not bilateral master netting agreements and do not allow for offsetting. At September 30, 2015 and

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December 31, 2014, the Company had \$1 million and \$0, respectively, in derivative assets of cleared derivatives contracts and \$69 million and \$36 million, respectively, in derivative liabilities of cleared derivatives contracts.

Securities Lending Transactions

The Company lends customer equity securities to other broker-dealers in connection with its securities lending activities and receives cash as collateral for the securities loaned. The Company records deposits received for securities loaned in other liabilities on the consolidated balance sheet. At September 30, 2015, the Company recorded a gross obligation of \$1.7 billion as deposits received for securities loaned on its consolidated balance sheet. Securities lending transactions have overnight or continuous remaining contractual maturities.

Securities lending transactions expose the Company to counterparty credit risk and market risk associated with the securities loaned under these transactions. To manage the counterparty risk, the Company maintains internal standards for approving counterparties, reviews and analyzes the credit rating of each counterparty, and monitors its positions with each counterparty on an ongoing basis. In addition, for certain of the Company's securities lending transactions, the Company uses a program with a clearing organization that guarantees the return of securities to the Company. The Company manages its exposure to market risk associated with the securities loaned under these transactions by using collateral arrangements that require additional collateral to be obtained from or excess collateral to be returned to the counterparties based on changes in market value, to maintain specified collateral levels.

NOTE 5—AVAILABLE-FOR-SALE AND HELD-TO-MATURITY SECURITIES

The amortized cost and fair value of available-for-sale and held-to-maturity securities at September 30, 2015 and December 31, 2014 are shown in the following tables (dollars in millions):

	Amortized Cost	Gross Unrealized / Unrecognized Gains	Gross Unrealized / Unrecognized Losses	Fair Value
September 30, 2015:				
Available-for-sale securities:				
Debt securities:				
Agency residential mortgage-backed securities and CMOs	\$ 9,996	\$ 101	\$ (58)	\$ 10,039
Agency debentures	551	24	(6)	569
Municipal bonds	35	1	—	36
Corporate bonds	5	—	(1)	4
Total debt securities	<u>10,587</u>	<u>126</u>	<u>(65)</u>	<u>10,648</u>
Publicly traded equity securities ⁽¹⁾	32	—	—	32
Total available-for-sale securities	<u>\$ 10,619</u>	<u>\$ 126</u>	<u>\$ (65)</u>	<u>\$ 10,680</u>
Held-to-maturity securities:				
Agency residential mortgage-backed securities and CMOs	\$ 9,109	\$ 255	\$ (22)	\$ 9,342
Agency debentures	37	1	—	38
Agency debt securities	2,430	64	(1)	2,493
Other non-agency debt securities	10	—	—	10
Total held-to-maturity securities	<u>\$ 11,586</u>	<u>\$ 320</u>	<u>\$ (23)</u>	<u>\$ 11,883</u>
December 31, 2014:				
Available-for-sale securities:				
Debt securities:				
Agency residential mortgage-backed securities and CMOs	\$ 11,156	\$ 113	\$ (105)	\$ 11,164
Agency debentures	620	28	—	648
Agency debt securities	487	12	—	499
Municipal bonds	40	1	(1)	40
Corporate bonds	5	—	(1)	4
Total debt securities	<u>12,308</u>	<u>154</u>	<u>(107)</u>	<u>12,355</u>
Publicly traded equity securities ⁽¹⁾	33	—	—	33
Total available-for-sale securities	<u>\$ 12,341</u>	<u>\$ 154</u>	<u>\$ (107)</u>	<u>\$ 12,388</u>
Held-to-maturity securities:				
Agency residential mortgage-backed securities and CMOs	\$ 9,793	\$ 217	\$ (39)	\$ 9,971
Agency debentures	164	2	—	166
Agency debt securities	2,281	54	(6)	2,329
Other non-agency debt securities	10	—	—	10
Total held-to-maturity securities	<u>\$ 12,248</u>	<u>\$ 273</u>	<u>\$ (45)</u>	<u>\$ 12,476</u>

(1) Publicly traded equity securities consisted of investments in a mutual fund related to the Community Reinvestment Act.

Contractual Maturities

The contractual maturities of all available-for-sale and held-to-maturity debt securities at September 30, 2015 are shown below (dollars in millions):

	Amortized Cost	Fair Value
Available-for-sale debt securities:		
Due within one year	\$ —	\$ —
Due within one to five years	20	20
Due within five to ten years	1,827	1,826
Due after ten years	8,740	8,802
Total available-for-sale debt securities	<u>\$ 10,587</u>	<u>\$ 10,648</u>
Held-to-maturity debt securities:		
Due within one year	\$ 25	\$ 25
Due within one to five years	1,127	1,178
Due within five to ten years	2,766	2,857
Due after ten years	7,668	7,823
Total held-to-maturity debt securities	<u>\$ 11,586</u>	<u>\$ 11,883</u>

At September 30, 2015, the Company pledged \$16 million of available-for-sale debt securities and \$0.7 billion of held-to-maturity debt securities as collateral for derivatives and other purposes. At December 31, 2014, the Company pledged \$1.6 billion of available-for-sale debt securities and \$3.1 billion of held-to-maturity debt securities as collateral for repurchase agreements, derivatives and other purposes. The decrease in the amount of pledged debt securities was a result of the termination of the wholesale funding obligations during the third quarter of 2015.

Investments with Unrealized or Unrecognized Losses

The following tables show the fair value and unrealized or unrecognized losses on available-for-sale and held-to-maturity securities, aggregated by investment category, and the length of time that individual securities have been in a continuous unrealized or unrecognized loss position at September 30, 2015 and December 31, 2014 (dollars in millions):

	Less than 12 Months		12 Months or More		Total	
	Fair Value	Unrealized / Unrecognized Losses	Fair Value	Unrealized / Unrecognized Losses	Fair Value	Unrealized / Unrecognized Losses
September 30, 2015:						
Available-for-sale securities:						
Debt securities:						
Agency residential mortgage-backed securities and CMOs	\$ 1,758	\$ (13)	\$ 2,583	\$ (45)	\$ 4,341	\$ (58)
Agency debentures	273	(6)	9	—	282	(6)
Municipal bonds	—	—	15	—	15	—
Corporate bonds	—	—	5	(1)	5	(1)
Total temporarily impaired available-for-sale securities	<u>\$ 2,031</u>	<u>\$ (19)</u>	<u>\$ 2,612</u>	<u>\$ (46)</u>	<u>\$ 4,643</u>	<u>\$ (65)</u>
Held-to-maturity securities:						
Agency residential mortgage-backed securities and CMOs	\$ 202	\$ (1)	\$ 1,591	\$ (21)	\$ 1,793	\$ (22)
Agency debt securities	126	—	137	(1)	263	(1)
Total temporarily impaired held-to-maturity securities	<u>\$ 328</u>	<u>\$ (1)</u>	<u>\$ 1,728</u>	<u>\$ (22)</u>	<u>\$ 2,056</u>	<u>\$ (23)</u>
December 31, 2014:						
Available-for-sale securities:						
Debt securities:						
Agency residential mortgage-backed securities and CMOs	\$ 403	\$ (1)	\$ 4,674	\$ (104)	\$ 5,077	\$ (105)
Agency debentures	—	—	9	—	9	—
Municipal bonds	3	—	16	(1)	19	(1)
Corporate bonds	—	—	5	(1)	5	(1)
Total temporarily impaired available-for-sale securities	<u>\$ 406</u>	<u>\$ (1)</u>	<u>\$ 4,704</u>	<u>\$ (106)</u>	<u>\$ 5,110</u>	<u>\$ (107)</u>
Held-to-maturity securities:						
Agency residential mortgage-backed securities and CMOs	\$ 45	\$ —	\$ 2,289	\$ (39)	\$ 2,334	\$ (39)
Agency debt securities	110	(1)	560	(5)	670	(6)
Total temporarily impaired held-to-maturity securities	<u>\$ 155</u>	<u>\$ (1)</u>	<u>\$ 2,849</u>	<u>\$ (44)</u>	<u>\$ 3,004</u>	<u>\$ (45)</u>

The Company does not believe that any individual unrealized loss in the available-for-sale or unrecognized loss in the held-to-maturity portfolio as of September 30, 2015 represents a credit loss. The credit loss component is the difference between the security's amortized cost basis and the present value of its expected future cash flows, and is recognized in earnings. The noncredit loss component is the difference between the present value of its expected future cash flows and the fair value and is recognized through other comprehensive income ("OCI"). The Company assessed whether it intends to sell, or whether it is more likely than not that the Company will be required to sell an

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impaired security before recovery of its amortized cost basis. For debt securities that are considered other-than-temporarily impaired and that the Company does not intend to sell as of the balance sheet date and will not be required to sell prior to recovery of its amortized cost basis, the Company determines the amount of the impairment that is related to credit and the amount due to all other factors.

The majority of the unrealized or unrecognized losses on mortgage-backed securities are attributable to changes in interest rates in the market. Agency residential mortgage-backed securities and CMOs, agency debentures and agency debt securities are guaranteed or issued by U.S. government sponsored enterprises and federal agencies. Municipal bonds and corporate bonds are evaluated by reviewing the credit-worthiness of the issuer and general market conditions. The Company does not intend to sell the debt securities in an unrealized or unrecognized loss position as of the balance sheet date and it is not more likely than not that the Company will be required to sell the debt securities before the anticipated recovery of its remaining amortized cost of the debt securities in an unrealized or unrecognized loss position at September 30, 2015.

There were no impairment losses recognized in earnings on available-for-sale and held-to-maturity securities during the nine months ended September 30, 2015 and 2014.

Included within the Company's securities portfolios are securities that have been written-down to a zero carrying value. The credit loss component of debt securities held by the Company that had a noncredit loss component previously recognized in other comprehensive income was \$152 million at both September 30, 2015 and December 31, 2014. Of this amount, \$123 million relates to debt securities that have been factored to zero, but the Company still holds legal title to these securities until maturity or until they are sold.

Gains (Losses) on Securities and Other

The detailed components of the gains (losses) on securities and other line item on the consolidated statement of income (loss) for the three and nine months ended September 30, 2015 and 2014 are as follows (dollars in millions):

	Three Months Ended September 30,		Nine Months Ended September 30,	
	2015	2014	2015	2014
Reclassification of deferred losses on cash flow hedges	\$ (370)	\$ —	\$ (370)	\$ —
Hedge ineffectiveness	(2)	(1)	—	(8)
Gains on available-for-sale securities, net:				
Gains on available-for-sale securities	30	12	48	\$ 34
Losses on available-for-sale securities	(19)	—	(19)	—
Subtotal	11	12	29	34
Gains (losses) on loans, net	1	(3)	1	4
Gains (losses) on securities and other	\$ (360)	\$ 8	\$ (340)	\$ 30

Gains (losses) on securities and other was \$(360) million and \$(340) million for the three and nine months ended September 30, 2015, respectively, compared to \$8 million and \$30 million for the same periods in 2014. The gains (losses) on securities and other for the three and nine months ended September 30, 2015 included \$370 million losses reclassified from accumulated comprehensive loss related to cash flow hedges as a result of the termination of \$4.4 billion legacy wholesale funding obligations during the third quarter of 2015. See Note 8—Securities Sold Under Agreements to Repurchase, FHLB Advances and Other Borrowings for additional information.

NOTE 6—LOANS RECEIVABLE, NET

Loans receivable, net at September 30, 2015 and December 31, 2014 are summarized as follows (dollars in millions):

	September 30, 2015	December 31, 2014
One- to four-family	\$ 2,620	\$ 3,060
Home equity	2,270	2,834
Consumer and other	366	455
Total loans receivable	5,256	6,349
Unamortized premiums, net	26	34
Allowance for loan losses	(376)	(404)
Total loans receivable, net	\$ 4,906	\$ 5,979

At September 30, 2015, the Company pledged \$4.5 billion and \$0.4 billion of loans as collateral to the FHLB and Federal Reserve Bank, respectively. At December 31, 2014, the Company pledged \$5.4 billion and \$0.5 billion of loans as collateral to the FHLB and Federal Reserve Bank, respectively.

The following table presents the total recorded investment in loans receivable and allowance for loan losses by loans that have been collectively evaluated for impairment and those that have been individually evaluated for impairment by loan class at September 30, 2015 and December 31, 2014 (dollars in millions):

	Recorded Investment		Allowance for Loan Losses	
	September 30, 2015	December 31, 2014	September 30, 2015	December 31, 2014
Collectively evaluated for impairment:				
One- to four-family	\$ 2,342	\$ 2,764	\$ 28	\$ 18
Home equity	2,066	2,625	274	310
Consumer and other	370	461	7	10
Total collectively evaluated for impairment	4,778	5,850	309	338
Individually evaluated for impairment:				
One- to four-family	296	316	11	9
Home equity	208	217	56	57
Total individually evaluated for impairment	504	533	67	66
Total	\$ 5,282	\$ 6,383	\$ 376	\$ 404

Credit Quality and Concentrations of Credit Risk

The Company tracks and reviews factors to predict and monitor credit risk in its mortgage loan portfolio on an ongoing basis. These factors include: loan type, estimated current LTV/CLTV ratios, delinquency history, borrowers' current credit scores, housing prices, loan vintage and geographic location of the property. The Company believes LTV/CLTV ratios and credit scores are the key factors in determining future loan performance. The factors are updated on at least a quarterly basis. The Company tracks and reviews delinquency status to predict and monitor credit risk in the consumer and other loan portfolio on at least a quarterly basis.

Credit Quality

The following tables show the distribution of the Company's mortgage loan portfolios by credit quality indicator at September 30, 2015 and December 31, 2014 (dollars in millions):

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Current LTV/CLTV (1)	One- to Four-Family		Home Equity	
	September 30, 2015	December 31, 2014	September 30, 2015	December 31, 2014
<=80%	\$ 1,554	\$ 1,757	\$ 894	\$ 1,081
80%-100%	649	807	582	755
100%-120%	255	311	441	557
>120%	162	185	353	441
Total mortgage loans receivable	\$ 2,620	\$ 3,060	\$ 2,270	\$ 2,834
Average estimated current LTV/CLTV (2)	78%	79%	91%	92%
Average LTV/CLTV at loan origination (3)	71%	71%	81%	80%

- (1) Current CLTV calculations for home equity loans are based on the maximum available line for home equity lines of credit and outstanding principal balance for home equity installment loans. For home equity loans in the second lien position, the original balance of the first lien loan at origination date and updated valuations on the property underlying the loan are used to calculate CLTV. Current property values are updated on a quarterly basis using the most recent property value data available to the Company. For properties in which the Company did not have an updated valuation, home price indices were utilized to estimate the current property value.
- (2) The average estimated current LTV/CLTV ratio reflects the outstanding balance at the balance sheet date and the maximum available line for home equity lines of credit, divided by the estimated current value of the underlying property.
- (3) Average LTV/CLTV at loan origination calculations are based on LTV/CLTV at time of purchase for one- to four-family purchased loans and home equity installment loans and maximum available line for home equity lines of credit.

Current FICO (1)	One- to Four-Family		Home Equity	
	September 30, 2015	December 31, 2014	September 30, 2015	December 31, 2014
>=720	\$ 1,503	\$ 1,734	\$ 1,172	\$ 1,487
719 - 700	244	296	231	292
699 - 680	210	260	199	238
679 - 660	181	197	157	203
659 - 620	193	237	211	258
<620	289	336	300	356
Total mortgage loans receivable	\$ 2,620	\$ 3,060	\$ 2,270	\$ 2,834

- (1) FICO scores are updated on a quarterly basis; however, there were approximately \$40 million and \$49 million of one- to four-family loans at September 30, 2015 and December 31, 2014, respectively, and \$3 million and \$4 million of home equity loans, respectively, for which the updated FICO scores were not available. For these loans, the current FICO distribution included the most recent FICO scores where available, otherwise the original FICO score was used.

Concentrations of Credit Risk

One- to four-family loans include interest-only loans for a five to ten year period, followed by an amortizing period ranging from 20 to 25 years. At September 30, 2015, 40% of the Company's one- to four-family portfolio was not yet amortizing. However, during the trailing twelve months ended September 30, 2015, approximately 16% of these borrowers made voluntary annual principal payments of at least \$2,500 and slightly over a third of those borrowers made voluntary annual principal payments of at least \$10,000.

The home equity loan portfolio is primarily second lien loans on residential real estate properties, which have a higher level of credit risk than first lien mortgage loans. Approximately 13% of the home equity portfolio was in the first lien position and the Company holds both the first and second lien positions in less than 1% of the home equity loan portfolio at September 30, 2015. The home equity loan portfolio consists of approximately 18% of home equity installment loans and approximately 82% of home equity lines of credit at September 30, 2015.

Home equity installment loans are primarily fixed rate and fixed term, fully amortizing loans that do not offer the option of an interest-only payment. The majority of home equity lines of credit convert to amortizing loans at the end of the draw period, which typically ranges from five to ten years. Approximately 5% of this portfolio will require the borrowers to repay the loan in full at the end of the draw period. At September 30, 2015, 65% of the home equity line of credit portfolio had not converted from the interest-only draw period and had not begun amortizing. However, during the trailing twelve months ended September 30, 2015, approximately 40% of the borrowers made annual

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principal payments of at least \$500 on their home equity lines of credit and slightly under half of those borrowers reduced their principal balance by at least \$2,500.

The following table outlines when one- to four-family and home equity lines of credit convert to amortizing by percentage of the one- to four-family portfolio and home equity line of credit portfolios, respectively, at September 30, 2015:

Period of Conversion to Amortizing Loan	% of One- to Four-Family Portfolio	% of Home Equity Line of Credit Portfolio
Already amortizing	60%	35%
Through December 31, 2015	1%	5%
Year ending December 31, 2016	17%	44%
Year ending December 31, 2017	22%	15%
Year ending December 31, 2018 or later	—%	1%

Approximately 38% of the Company's mortgage loans receivable were concentrated in California at both September 30, 2015 and December 31, 2014. No other state had concentrations of mortgage loans that represented 10% or more of the Company's mortgage loans receivable at September 30, 2015 and December 31, 2014.

Delinquent Loans

The following table shows total loans receivable by delinquency category at September 30, 2015 and December 31, 2014 (dollars in millions):

	Current	30-89 Days Delinquent	90-179 Days Delinquent	180+ Days Delinquent	Total
September 30, 2015					
One- to four-family	\$ 2,422	\$ 60	\$ 22	\$ 116	\$ 2,620
Home equity	2,145	47	28	50	2,270
Consumer and other	359	6	1	—	366
Total loans receivable	<u>\$ 4,926</u>	<u>\$ 113</u>	<u>\$ 51</u>	<u>\$ 166</u>	<u>\$ 5,256</u>
December 31, 2014					
One- to four-family	\$ 2,813	\$ 88	\$ 28	\$ 131	\$ 3,060
Home equity	2,702	60	29	43	2,834
Consumer and other	447	7	1	—	455
Total loans receivable	<u>\$ 5,962</u>	<u>\$ 155</u>	<u>\$ 58</u>	<u>\$ 174</u>	<u>\$ 6,349</u>

Nonperforming Loans

The Company classifies loans as nonperforming when they are no longer accruing interest, which includes loans that are 90 days and greater past due, TDRs that are on nonaccrual status for all classes of loans (including loans in bankruptcy) and certain junior liens that have a delinquent senior lien. The following table shows the comparative data for nonperforming loans at September 30, 2015 and December 31, 2014 (dollars in millions):

	September 30, 2015	December 31, 2014
One- to four-family	\$ 269	\$ 294
Home equity	151	165
Consumer and other	1	1
Total nonperforming loans receivable	<u>\$ 421</u>	<u>\$ 460</u>

Real Estate Owned and Loans with Formal Foreclosure Proceedings in Process

At September 30, 2015 and December 31, 2014, the Company held \$26 million and \$36 million, respectively, of real estate owned that were acquired through foreclosure or through a deed in lieu of foreclosure or similar legal agreement. The Company also held \$96 million and \$107 million of loans for which formal foreclosure proceedings were in process at September 30, 2015 and December 31, 2014, respectively.

Allowance for Loan Losses

The following table provides a roll forward by loan portfolio of the allowance for loan losses for the three and nine months ended September 30, 2015 and 2014 (dollars in millions):

	Three Months Ended September 30, 2015			
	One- to Four-Family	Home Equity	Consumer and Other	Total
Allowance for loan losses, beginning of period	\$ 49	\$ 345	\$ 8	\$ 402
Provision (benefit) for loan losses	(10)	(15)	—	(25)
Charge-offs	—	(7)	(2)	(9)
Recoveries	—	7	1	8
Charge-offs, net	—	—	(1)	(1)
Allowance for loan losses, end of period	\$ 39	\$ 330	\$ 7	\$ 376

	Three Months Ended September 30, 2014			
	One- to Four-Family	Home Equity	Consumer and Other	Total
Allowance for loan losses, beginning of period	\$ 44	\$ 337	\$ 20	\$ 401
Provision (benefit) for loan losses	(16)	29	(3)	10
Charge-offs	(1)	(13)	(4)	(18)
Recoveries	—	7	1	8
Charge-offs, net	(1)	(6)	(3)	(10)
Allowance for loan losses, end of period	\$ 27	\$ 360	\$ 14	\$ 401

	Nine Months Ended September 30, 2015			
	One- to Four-Family	Home Equity	Consumer and Other	Total
Allowance for loan losses, beginning of period	\$ 27	\$ 367	\$ 10	\$ 404
Provision (benefit) for loan losses	15	(32)	—	(17)
Charge-offs	(3)	(26)	(8)	(37)
Recoveries	—	21	5	26
Charge-offs, net	(3)	(5)	(3)	(11)
Allowance for loan losses, end of period	\$ 39	\$ 330	\$ 7	\$ 376

	Nine Months Ended September 30, 2014			
	One- to Four-Family	Home Equity	Consumer and Other	Total
Allowance for loan losses, beginning of period	\$ 102	\$ 326	\$ 25	\$ 453
Provision (benefit) for loan losses	(42)	70	(2)	26
Charge-offs	(44)	(54)	(13)	(111)
Recoveries	11	18	4	33
Charge-offs, net	(33)	(36)	(9)	(78)
Allowance for loan losses, end of period	\$ 27	\$ 360	\$ 14	\$ 401

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Total loans receivable designated as held-for-investment decreased \$1.1 billion during the nine months ended September 30, 2015. The allowance for loan losses was \$376 million, or 7% of total loans receivable, as of September 30, 2015 compared to \$404 million, or 6% of total loans receivable, as of December 31, 2014. See Note 1—Organization, Basis of Presentation and Summary of Significant Accounting Policies for additional information on the allowance for loan losses.

During the nine months ended September 30, 2015 and 2014, the Company received one-time payments of \$2 million and \$11 million, respectively, from third party mortgage originators to satisfy in full all pending and future repurchase requests with them. The Company recognized these settlements as recoveries to the allowance for loan losses, resulting in a corresponding reduction to net charge-offs as well as provision (benefit) for loan losses.

Impaired Loans—Troubled Debt Restructurings

TDRs include two categories of loans: (1) loan modifications completed under the Company’s programs that involve granting an economic concession to a borrower experiencing financial difficulty, and (2) loans that have been charged off based on the estimated current value of the underlying property less estimated selling costs due to bankruptcy notification.

Delinquency status is the primary measure the Company uses to evaluate the performance of loans modified as TDRs. As mentioned above, the Company classifies loans as nonperforming when they are no longer accruing interest, which includes loans that are 90 days and greater past due, TDRs that are on nonaccrual status for all classes of loans, including loans in bankruptcy, and certain junior liens that have a delinquent senior lien. The following table shows a summary of the Company’s recorded investment in TDRs that were on accrual and nonaccrual status, further disaggregated by delinquency status, in addition to the recorded investment in TDRs at September 30, 2015 and December 31, 2014 (dollars in millions):

	Accrual TDRs(1)	Nonaccrual TDRs			Total Recorded Investment in TDRs (3)(4)	
		Current(2)	30-89 Days Delinquent	90-179 Days Delinquent		180+ Days Delinquent
September 30, 2015						
One- to four-family	\$ 111	\$ 113	\$ 18	\$ 8	\$ 46	\$ 296
Home equity	125	46	10	7	20	208
Total	<u>\$ 236</u>	<u>\$ 159</u>	<u>\$ 28</u>	<u>\$ 15</u>	<u>\$ 66</u>	<u>\$ 504</u>
December 31, 2014						
One- to four-family	\$ 121	\$ 111	\$ 24	\$ 12	\$ 48	\$ 316
Home equity	127	51	14	6	19	217
Total	<u>\$ 248</u>	<u>\$ 162</u>	<u>\$ 38</u>	<u>\$ 18</u>	<u>\$ 67</u>	<u>\$ 533</u>

(1) Represents loans modified as TDRs that are current and have made six or more consecutive payments.

(2) Represents loans modified as TDRs that are current but have not yet made six consecutive payments, bankruptcy loans and certain junior lien TDRs that have a delinquent senior lien.

(3) The unpaid principal balance in one- to four-family TDRs was \$294 million and \$314 million at September 30, 2015 and December 31, 2014, respectively. For home equity loans, the recorded investment in TDRs represents the unpaid principal balance.

(4) Total recorded investment in TDRs at September 30, 2015 consisted of \$344 million of loans modified as TDRs and \$160 million of loans that have been charged off due to bankruptcy notification. Total recorded investment in TDRs at December 31, 2014 consisted of \$354 million of loans modified as TDRs and \$179 million of loans that have been charged off due to bankruptcy notification.

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The following table shows the average recorded investment and interest income recognized both on a cash and accrual basis for the Company's TDRs during the three and nine months ended September 30, 2015 and 2014 (dollars in millions):

	Average Recorded Investment		Interest Income Recognized	
	Three Months Ended September 30,		Three Months Ended September 30,	
	2015	2014	2015	2014
One- to four-family	\$ 300	\$ 319	\$ 3	\$ 2
Home equity	212	223	4	5
Total	\$ 512	\$ 542	\$ 7	\$ 7

	Average Recorded Investment		Interest Income Recognized	
	Nine Months Ended September 30,		Nine Months Ended September 30,	
	2015	2014	2015	2014
One- to four-family	\$ 307	\$ 653	\$ 7	\$ 13
Home equity	216	230	13	14
Total	\$ 523	\$ 883	\$ 20	\$ 27

The decrease in the average recorded investments of one- to four-family TDRs comparing the nine months ended September 30, 2015 and 2014 was primarily due to the sale of \$0.8 billion of one- to four-family loans modified as TDRs during 2014.

Included in the allowance for loan losses was a specific valuation allowance of \$67 million and \$66 million that was established for TDRs at September 30, 2015 and December 31, 2014, respectively. The specific allowance for these individually impaired loans represents the forecasted losses over the estimated remaining life of the loans, including the economic concessions granted to the borrowers. The following table shows detailed information related to the Company's TDRs at September 30, 2015 and December 31, 2014 (dollars in millions):

	September 30, 2015			December 31, 2014		
	Recorded Investment in TDRs	Specific Valuation Allowance	Net Investment in TDRs	Recorded Investment in TDRs	Specific Valuation Allowance	Net Investment in TDRs
With a recorded allowance:						
One- to four-family	\$ 79	\$ 11	\$ 68	\$ 88	\$ 9	\$ 79
Home equity	\$ 117	\$ 56	\$ 61	\$ 118	\$ 57	\$ 61
Without a recorded allowance: ⁽¹⁾						
One- to four-family	\$ 217	\$ —	\$ 217	\$ 228	\$ —	\$ 228
Home equity	\$ 91	\$ —	\$ 91	\$ 99	\$ —	\$ 99
Total:						
One- to four-family	\$ 296	\$ 11	\$ 285	\$ 316	\$ 9	\$ 307
Home equity	\$ 208	\$ 56	\$ 152	\$ 217	\$ 57	\$ 160

(1) Represents loans where the discounted cash flow analysis or collateral value is equal to or exceeds the recorded investment in the loan.

Troubled Debt Restructurings — Loan Modifications

The Company has loan modification programs that focus on the mitigation of potential losses in the one- to four-family and home equity mortgage loan portfolio. The Company currently does not have an active loan modification program for consumer and other loans. The various types of economic concessions that may be granted in a loan modification typically consist of interest rate reductions, maturity date extensions, principal forgiveness or a combination of these concessions. The Company uses specialized servicers that focus on loan modifications and pursue trial modifications for loans that are more than 180 days delinquent. Trial modifications are classified immediately as TDRs and continue to be reported as delinquent until the successful completion of the trial period, which is typically 90 days. The loan then becomes a permanent modification reported as current but remains on nonaccrual status until six consecutive payments have been made.

The vast majority of the Company's loans modified as TDRs include an interest rate reduction in combination with another type of concession. The Company prioritizes the interest rate reduction modifications in combination with the following modification categories: principal forgiven, principal deferred and re-age/extension/capitalization of accrued interest. Each class is mutually exclusive in that if a modification had an interest rate reduction with principal forgiven and an extension, the modification would only be presented in the principal forgiven column in the table below. The following tables provide the number of loans, post-modification balances immediately after being modified by major class, and the financial impact of modifications during the three and nine months ended September 30, 2015 and 2014 (dollars in millions):

Three Months Ended September 30, 2015

	Number of Loans	Interest Rate Reduction					Financial Impact	
		Principal Forgiven	Re-age/ Extension/ Interest Capitalization	Other with Interest Rate Reduction	Other	Total	Pre-Modification Weighted Average Interest Rate	Post-Modification Weighted Average Interest Rate
One- to four-family	12	\$ —	\$ 4	\$ —	\$ 1	\$ 5	4.6%	2.2%
Home equity	40	—	1	1	1	3	4.9%	3.3%
Total	52	\$ —	\$ 5	\$ 1	\$ 2	\$ 8		

Three Months Ended September 30, 2014

	Number of Loans	Interest Rate Reduction					Financial Impact	
		Principal Forgiven	Re-age/ Extension/ Interest Capitalization	Other with Interest Rate Reduction	Other	Total	Pre-Modification Weighted Average Interest Rate	Post-Modification Weighted Average Interest Rate
One- to four-family	15	\$ —	\$ 4	\$ —	\$ 1	\$ 5	5.8%	2.3%
Home equity	39	—	—	—	2	2	5.7%	2.5%
Total	54	\$ —	\$ 4	\$ —	\$ 3	\$ 7		

Nine Months Ended September 30, 2015

	Number of Loans	Interest Rate Reduction					Financial Impact	
		Principal Forgiven	Re-age/ Extension/ Interest Capitalization	Other with Interest Rate Reduction	Other ⁽¹⁾	Total	Pre-Modification Weighted Average Interest Rate	Post-Modification Weighted Average Interest Rate
One- to four-family	28	\$ —	\$ 7	\$ —	\$ 2	\$ 9	4.9%	2.3%
Home equity	293	—	3	2	17	22	3.8%	4.3%
Total	321	\$ —	\$ 10	\$ 2	\$ 19	\$ 31		

Nine Months Ended September 30, 2014

	Interest Rate Reduction						Financial Impact	
	Number of Loans	Principal Forgiven	Re-age/ Extension/ Interest Capitalization	Other with Interest Rate Reduction	Other	Total	Pre-Modification Weighted Average Interest Rate	Post-Modification Weighted Average Interest Rate
One- to four-family	52	\$ 1	\$ 9	\$ 2	\$ 5	\$ 17	5.2%	2.6%
Home equity	153	—	3	2	6	11	5.4%	2.4%
Total	205	\$ 1	\$ 12	\$ 4	\$ 11	\$ 28		

(1) Includes TDRs that resulted from a loan modification program being offered to a subset of borrowers with home equity lines of credit whose original loan terms provided the borrowers the option to accelerate their date of conversion to amortizing loans. As certain terms of the Company's offer represented economic concessions, such as longer amortization periods than were in the original loan agreements, to certain borrowers experiencing financial difficulty, this program resulted in \$14 million of TDRs during the first quarter of 2015.

The Company considers modifications that become 30 days past due to have experienced a payment default. The following table shows the recorded investment in modifications that experienced a payment default within 12 months after the modification for the three and nine months ended September 30, 2015 and 2014 (dollars in millions):

	Three Months Ended September 30,			
	2015		2014	
	Number of Loans	Recorded Investment	Number of Loans	Recorded Investment
One- to four-family ⁽¹⁾	2	\$ 1	1	\$ —
Home equity ⁽²⁾	11	1	19	1
Total	13	\$ 2	20	\$ 1

	Nine Months Ended September 30,			
	2015		2014	
	Number of Loans	Recorded Investment	Number of Loans	Recorded Investment
One- to four-family ⁽¹⁾	4	\$ 2	22	\$ 8
Home equity ⁽²⁾⁽³⁾	79	4	40	2
Total	83	\$ 6	62	\$ 10

- (1) For both the three and nine months ended September 30, 2015, less than \$1 million, of the recorded investment in one- to four-family loans that had a payment default in the trailing 12 months was classified as current, compared to no recorded investment and \$1 million for the three and nine months ended September 30, 2014.
- (2) For the three and nine months ended September 30, 2015, less than \$1 million and \$3 million of the recorded investment in home equity loans that had a payment default in the trailing 12 months was classified as current, compared to less than \$1 million and \$1 million for the three and nine months ended September 30, 2014.
- (3) The majority of these home equity modifications during the nine months ended September 30, 2015 experienced servicer transfers during this same period.

NOTE 7—ACCOUNTING FOR DERIVATIVE INSTRUMENTS AND HEDGING ACTIVITIES

The Company enters into derivative transactions primarily to protect against interest rate risk on the value of certain assets, liabilities and future cash flows. Each derivative instrument is recorded on the consolidated balance sheet at fair value as a freestanding asset or liability. The following table summarizes the fair value amounts of derivatives designated as hedging instruments reported in the consolidated balance sheet at September 30, 2015 and December 31, 2014 (dollars in millions):

	Notional	Fair Value		
		Asset(1)	Liability(2)	Net(3)
September 30, 2015				
Interest rate contracts:				
Fair value hedges	\$ 2,387	\$ 1	\$ (89)	\$ (88)
Total derivatives designated as hedging instruments ⁽⁴⁾	\$ 2,387	\$ 1	\$ (89)	\$ (88)
December 31, 2014				
Interest rate contracts:				
Cash flow hedges	\$ 2,000	\$ 23	\$ (24)	\$ (1)
Fair value hedges	1,069	1	(42)	(41)
Total derivatives designated as hedging instruments ⁽⁴⁾	\$ 3,069	\$ 24	\$ (66)	\$ (42)

- (1) Reflected in the other assets line item on the consolidated balance sheet.
- (2) Reflected in the other liabilities line item on the consolidated balance sheet.
- (3) Represents derivative assets net of derivative liabilities for disclosure purposes only.
- (4) All derivatives were designated as hedging instruments at September 30, 2015 and December 31, 2014.

Cash Flow Hedges

Cash flow hedges, which include a combination of interest rate swaps and purchased options, including caps, are used primarily to reduce the variability of future cash flows associated with existing variable-rate assets and liabilities and forecasted issuances of liabilities. The effective portion of the changes in fair value of the derivative instruments in a cash flow hedge is reported as a component of accumulated other comprehensive loss, net of tax in the consolidated balance sheet, for both active and discontinued hedges. Amounts are reclassified from accumulated other comprehensive loss into net operating interest income as a yield adjustment in the same period the hedged forecasted transaction affects earnings. If it becomes probable that a hedged forecasted transaction will not occur, amounts included in accumulated other comprehensive loss related to the specific hedging instruments would be immediately reclassified into the gains (losses) on securities and other line item in the consolidated statement of income (loss).

At December 31, 2014, accumulated other comprehensive loss attributable to cash flow hedges, pre-tax, was \$422 million. These cash flow hedges were used to hedge the forecasted transactions related to repurchase agreements and FHLB advances. Following E*TRADE Clearing's move out from under E*TRADE Bank on July 1, 2015, the Company evaluated the sufficiency of the capital and liquidity position and, in early September, management and the Board concluded that E*TRADE Bank would deploy excess capital to terminate the \$4.4 billion of legacy wholesale funding obligations. As the Company's intent changed and the hedged forecasted transactions became probable of not occurring, the Company reclassified \$370 million of pre-tax losses on cash flow hedges from accumulated other comprehensive loss into earnings during the three months ended September 30, 2015.

The following table summarizes the effect of interest rate contracts designated and qualifying as hedging instruments in cash flow hedges on accumulated other comprehensive loss and on the consolidated statement of income (loss) for the three and nine months ended September 30, 2015 and 2014 (dollars in millions):

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	Three Months Ended September 30,		Nine Months Ended September 30,	
	2015	2014	2015	2014
Gains (losses) on derivatives recognized in OCI (effective portion), net of tax	\$ (5)	\$ 5	\$ (10)	\$ (27)
Losses reclassified from AOCI into earnings (effective portion), net of tax ⁽¹⁾	\$ (239)	\$ (18)	\$ (271)	\$ (59)
Cash flow hedge ineffectiveness losses ⁽²⁾	\$ —	\$ (1)	\$ —	\$ (1)

- (1) Includes the reclassification of losses deferred in accumulated other comprehensive loss into earnings related to cash flow hedges as a result of the termination of repurchase agreements and FHLB advances during the three months ended September 30, 2015.
- (2) The ineffective portion of the change in fair value of the derivative instrument in a cash flow hedge, which is equal to the excess of the cumulative change in the fair value of the actual derivative over the cumulative change in the fair value of a hypothetical derivative which is created to match the exact terms of the underlying instruments being hedged, is reported in the gains (losses) on securities and other line item in the consolidated statement of income (loss).

Fair Value Hedges

Fair value hedges, which include interest rate swaps, are used to offset exposure to changes in value of certain fixed-rate assets and liabilities. Fair value hedges are accounted for by recording the fair value of the derivative instrument and the fair value of the asset or liability being hedged on the consolidated balance sheet. Changes in the fair value of both the derivative instruments and the underlying assets or liabilities are recognized in the gains (losses) on securities and other line item in the consolidated statement of income (loss). To the extent that the hedge is ineffective, the changes in the fair values will not offset and the difference, or hedge ineffectiveness, is reflected in the gains (losses) on securities and other line item in the consolidated statement of income (loss).

Hedge accounting is discontinued for fair value hedges if a derivative instrument is sold, terminated or otherwise de-designated. If fair value hedge accounting is discontinued, the previously hedged item is no longer adjusted for changes in fair value through the consolidated statement of income (loss) and the cumulative net gain or loss on the hedged asset or liability at the time of de-designation is amortized to interest income or interest expense using the effective interest method over the expected remaining life of the hedged item. Changes in the fair value of the derivative instruments after de-designation of fair value hedge accounting are recorded in the gains (losses) on securities and other line item in the consolidated statement of income (loss).

The following table summarizes the effect of interest rate contracts designated and qualifying as hedging instruments in fair value hedges and related hedged items on the consolidated statement of income (loss) for the three and nine months ended September 30, 2015 and 2014 (dollars in millions):

	Three Months Ended September 30,					
	2015			2014		
	Hedging Instrument	Hedged Item	Hedge Ineffectiveness ⁽¹⁾	Hedging Instrument	Hedged Item	Hedge Ineffectiveness ⁽¹⁾
Agency debentures	\$ (30)	\$ 30	\$ —	\$ (2)	\$ 2	\$ —
Agency mortgage-backed securities	(72)	70	(2)	—	—	—
Total gains (losses) included in earnings	\$ (102)	\$ 100	\$ (2)	\$ (2)	\$ 2	\$ —

	Nine Months Ended September 30,					
	2015			2014		
	Hedging Instrument	Hedged Item	Hedge Ineffectiveness ⁽¹⁾	Hedging Instrument	Hedged Item	Hedge Ineffectiveness ⁽¹⁾
Agency debentures	\$ (15)	\$ 15	\$ —	\$ (59)	\$ 52	\$ (7)
Agency mortgage-backed securities	(32)	32	—	(17)	17	—
Total gains (losses) included in earnings	\$ (47)	\$ 47	\$ —	\$ (76)	\$ 69	\$ (7)

- (1) Reflected in the gains (losses) on securities and other line item on the consolidated statement of income (loss).

NOTE 8—SECURITIES SOLD UNDER AGREEMENTS TO REPURCHASE, FHLB ADVANCES AND OTHER BORROWINGS

Securities sold under agreements to repurchase, FHLB advances and other borrowings at September 30, 2015 and December 31, 2014 are shown in the following table (dollars in millions):

	September 30, 2015	December 31, 2014
Trust preferred securities ⁽¹⁾	\$ 414	\$ 428
Securities sold under agreements to repurchase and FHLB advances:		
Repurchase Agreements ⁽²⁾	\$ —	\$ 3,672
FHLB Advances	—	920
Fair value hedge adjustments and deferred costs	—	(49)
Total securities sold under agreements to repurchase and FHLB advances	—	4,543
Total	\$ 414	\$ 4,971
Weighted Average Interest Rate	3.02%	0.64%

(1) The Company's trust preferred securities do not begin maturing until 2031.

(2) The maximum amount at any month end for repurchase agreements was \$3.8 billion and \$4.9 billion for the nine months ended September 30, 2015 and the year ended December 31, 2014, respectively.

The Company terminated \$4.4 billion of repurchase agreements and FHLB advances during the third quarter of 2015. In connection with this termination, the Company recorded a pre-tax charge of \$413 million in consolidated statement of income (loss), including \$43 million in the losses on early extinguishment of debt line item, and \$370 million in the gains (losses) on securities and other line item that were reclassified from accumulated comprehensive loss attributable to cash flow hedges.

The Company repurchased \$14 million of trust preferred securities in advance of maturity during the third quarter of 2015 and recorded a gain on early extinguishment of debt of \$4 million.

Line of Credits maintained at E*TRADE Clearing

E*TRADE Clearing maintains secured committed lines of credit with two unaffiliated banks, aggregating to \$175 million at September 30, 2015, that are scheduled to mature in June 2016. E*TRADE Clearing also maintains uncommitted lines of credit with several unaffiliated banks, that was increased by \$75 million during the third quarter of 2015 to \$450 million at September 30, 2015. During the second quarter of 2015, E*TRADE Clearing entered into a new 364-day, \$345 million senior unsecured revolving credit facility with a syndicate of banks. The credit facility contains maintenance covenants relating to E*TRADE Clearing's minimum consolidated tangible net worth and regulatory net capital ratio. There was no outstanding balance on any of these lines of credit or credit facilities at September 30, 2015.

NOTE 9—CORPORATE DEBT

Corporate debt at September 30, 2015 and December 31, 2014 is outlined in the following table (dollars in millions):

	Face Value	Discount	Net
September 30, 2015			
Interest-bearing notes:			
5 ³ / ₈ % Notes, due 2022	\$ 540	\$ (6)	\$ 534
4 ⁵ / ₈ % Notes, due 2023	460	(5)	455
Total interest-bearing notes	1,000	(11)	989
Non-interest-bearing debt:			
0% Convertible debentures, due 2019	34	—	34
Total corporate debt	\$ 1,034	\$ (11)	\$ 1,023
	Face Value	Discount	Net
December 31, 2014			
Interest-bearing notes:			
6 ³ / ₈ % Notes, due 2019	\$ 800	\$ (5)	\$ 795
5 ³ / ₈ % Notes, due 2022	540	(7)	533
Total interest-bearing notes	1,340	(12)	1,328
Non-interest-bearing debt:			
0% Convertible debentures, due 2019	38	—	38
Total corporate debt	\$ 1,378	\$ (12)	\$ 1,366

During the first quarter of 2015, the Company issued an aggregate principal amount of \$460 million in 4 ⁵/₈% Notes, due 2023. Interest is payable semi-annually and the notes may be called by the Company beginning March 15, 2018 at a premium, which declines over time. The Company used the net proceeds from the issuance of the 4 ⁵/₈% Notes, along with approximately \$432 million of existing corporate cash to redeem all of the outstanding 6 ³/₈% Notes due 2019 including paying the associated redemption premiums of \$68 million, accrued interest and related fees and expenses. This resulted in \$73 million in losses on early extinguishment of debt for the quarter ended March 31, 2015.

The Company also entered into an amendment to the senior secured revolving credit facility to increase commitments thereunder by \$50 million during the first quarter of 2015. As of September 30, 2015, there was no outstanding balance under the revolving credit facility and available capacity for borrowings was \$250 million. The credit facility expires in November 2017. The Company has the ability to borrow against the credit facility for working capital and general corporate purposes. The credit facility contains certain maintenance covenants, including the requirement for the parent company to maintain unrestricted cash of \$100 million. In September 2015, the Company entered into an amendment to its senior secured revolving credit facility, which reduced or removed certain negative covenants and other restrictions on the Company pursuant to the terms of the amendment.

NOTE 10—INCOME TAXES

Income Tax Expense (Benefit)

Income tax benefit was \$93 million and \$245 million for the three and nine months ended September 30, 2015, respectively, compared to income tax expense of \$39 million and \$129 million for the same periods in 2014. The effective tax rate was 38% and 372% for the three and nine months ended September 30, 2015, respectively, compared to 31% and 34% for the same periods in 2014. The difference between the effective tax rates for the three and nine months ended September 30, 2015 was primarily due to the settlement of the IRS examination of the Company's 2007, 2009 and 2010 federal tax returns which resulted in the recognition of a \$220 million income tax benefit in the second quarter of 2015. See the Unrecognized Tax Benefits section below for additional information.

Unrecognized Tax Benefits

The following table provides a reconciliation of the beginning and ending amount of unrecognized tax benefits for the nine months ended September 30, 2015 (dollars in millions):

	Nine Months Ended September 30, 2015
Unrecognized tax benefits, beginning of period	\$ 330
Additions based on tax positions related to prior years	5
Additions based on tax positions related to current year	—
Reductions based on tax positions related to prior years	(304)
Settlements with taxing authorities	(1)
Statute of limitations lapses	(1)
Unrecognized tax benefits, end of period	<u>\$ 29</u>

The unrecognized tax benefits decreased \$301 million to \$29 million during the nine months ended September 30, 2015. In May 2015, the Company settled the IRS examination of its 2007, 2009 and 2010 federal tax returns. As a result, the Company released \$303 million of reserves related to the uncertain tax positions in the second quarter of 2015. During the third quarter of 2009, the Company incurred a loss on the exchange of \$1.7 billion interest-bearing corporate debt for non-interest-bearing convertible debentures. The uncertain tax positions were primarily related to whether certain components of that loss were considered deductible or non-deductible for tax purposes.

Deferred Taxes

Deferred income taxes are recorded when revenues and expenses are recognized in different periods for financial statement and tax return purposes. During the nine months ended September 30, 2015, deferred tax assets increased \$93 million to \$1.0 billion, mainly related to the settlement of the IRS examination as discussed in the Unrecognized Tax Benefits section above.

NOTE 11—ACCUMULATED OTHER COMPREHENSIVE LOSS

The following tables present after-tax changes in each component of accumulated other comprehensive loss for the three and nine months ended September 30, 2015 and 2014 (dollars in millions):

	Available-for-sale Securities	Cash Flow Hedging Instruments	Foreign Currency Translation	Total
Beginning balance, June 30, 2015	\$ (24)	\$ (234)	\$ 5	\$ (253)
Other comprehensive income (loss) before reclassifications	17	(5)	—	12
Amounts reclassified from accumulated other comprehensive loss	(7)	239	—	232
Net change	10	234	—	244
Ending balance, September 30, 2015	\$ (14)	\$ —	\$ 5	\$ (9)

	Available-for-sale Securities	Cash Flow Hedging Instruments	Foreign Currency Translation	Total
Beginning balance, June 30, 2014	\$ (11)	\$ (289)	\$ 5	\$ (295)
Other comprehensive income (loss) before reclassifications	(20)	5	—	(15)
Amounts reclassified from accumulated other comprehensive loss	(7)	18	—	11
Net change	(27)	23	—	(4)
Ending balance, September 30, 2014	\$ (38)	\$ (266)	\$ 5	\$ (299)

	Available-for-sale Securities	Cash Flow Hedging Instruments	Foreign Currency Translation	Total
Beginning balance, December 31, 2014	\$ 7	\$ (261)	\$ 5	\$ (249)
Other comprehensive income (loss) before reclassifications	(3)	(10)	—	(13)
Amounts reclassified from accumulated other comprehensive loss	(18)	271	—	253
Net change	(21)	261	—	240
Ending balance, September 30, 2015	\$ (14)	\$ —	\$ 5	\$ (9)

	Available-for-sale Securities	Cash Flow Hedging Instruments	Foreign Currency Translation	Total
Beginning balance, December 31, 2013	\$ (160)	\$ (298)	\$ 5	\$ (453)
Other comprehensive income (loss) before reclassifications	143	(27)	—	116
Amounts reclassified from accumulated other comprehensive loss	(21)	59	—	38
Net change	122	32	—	154
Ending balance, September 30, 2014	\$ (38)	\$ (266)	\$ 5	\$ (299)

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The following table presents the income statement line items impacted by reclassifications out of accumulated other comprehensive loss for the three and nine months ended September 30, 2015 and 2014 (dollars in millions):

Accumulated Other Comprehensive Loss Components	Amounts Reclassified from Accumulated Other Comprehensive Loss				Affected Line Items in the Consolidated Statement of Income (Loss)
	Three Months Ended September 30,		Nine Months Ended September 30,		
	2015	2014	2015	2014	
Available-for-sale securities:					
	\$ 11	\$ 12	\$ 29	\$ 34	Gains on securities and other
	(4)	(5)	(11)	(13)	Tax expense
	<u>\$ 7</u>	<u>\$ 7</u>	<u>\$ 18</u>	<u>\$ 21</u>	Reclassification into earnings, net
Cash flow hedging instruments:					
	\$ (370)	\$ —	\$ (370)	\$ —	Losses on securities and other
	(17)	(30)	(69)	(97)	Operating interest expense
	(387)	(30)	(439)	(97)	Reclassification into earnings, before tax
	148	12	168	38	Tax benefit
	<u>\$ (239)</u>	<u>\$ (18)</u>	<u>\$ (271)</u>	<u>\$ (59)</u>	Reclassification into earnings, net

The Company terminated \$4.4 billion of repurchase agreements and FHLB advances during the third quarter of 2015. In connection with this termination, the Company recorded a pre-tax charge of \$413 million in the consolidated statement of income (loss), including \$43 million in the losses on early extinguishment of debt line item, and \$370 million in the gains (losses) on securities and other line item that were reclassified from accumulated comprehensive loss attributable to cash flow hedges.

NOTE 12—EARNINGS (LOSS) PER SHARE

The following table presents a reconciliation of basic and diluted earnings (loss) per share (in millions, except share data and per share amounts):

	Three Months Ended September 30,		Nine Months Ended September 30,	
	2015	2014	2015	2014
Basic:				
Net income (loss)	\$ (153)	\$ 86	\$ 179	\$ 252
Basic weighted-average shares outstanding (in thousands)	290,480	288,843	290,105	288,536
Basic earnings (loss) per share	<u>\$ (0.53)</u>	<u>\$ 0.30</u>	<u>\$ 0.62</u>	<u>\$ 0.87</u>
Diluted:				
Net income (loss)	\$ (153)	\$ 86	\$ 179	\$ 252
Basic weighted-average shares outstanding (in thousands)	290,480	288,843	290,105	288,536
Effect of dilutive securities:				
Weighted-average convertible debentures (in thousands)	—	4,066	3,517	4,071
Weighted-average options and restricted stock issued to employees (in thousands)	—	1,210	1,376	1,361
Diluted weighted-average shares outstanding (in thousands)	<u>290,480</u>	<u>294,119</u>	<u>294,998</u>	<u>293,968</u>
Diluted earnings (loss) per share	<u>\$ (0.53)</u>	<u>\$ 0.29</u>	<u>\$ 0.61</u>	<u>\$ 0.86</u>

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The Company excluded the following shares from the calculation of diluted earnings (loss) per share as the effect would have been anti-dilutive (shares in millions):

	Three Months Ended September 30,		Nine Months Ended September 30,	
	2015	2014	2015	2014
Weighted-average shares excluded as a result of the Company's net loss:				
Convertible debentures	3.3	N/A	N/A	N/A
Stock options and restricted stock awards and units	1.3	N/A	N/A	N/A
Other stock options and restricted stock awards and units	0.1	0.4	0.1	0.5
Total	4.7	0.4	0.1	0.5

NOTE 13—REGULATORY REQUIREMENTS

Registered Broker-Dealers

The Company's U.S. broker-dealer subsidiaries are subject to the Uniform Net Capital Rule (the "Rule") under the Securities Exchange Act of 1934 administered by the SEC and FINRA, which requires the maintenance of minimum net capital. The minimum net capital requirements can be met under either the Aggregate Indebtedness method or the Alternative method. Under the Aggregate Indebtedness method, a broker-dealer is required to maintain minimum net capital of the greater of 6 2/3% of its aggregate indebtedness, as defined, or a minimum dollar amount. Under the Alternative method, a broker-dealer is required to maintain net capital equal to the greater of \$250,000 or 2% of aggregate debit balances arising from customer transactions. The method used depends on the individual U.S. broker-dealer subsidiary. The Company's other broker-dealers, including its international broker-dealer subsidiaries located in Europe and Asia, are subject to capital requirements determined by their respective regulators.

At September 30, 2015 and December 31, 2014, all of the Company's broker-dealer subsidiaries met minimum net capital requirements. The tables below summarize the minimum excess capital requirements for the Company's broker-dealer subsidiaries at September 30, 2015 and December 31, 2014 (dollars in millions):

	Required Net Capital	Net Capital	Excess Net Capital
September 30, 2015:			
E*TRADE Clearing ⁽¹⁾	\$ 175	\$ 949	\$ 774
E*TRADE Securities ⁽¹⁾⁽²⁾	—	39	39
Other broker-dealers	1	18	17
Total	\$ 176	\$ 1,006	\$ 830
December 31, 2014:			
E*TRADE Clearing ⁽¹⁾	\$ 170	\$ 795	\$ 625
E*TRADE Securities ⁽¹⁾	—	459	459
Other broker-dealers	1	19	18
Total	\$ 171	\$ 1,273	\$ 1,102

(1) Elected to use the Alternative method to compute net capital. The net capital requirement was \$250,000 for E*TRADE Securities for both periods presented.

(2) E*TRADE Securities was moved out from under E*TRADE Bank in February 2015 and subsequently paid dividends of \$515 million to the parent company during the nine months ended September 30, 2015.

Banking

E*TRADE Financial and E*TRADE Bank are subject to various regulatory capital requirements administered by federal banking agencies. Beginning on January 1, 2015, both E*TRADE Financial and E*TRADE Bank calculate regulatory capital under the Basel III framework using the Standardized Approach, subject to transition provisions. Prior to Basel III becoming effective, the risk-based capital guidelines that applied to E*TRADE Bank were based

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upon the 1988 capital accords of the BCBS, a committee of central banks and bank supervisors, as implemented by the U.S. Federal banking agencies, including the OCC, commonly known as Basel I. As a savings and loan holding company, E*TRADE Financial was not previously subject to specific statutory capital requirements. Under the Basel III framework, the vast majority of the Company's margin receivables qualified for 0% risk-weighting and a larger portion of the Company's deferred tax assets were included in regulatory capital, both having a favorable impact on the Company's current capital ratios. A portion of this benefit was offset as trust preferred securities are phased-out from the parent company's capital. In addition, in the first quarter of 2015, the Company made the one-time permanent election to exclude accumulated other comprehensive income from the calculation of Common Equity Tier 1 capital.

Failure to meet minimum capital requirements can trigger certain mandatory and possibly additional discretionary actions by regulators that, if undertaken, could have a direct material effect on E*TRADE Financial's and E*TRADE Bank's financial condition and results of operations. Under capital adequacy guidelines and the regulatory framework for prompt corrective action, E*TRADE Financial and E*TRADE Bank must meet specific capital guidelines that involve quantitative measures of assets, liabilities and certain off-balance sheet items as calculated under regulatory accounting practices. In addition, E*TRADE Bank may not pay dividends to the parent company without approval from its regulators and any loans by E*TRADE Bank to the parent company and its other non-bank subsidiaries are subject to various quantitative, arm's length, collateralization and other requirements. E*TRADE Financial's and E*TRADE Bank's capital amounts and classification are also subject to qualitative judgments by the regulators about components, risk weightings and other factors.

Quantitative measures established by regulation to ensure capital adequacy require E*TRADE Financial and E*TRADE Bank to meet minimum Common equity Tier 1 capital, Tier 1 risk-based capital, Total risk-based capital, and Tier 1 leverage ratios. Events beyond management's control, such as deterioration in credit markets, could adversely affect future earnings and E*TRADE Financial's and E*TRADE Bank's ability to meet future capital requirements and, in the case of E*TRADE Bank, their ability to pay dividends to the parent company. E*TRADE Financial and E*TRADE Bank were categorized as "well capitalized" under the regulatory framework for prompt corrective action for the periods presented in the table below (dollars in millions):

	September 30, 2015 ⁽¹⁾					December 31, 2014 ⁽¹⁾					
	Actual		Well Capitalized Minimum Capital		Excess Capital	Actual		Well Capitalized Minimum Capital		Excess Capital	
	Amount	Ratio	Amount	Ratio	Amount	Amount	Ratio	Amount	Ratio	Amount	
E*TRADE Bank:⁽²⁾											
Tier 1 leverage	\$ 2,960	9.2%	\$ 1,612	5.0%	\$ 1,348	\$ 4,548	10.6%	\$ 2,143	5.0%	\$ 2,405	
Tier 1 risk-based capital	\$ 2,960	36.0%	\$ 658	8.0%	\$ 2,302	\$ 4,548	25.7%	\$ 1,063	6.0%	\$ 3,485	
Total risk-based capital	\$ 3,069	37.3%	\$ 823	10.0%	\$ 2,246	\$ 4,772	26.9%	\$ 1,772	10.0%	\$ 3,000	
Common equity Tier 1 capital ⁽³⁾	\$ 2,960	36.0%	\$ 535	6.5%	\$ 2,425	N/A	N/A	N/A	N/A	N/A	

- (1) Due to the change in regulatory requirements described above, the September 30, 2015 ratios were calculated under Basel III requirements and the December 31, 2014 ratios were calculated under Basel I requirements.
(2) E*TRADE Securities was moved out from under E*TRADE Bank in February 2015. E*TRADE Clearing was moved out from under E*TRADE Bank in July 2015.
(3) The Basel III rule established Common Equity Tier 1 capital as a new tier of capital.

	September 30, 2015				
	Actual		Well Capitalized Minimum Capital		Excess Capital
	Amount	Ratio	Amount	Ratio	Amount
E*TRADE Financial:					
Tier 1 leverage	\$ 3,630	8.5%	\$ 2,127	5.0%	\$ 1,503
Tier 1 risk-based capital	\$ 3,630	39.5%	\$ 736	8.0%	\$ 2,894
Total risk-based capital	\$ 4,070	44.3%	\$ 920	10.0%	\$ 3,150
Common equity Tier 1 capital	\$ 3,630	39.5%	\$ 598	6.5%	\$ 3,032

NOTE 14—COMMITMENTS, CONTINGENCIES AND OTHER REGULATORY MATTERS

Legal Matters

The Company reviews its lawsuits, regulatory inquiries and other legal proceedings on an ongoing basis and provides disclosure and records loss contingencies in accordance with the loss contingencies accounting guidance. The Company establishes an accrual for losses at management's best estimate when it assesses that it is probable that a loss has been incurred and the amount of the loss can be reasonably estimated. Once established, the estimated liability is revised based on currently available information when an event occurs requiring an adjustment.

Litigation Matters

On October 27, 2000, Ajaxo, Inc. ("Ajaxo") filed a complaint in the Superior Court for the State of California, County of Santa Clara. Ajaxo sought damages and certain non-monetary relief for the Company's alleged breach of a non-disclosure agreement with Ajaxo pertaining to certain wireless technology that Ajaxo offered the Company as well as damages and other relief against the Company for their alleged misappropriation of Ajaxo's trade secrets. Following a jury trial, a judgment was entered in 2003 in favor of Ajaxo against the Company for \$1 million for breach of the Ajaxo non-disclosure agreement. Although the jury found in favor of Ajaxo on its claim against the Company for misappropriation of trade secrets, the trial court subsequently denied Ajaxo's requests for additional damages and relief. On December 21, 2005, the California Court of Appeal affirmed the above-described award against the Company for breach of the nondisclosure agreement but remanded the case to the trial court for the limited purpose of determining what, if any, additional damages Ajaxo may be entitled to as a result of the jury's previous finding in favor of Ajaxo on its claim against the Company for misappropriation of trade secrets. Although the Company paid Ajaxo the full amount due on the above-described judgment, the case was remanded back to the trial court, and on May 30, 2008, a jury returned a verdict in favor of the Company denying all claims raised and demands for damages against the Company. Following the trial court's entry of judgment in favor of the Company on September 5, 2008, Ajaxo filed post-trial motions for vacating this entry of judgment and requesting a new trial. The trial court denied these motions. On December 2, 2008, Ajaxo filed a notice of appeal with the Court of Appeal of the State of California for the Sixth District. On August 30, 2010, the Court of Appeal affirmed the trial court's verdict in part and reversed the verdict in part, remanding the case. The Company petitioned the Supreme Court of California for review of the Court of Appeal decision. On December 16, 2010, the California Supreme Court denied the Company's petition for review and remanded for further proceedings to the trial court. The testimonial phase of the third trial in this matter concluded on June 12, 2012. By order dated May 28, 2014, the Court determined to conduct a second phase of this bench trial to allow Ajaxo to attempt to prove entitlement to additional royalties. Hearings in phase two of the trial concluded January 8, 2015. In a Judgment and Statement of Decision filed September 16, 2015, the Court denied all claims for royalties by Ajaxo. Ajaxo has moved for a new trial and E*TRADE has moved to recover its costs. These motions will be heard November 13, 2015. The Company will continue to defend itself vigorously.

On May 16, 2011, Droplets Inc., the holder of two patents pertaining to user interface servers, filed a complaint in the U.S. District Court for the Eastern District of Texas against E*TRADE Financial Corporation, E*TRADE Securities, E*TRADE Bank and multiple other unaffiliated financial services firms. Plaintiff contends that the defendants engaged in patent infringement under federal law. Plaintiff seeks unspecified damages and an injunction against future infringements, plus royalties, costs, interest and attorneys' fees. On March 28, 2012, a change of venue was granted and the case was transferred to the United States District Court for the Southern District of New York. The Company filed its answer and counterclaim on June 13, 2012 and plaintiff moved to dismiss the counterclaim. The Company's motion for summary judgment on the grounds of non-infringement was granted by the U.S. District Court in a Decision and Order dated March 9, 2015. All remaining claims are stayed pending resolution of issues on Droplet's remaining patents under review by the Patent Trial and Appeal Board ("PTAB"). On July 6, 2015, the PTAB instituted an *inter partes* review of plaintiff's 115 patent, which is scheduled to be litigated through March 2016. The Company will continue to defend itself vigorously in this matter, both in the District Court and at the U.S. Patent Office.

Several cases have been filed nationwide involving the April 2007 leveraged buyout ("LBO") of the Tribune Company ("Tribune") by Sam Zell, and the subsequent bankruptcy of Tribune. In William Niese et al. v. A.G. Edwards et al., in Superior Court of Delaware, New Castle County, former Tribune employees and retirees claimed that Tribune was actually insolvent at the time of the LBO and that the LBO constituted a fraudulent transaction that depleted the plaintiffs' retirement plans, rendering them worthless. E*TRADE Clearing, along with numerous other financial

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institutions, is a named defendant in this case. One of the defendants removed the action to federal district court in Delaware on July 1, 2011. In *Deutsche Bank Trust Company Americas et al. v. Adaly Opportunity Fund et al.*, filed in the Supreme Court of New York, New York County on June 3, 2011, the Trustees of certain notes issued by Tribune allege wrongdoing in connection with the LBO. In particular the Trustees claim that the LBO constituted a constructive fraudulent transfer under various state laws. G1 Execution Services, LLC (formerly known as E*TRADE Capital Markets, LLC), along with numerous other financial institutions, is a named defendant in this case. In *Deutsche Bank et al. v. Ohlson et al.*, filed in the U.S. District Court for the Northern District of Illinois, noteholders of Tribune asserted claims of constructive fraud and G1 Execution Services, LLC is a named defendant in this case. Under the agreement governing the sale of G1 Execution Services, LLC to Susquehanna International Group, LLP ("Susquehanna"), the Company remains responsible for any resulting actions taken against G1 Execution Services, LLC as a result of such investigation. In *EGI-TRB LLC et al. v. ABN-AMRO et al.*, filed in the Circuit Court of Cook County Illinois, creditors of Tribune assert fraudulent conveyance claims against multiple shareholder defendants and E*TRADE Clearing is a named defendant in this case. These cases have been consolidated into a multi-district litigation. The Company's time to answer or otherwise respond to the complaints has been stayed pending further orders of the Court. On September 18, 2013, the Court entered the Fifth Amended Complaint. On September 23, 2013, the Court granted the defendants' motion to dismiss the individual creditors' complaint. The individual creditors filed a notice of appeal. The steering committees for plaintiffs and defendants have submitted a joint plan for the next phase of litigation. The next phase of the action will involve individual motions to dismiss. On April 22, 2014, the Court issued its protocols for dismissal motions for those defendants who were "mere conduits" who facilitated the transactions at issue. The motion to dismiss Count I of the Fifth Amended Complaint for failure to state a cause of action was fully briefed on July 2, 2014, and the parties await decision on that motion. The Company will defend itself vigorously in these matters.

On April 30, 2013, a putative class action was filed by John Scranton, on behalf of himself and a class of persons similarly situated, against E*TRADE Financial Corporation and E*TRADE Securities in the Superior Court of California, County of Santa Clara, pursuant to the California procedures for a private Attorney General action. The Complaint alleged that the Company misrepresented through its website that it would always automatically exercise options that were in-the-money by \$0.01 or more on expiration date. Plaintiffs allege violations of the California Unfair Competition Law, the California Consumer Remedies Act, fraud, misrepresentation, negligent misrepresentation and breach of fiduciary duty. The case has been deemed complex within the meaning of the California Rules of Court, and a case management conference was held on September 13, 2013. The Company's demurrer and motion to strike the complaint were granted by order dated December 20, 2013. The Court granted leave to amend the complaint. A second amended complaint was filed on January 31, 2014. On March 11, 2014, the Company moved to strike and for a demurrer to the second amended complaint. On October 20, 2014, the Court sustained the Company's demurrer, dismissing four counts of the second amended complaint with prejudice and two counts without prejudice. The plaintiffs filed a third amended complaint on November 10, 2014. The Company filed a third demurrer and motion to strike on December 12, 2014. By order dated March 18, 2015, the Superior Court entered a final order sustaining the Company's demurrer on all remaining claims with prejudice. Final judgment was entered in the Company's favor on April 8, 2015. Plaintiff filed a Notice of Appeal April 27, 2015. The Company will continue to defend itself vigorously in this matter.

On April 18, 2014, a putative class action was filed by the City of Providence, Rhode Island against forty-one high frequency trading firms, stock exchanges, market-makers, and other broker-dealers, including the Company, in the U.S. District Court for the Southern District of New York. The Complaint alleges that the high frequency trading firms, certain broker-dealers managing dark pools, and the exchanges manipulated the U.S. Securities markets, and that numerous market-makers and broker-dealers participated in that manipulation by doing business with the high frequency traders. As to the Company, the Complaint alleges violation of Sections 10(b) and 20(a) of the Exchange Act. On May 2, 2014, a similar putative class action was filed by American European Insurance Company against forty-two high frequency trading firms, stock exchanges, market-makers, and other broker-dealers, including the Company, in the U.S. District Court for the Southern District of New York. The action filed by American European Insurance Company made allegations substantially similar to the allegations in the City of Providence complaint. On June 13, 2014, a putative class action was filed by James J. Flynn and Dominic Morelli against twenty-six firms including the Company in the United States District Court for the Southern District of New York. The Flynn Complaint made allegations substantially similar to the allegations in the City of Providence Complaint. The consolidated amended complaint does not identify the Company as a defendant or make any allegations regarding the Company.

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On March 26, 2015, a putative class action was filed in the U.S. District Court for the Northern District of California by Ty Rayner, on behalf of himself and all others similarly situated, naming E*TRADE Financial Corporation and E*TRADE Securities as defendants. The complaint alleges that E*TRADE breached a fiduciary duty and unjustly enriched itself in connection with the routing of its customers' orders to various market-makers and exchanges. Plaintiff seeks unspecified damages, declaratory relief, restitution, disgorgement of payments received by the Company, and attorneys' fees. By stipulation, the parties have agreed to extend indefinitely the due date for a response to the claim. The Company will defend itself vigorously in this matter.

In addition to the matters described above, the Company is subject to various legal proceedings and claims that arise in the normal course of business. In each pending matter, the Company contests liability or the amount of claimed damages. In view of the inherent difficulty of predicting the outcome of such matters, particularly in cases where claimants seek substantial or indeterminate damages, or where investigation or discovery have yet to be completed, the Company is unable to estimate a range of reasonably possible losses on its remaining outstanding legal proceedings; however, the Company believes any losses, both individually or in the aggregate, would not be reasonably likely to have a material adverse effect on the consolidated financial condition or results of operations of the Company.

An unfavorable outcome in any matter could have a material adverse effect on the Company's business, financial condition, results of operations or cash flows. In addition, even if the ultimate outcomes are resolved in the Company's favor, the defense of such litigation could entail considerable cost or the diversion of the efforts of management, either of which could have a material adverse effect on the Company's business, financial condition, results of operations or cash flows.

Regulatory Matters

The securities, futures, foreign currency and banking industries are subject to extensive regulation under federal, state and applicable international laws. From time to time, the Company has been threatened with or named as a defendant in lawsuits, arbitrations and administrative claims involving securities, banking and other matters. The Company is also subject to periodic regulatory audits and inspections. Compliance and trading problems that are reported to regulators, such as the SEC, Federal Reserve Bank of Richmond, FINRA, CFTC, NFA or OCC by dissatisfied customers or others are investigated by such regulators, and may, if pursued, result in formal claims being filed against the Company by customers or disciplinary action being taken against the Company or its employees by regulators. Any such claims or disciplinary actions that are decided against the Company could have a material impact on the financial results of the Company or any of its subsidiaries.

During 2012, the Company completed a review of order handling practices and pricing for order flow between E*TRADE Securities and G1 Execution Services, LLC. The Company implemented changes to its practices and procedures that were recommended during the review. Banking regulators and federal securities regulators were regularly updated during the course of the review. Subsequently, on July 11, 2013, FINRA notified E*TRADE Securities and G1 Execution Services, LLC that it was conducting an examination of both firms' order handling practices. On March 19, 2015, the Company received a Wells notice from FINRA's Market Regulation Department relating to the adequacy of E*TRADE Securities' order-routing disclosures and supervisory process for reviewing execution quality during the period covered by the Company's 2012 internal review (July 2011 - June 2012). The Company continues to cooperate fully with FINRA in this examination. Under the agreement governing the sale of G1 Execution Services, LLC to Susquehanna, the Company remains responsible for any actions taken against G1 Execution Services, LLC arising from the investigation. In the case of the review of both E*TRADE Securities and G1 Execution Services, LLC such actions could include monetary penalties and cease-and-desist orders, and could prompt claims by customers. Any of these actions could materially and adversely affect the Company's broker-dealer businesses.

Insurance

The Company maintains insurance coverage that management believes is reasonable and prudent. The principal insurance coverage it maintains covers commercial general liability; property damage; hardware/software damage; cyber liability; directors and officers; employment practices liability; certain criminal acts against the Company; and errors and omissions. The Company believes that such insurance coverage is adequate for the purpose of its business. The Company's ability to maintain this level of insurance coverage in the future, however, is subject to the availability of affordable insurance in the marketplace.

Commitments

In the normal course of business, the Company makes various commitments to extend credit and incur contingent liabilities that are not reflected in the consolidated balance sheet. Significant changes in the economy or interest rates may influence the impact that these commitments and contingencies have on the Company in the future.

The Company's equity and cost method investments are generally limited liability investments in partnerships, companies and other similar entities, including tax credit partnerships and community development entities, which are not required to be consolidated. The Company had \$32 million in unfunded commitments with respect to these investments at September 30, 2015.

At September 30, 2015, the Company had approximately \$29 million of certificates of deposit scheduled to mature in less than one year and approximately \$90 million of unfunded commitments to extend credit.

Guarantees

In prior periods when the Company sold loans, the Company provided guarantees to investors purchasing mortgage loans, which are considered standard representations and warranties within the mortgage industry. The primary guarantees are that: the mortgage and the mortgage note have been duly executed and each is the legal, valid and binding obligation of the Company, enforceable in accordance with its terms; the mortgage has been duly acknowledged and recorded and is valid; and the mortgage and the mortgage note are not subject to any right of rescission, set-off, counterclaim or defense, including, without limitation, the defense of usury, and no such right of rescission, set-off, counterclaim or defense has been asserted with respect thereto. The Company is responsible for the guarantees on loans sold. If these claims prove to be untrue, the investor can require the Company to repurchase the loan and return all loan purchase and servicing release premiums. Management does not believe the potential liability exposure will have a material impact on the Company's results of operations, cash flows or financial condition due to the nature of the standard representations and warranties, which have resulted in a minimal amount of loan repurchases.

Prior to 2008, ETB Holdings, Inc. ("ETBH") raised capital through the formation of trusts, which sold trust preferred securities in the capital markets. The capital securities must be redeemed in whole at the due date, which is generally 30 years after issuance. Each trust issued trust preferred securities at par, with a liquidation amount of \$1,000 per capital security. The trusts used the proceeds from the sale of issuances to purchase subordinated debentures issued by ETBH.

During the 30-year period prior to the redemption of the trust preferred securities, ETBH guarantees the accrued and unpaid distributions on these securities, as well as the redemption price of the securities and certain costs that may be incurred in liquidating or dissolving the trusts (all of which would otherwise be payable by the trusts). At September 30, 2015, management estimated that the maximum potential liability under this arrangement, including the current carrying value of the trusts, was equal to approximately \$423 million or the total face value of these securities plus dividends, which may be unpaid at the termination of the trust arrangement.

NOTE 15—SEGMENT INFORMATION

The Company reports its operating results in two segments, based on the manner in which its chief operating decision maker evaluates financial performance and makes resource allocation decisions: 1) trading and investing; and 2) balance sheet management. Trading and investing includes retail brokerage products and services; investor-focused banking products; and corporate services. Balance sheet management includes the management of asset allocation; loans previously originated by the Company or purchased from third parties; deposits and customer payables; and credit, liquidity and interest rate risk. The balance sheet management segment utilizes deposits and customer payables and compensates the trading and investing segment via a market-based transfer pricing arrangement, which is eliminated in consolidation.

The Company does not allocate costs associated with certain functions that are centrally-managed to its operating segments. These costs are separately reported in a corporate/other category, along with technology related costs incurred to support centrally-managed functions; restructuring and other exit activities; debt extinguishment; and corporate debt and corporate investments.

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The Company evaluates the performance of its segments based on the segment's income (loss) before income taxes. Financial information for the Company's reportable segments is presented in the following tables (dollars in millions):

	Three Months Ended September 30, 2015			
	Trading and Investing	Balance Sheet Management	Corporate/ Other	Total
Net operating interest income	\$ 174	\$ 89	\$ —	\$ 263
Total non-interest income (loss)	168	(358)	—	(190)
Total net revenue	342	(269)	—	73
Provision (benefit) for loan losses	—	(25)	—	(25)
Total operating expense	197	23	73	293
Income (loss) before other income (expense) and income taxes	145	(267)	(73)	(195)
Total other income (expense)	—	—	(51)	(51)
Income (loss) before income taxes	\$ 145	\$ (267)	\$ (124)	\$ (246)
Income tax benefit				(93)
Net loss				\$ (153)

	Three Months Ended September 30, 2014			
	Trading and Investing	Balance Sheet Management	Corporate/ Other	Total
Net operating interest income	\$ 161	\$ 104	\$ —	\$ 265
Total non-interest income	166	9	—	175
Total net revenue	327	113	—	440
Provision (benefit) for loan losses	—	10	—	10
Total operating expense	183	36	58	277
Income (loss) before other income (expense) and income taxes	144	67	(58)	153
Total other income (expense)	—	—	(28)	(28)
Income (loss) before income taxes	\$ 144	\$ 67	\$ (86)	\$ 125
Income tax expense				39
Net income				\$ 86

	Nine Months Ended September 30, 2015			
	Trading and Investing	Balance Sheet Management	Corporate/ Other	Total
Net operating interest income	\$ 517	\$ 283	\$ 1	\$ 801
Total non-interest income (loss)	508	(335)	—	173
Total net revenue	1,025	(52)	1	974
Provision (benefit) for loan losses	—	(17)	—	(17)
Total operating expense	614	85	203	902
Income (loss) before other income (expense) and income taxes	411	(120)	(202)	89
Total other income (expense)	—	—	(155)	(155)
Income (loss) before income taxes	\$ 411	\$ (120)	\$ (357)	\$ (66)
Income tax benefit				(245)
Net income				\$ 179

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	Nine Months Ended September 30, 2014			
	Trading and Investing	Balance Sheet Management	Corporate/ Other	Total
Net operating interest income	\$ 449	\$ 346	\$ —	\$ 795
Total non-interest income	523	35	—	558
Total net revenue	972	381	—	1,353
Provision (benefit) for loan losses	—	26	—	26
Total operating expense	574	113	164	851
Income (loss) before other income (expense) and income taxes	398	242	(164)	476
Total other income (expense)	—	—	(95)	(95)
Income (loss) before income taxes	\$ 398	\$ 242	\$ (259)	\$ 381
Income tax expense				129
Net income				\$ 252

Total other income (expense) included losses on early extinguishment of corporate debt of \$39 million and \$112 million during the three and nine months ended September 30, 2015, respectively, compared to \$0 and \$12 million during the three and nine months ended September 30, 2014, respectively. For additional information refer to Note 8—Securities Sold Under Agreements to Repurchase, FHLB Advances and Other Borrowings and Note 9—Corporate Debt.

Segment Assets

	Trading and Investing	Balance Sheet Management	Corporate/ Other ⁽¹⁾	Total
As of September 30, 2015	\$ 11,181	\$ 29,399	\$ 625	\$ 41,205
As of December 31, 2014	\$ 12,032	\$ 33,075	\$ 423	\$ 45,530

(1) Corporate/Other category includes corporate assets and other elimination adjustments, such as a line of credit between the operating segments, not allocated to the Company's operating segments.

ITEM 4. CONTROLS AND PROCEDURES

- (a) Based on an evaluation under the supervision and with the participation of our management, our Chief Executive Officer and our Chief Financial Officer have concluded that the Company's disclosure controls and procedures, as defined in Rules 13a-15(e) under the Securities Exchange Act of 1934 ("Exchange Act"), were effective as of the end of the period covered by this report to provide reasonable assurance that information required to be disclosed by the Company in reports that it files or submits under the Exchange Act is (i) recorded, processed, summarized and reported within the time periods specified in the Securities and Exchange Commission rules and forms and (ii) accumulated and communicated to the Company's management, including our Chief Executive Officer and Chief Financial Officer, as appropriate to allow timely decisions regarding required disclosure.
- (b) There were no changes in the Company's internal control over financial reporting during the quarter ended September 30, 2015, identified in connection with management's evaluation required by paragraph (d) of Exchange Act Rules 13a-15 and 15d-15, that have materially affected, or are reasonably likely to materially affect, the Company's internal control over financial reporting.

PART II—OTHER INFORMATION

ITEM 1. LEGAL PROCEEDINGS

Information in response to this item can be found under the heading "Legal Matters" in Note 14—Commitments, Contingencies and Other Regulatory Matters to Part I. Item 1. Consolidated Financial Statements (Unaudited) in this Quarterly Report and is incorporated by reference into this item.

ITEM 1A. RISK FACTORS

There have been no material changes in the Company's risk factors from those disclosed in its Annual Report on Form 10-K for the year ended December 31, 2014.

ITEM 2. UNREGISTERED SALES OF EQUITY SECURITIES AND USE OF PROCEEDS

None.

ITEM 3. DEFAULTS UPON SENIOR SECURITIES

None.

ITEM 4. MINE SAFETY DISCLOSURES

Not applicable.

ITEM 5. OTHER INFORMATION

None.

ITEM 6. EXHIBITS

Exhibit Number	Description
*4.1	Amendment No. 1 to Credit Agreement, dated as of September 16, 2015, among the Company, the lenders party thereto, J.P. Morgan Chase Bank, N.A., as Administrative Agent, and Morgan Stanley Senior Funding, Inc., as Syndication Agent.
*10.1	Employment Agreement dated as of October 21, 2015 by and between E*TRADE Financial Corporation and Paul T. Idzik.
*31.1	Certification—Section 302 of the Sarbanes-Oxley Act of 2002
*31.2	Certification—Section 302 of the Sarbanes-Oxley Act of 2002
*32.1	Certification—Section 906 of the Sarbanes-Oxley Act of 2002
*101.INS	XBRL Instance Document
*101.SCH	XBRL Taxonomy Extension Schema Document
*101.CAL	XBRL Taxonomy Extension Calculation Linkbase Document
*101.DEF	XBRL Taxonomy Extension Definition Linkbase Document
*101.LAB	XBRL Taxonomy Extension Label Linkbase Document
*101.PRE	XBRL Taxonomy Extension Presentation Linkbase Document

* Filed herein.

AMENDMENT NO. 1

AMENDMENT NO. 1 (this “**Amendment**”) dated as of September 16, 2015 relating to the CREDIT AGREEMENT, dated as of November 10, 2014 (as amended, amended and restated, supplemented or otherwise modified prior to the date hereof, the “**Credit Agreement**”), among E*TRADE FINANCIAL CORPORATION, a Delaware corporation (the “**Borrower**”), JPMORGAN CHASE BANK, N.A., as administrative agent (in such capacity, including any successor thereto, the “**Administrative Agent**”), MORGAN STANLEY SENIOR FUNDING, INC., as syndication agent and each lender from time to time party thereto (collectively, the “**Lenders**” and individually, a “**Lender**”).

RECITALS:

WHEREAS, the Borrower has requested that the Credit Agreement be amended as set forth in Annex A (the “**Amended Credit Agreement**”) on the terms set forth in Annex A pursuant to Section 9.02(b) of the Credit Agreement; and

WHEREAS, Lenders constituting the Required Lenders have consented to the amendments to the Credit Agreement provided herein.

NOW, THEREFORE, the parties hereto therefore agree as follows:

SECTION 1. *Defined Terms; References.* Capitalized terms used in this Amendment and not otherwise defined herein have the respective meanings assigned thereto in the Credit Agreement. The rules of construction specified in Section 1.03 of the Credit Agreement also apply to this Amendment *mutatis mutandis*.

SECTION 2. *Amendments to Credit Agreement.* On the Amendment No. 1 Effective Date (as defined below):

(a) the Borrower, the Administrative Agent and the Lenders party hereto agree that the Credit Agreement shall be amended to delete the stricken text (indicated textually in the same manner as the following example: ~~stricken text~~) and to add the double-underlined text (indicated textually in the same manner as the following example: double-underlined text) as set forth in the pages of the Credit Agreement attached as Annex A hereto;

(b) as used in the Credit Agreement, as amended by this Amendment, the terms “Agreement”, “this Agreement”, “herein”, “hereinafter”, “hereto”, “hereof” and words of similar import shall, unless the context otherwise requires, from and after the Amendment No. 1 Effective Date, mean or refer to the Credit Agreement, as amended by this Amendment; and

(c) as used in any other Loan Document, all references to the “Credit Agreement” in such Loan Documents shall, unless the context otherwise requires, mean or refer to the Credit Agreement, as amended by this Amendment.

SECTION 3. *Representations of the Borrower.* After giving effect to the amendments contained herein, on the Amendment No. 1 Effective Date, the Borrower hereby confirms that:

(a) this Amendment has been duly authorized, executed and delivered by the Borrower and constitutes the legal, valid and binding obligations of the Borrower enforceable against the Borrower in accordance with its terms, subject to applicable bankruptcy, insolvency, reorganization, moratorium or other laws affecting creditors' rights generally and subject to general principles of equity, regardless of whether considered in a proceeding in equity or at law;

(b) the representations and warranties of the Borrower contained in Article III of the Credit Agreement (after giving affect to this Amendment) or any other Loan Document that are qualified by materiality shall be true and correct and the representations and warranties that are not so qualified shall be true and correct in all material respects, in each case, on and as of the Amendment No. 1 Effective Date with the same effect as though made on and as of the date hereof; and

(c) after giving effect to this Amendment, the execution, delivery and performance by the Borrower of this Amendment (i) do not require any consent or approval of, registration or filing with, or any other action by, any Governmental Authority, except, to the extent applicable, (1) such as have been obtained or made and are in full force and effect, (2) filings necessary to perfect Liens created under the Loan Documents, (3) any consent, approval, registration, filing or other action required for the exercise of remedies under the Collateral Documents and (4) filings with the SEC in connection with this Amendment that will be made when required, (ii) will not violate the Organizational Documents of the Borrower or any Subsidiary, (iii) will not violate any Requirement of Law applicable to the Borrower or any Subsidiary, (iv) will not violate or result in a default under any indenture, agreement or other instrument binding upon the Borrower or any Subsidiary or their respective assets, or give rise to a right thereunder to require any payment to be made by the Borrower or any Subsidiary or give rise to a right of, or result in, termination, cancelation or acceleration of any obligation thereunder, and (v) will not result in the creation or imposition of any Lien on any asset of the Borrower or any Subsidiary, except Liens created under the Loan Documents, except in the case of clauses (iii) and (iv) above where such violations, individually or in the aggregate, could not reasonably be expected to result in a Material Adverse Effect.

SECTION 4. *Conditions to Effectiveness.* This Amendment shall become effective as of the first date (the "**Amendment No. 1 Effective Date**") on which each of the following conditions has been satisfied (or waived) to the satisfaction of the Administrative Agent:

(a) The Administrative Agent (or its counsel) shall have received from (i) the Borrower, (ii) the Required Lenders and (iii) the Administrative Agent (x) a counterpart of this Amendment or (y) written evidence reasonably satisfactory to the Administrative Agent (which may include telecopy or other electronic transmission of a signed signature page of this Amendment) that such party has signed a counterpart of this Amendment.

(b) The Administrative Agent (or its counsel) shall have received a secretary's certificate from the Borrower with all relevant attachments and certifying (i) as to the

incumbency certificates of responsible officers of the Borrower evidencing the identity, authority and capacity of each such officer to execute this Amendment, (ii) that the copies of its resolutions approving the entry into and performance of this Amendment, are true, correct and complete copies and are in full force and effect as of the Amendment No. 1 Effective Date, (iii) either (x) that the Organizational Documents of the Borrower attached thereto are up-to-date or (y) that the Organizational Documents of the Borrower delivered to the Administrative Agent on the Effective Date have not been modified, amended, revoked or rescinded since the date of original delivery, and, in each case, are in full force and effect as of the Amendment No. 1 Effective Date and (iv) as to a copy of a certificate of good standing (or the equivalent (if any)) of the Borrower certified as of a recent date by the Secretary of State of the State of Delaware.

(c) The Administrative Agent shall have received, to the extent invoiced at least one Business Day prior to the Amendment No. 1 Effective Date, reimbursement or payment of all reasonable out-of-pocket expenses (including reasonable fees and expenses of Cahill Gordon & Reindel LLP, counsel to the Administrative Agent) required to be paid under the Credit Agreement.

(d) The representations and warranties in Section 3 of this Amendment shall be true and correct as of the date hereof.

(e) At the time of and immediately after giving effect to the effectiveness of this Amendment, no Default or Event of Default has occurred or is continuing or shall result from this Amendment.

The Administrative Agent shall promptly notify the Borrower and the Lenders of the Amendment No. 1 Effective Date.

SECTION 5. *Continuing Effect: No Other Amendments or Waivers.* This Amendment shall not constitute an amendment or waiver of or consent to any provision of the Credit Agreement and the other Loan Documents except as expressly stated herein and shall not be construed as an amendment, waiver or consent to any action on the part of the Borrower that would require an amendment, waiver or consent of the Administrative Agent or the Lenders except as expressly stated herein. Except as expressly waived hereby, the provisions of the Credit Agreement and the other Loan Documents, including, for the avoidance of doubt, that certain Incremental Assumption Agreement, dated as of February 27, 2015 among the Borrower, the Administrative Agent, Morgan Stanley Senior Funding, Inc., as an Incremental Lender and Goldman Sachs Bank USA, as an Incremental Lender, are and shall remain in full force and effect in accordance with their terms. This Amendment is a Loan Document for all purposes of the Credit Agreement (as amended by this Amendment) and the other Loan Documents.

SECTION 6. *Counterparts.* This Amendment may be executed in any number of separate counterparts by the parties hereto (including by telecopy or via electronic mail), each of which counterparts when so executed shall be an original, but all the counterparts shall together constitute one and the same instrument.

SECTION 7. GOVERNING LAW. THIS AMENDMENT SHALL BE GOVERNED BY, AND CONSTRUED IN ACCORDANCE WITH, THE LAW OF THE STATE OF NEW YORK, WITHOUT REGARD TO ANY PRINCIPLE OF CONFLICTS OF LAW THAT COULD REQUIRE THE APPLICATION OF ANY OTHER LAW.

SECTION 8. Reaffirmation. The Borrower hereby expressly acknowledges the terms of this Amendment and reaffirms, as of the date hereof, (i) the covenants, pledges, grants of Liens and agreements or other commitments contained in the Credit Agreement (as amended by this Amendment) and each other Loan Document (in each case immediately after giving effect to this Amendment and the transactions contemplated hereby) and (ii) its grant of Liens on the Collateral to secure the Obligations as varied or increased as a result of this Amendment pursuant to the Collateral Agreement. In addition, the Borrower hereby acknowledges and agrees that, except as expressly set forth herein, (A) each Loan Document shall continue to be in full force and effect, (B) all pledges, grants of Liens, covenants, agreements and other commitments by the Borrower under the Loan Documents shall continue to be in full force and effect and shall accrue to the benefit of the Secured Parties and shall not be affected, impaired or discharged hereby or by the transactions contemplated in this Amendment, (C) nothing in this Amendment prejudices or otherwise adversely affects any power, discretion or remedy of a Lender or the Administrative Agent or any Obligation of the Borrower to a Lender or the Administrative Agent and (D) the Lenders and Administrative Agent are relying on the reaffirmations in this Section 8 in continuing to provide financial accommodation to the Borrower and in agreeing to enter into this Amendment.

SECTION 9. Headings. The headings of this Amendment are for purposes of reference only and shall not limit or otherwise affect the meaning hereof.

SECTION 10. Severability. If any provision of this Amendment is held to be illegal, invalid or unenforceable, the legality, validity and enforceability of the remaining provisions of this Amendment shall not be affected or impaired thereby. The invalidity of a provision in a particular jurisdiction shall not invalidate or render unenforceable such provision in any other jurisdiction.

[Remainder of Page Intentionally Left Blank]

IN WITNESS WHEREOF, the parties hereto have caused this Amendment to be duly executed and delivered by their respective duly authorized officers as of the date first above written.

E*TRADE FINANCIAL CORPORATION,
as Borrower

By: /s/ Michael Pizzi
Name: Michael Pizzi
Title: Chief Financial Officer

[Signature Page to Amendment No. 1]

JPMORGAN CHASE BANK, N.A., as Administrative Agent

By: /s/ Kortney L. Brown
Name: Kortney L. Brown
Title: Vice President

[Signature Page to Assumption Agreement and Amendment No. 1]

The undersigned evidences its consent to the amendments reflected in this Amendment:

Name of Institution:

JPMORGAN CHASE BANK, N.A.,
as a Lender

By: /s/ Kortney L. Brown
Name: Kortney L. Brown
Title: Vice President

[Signature Page to Amendment No. 1]

The undersigned evidences its consent to the amendments reflected in this Amendment:

Name of Institution:

MORGAN STANLEY BANK, N.A.,
as a Lender

By: /s/ Harry Comminellis
Name: Harry Comminellis
Title: Authorized Signatory

[If two signatures are required:

By: ___
Name:
Title:

[Signature Page to Amendment No. 1]

The undersigned evidences its consent to the amendments reflected in this Amendment:

Name of Institution:

GOLDMAN SACHS BANK USA,
as a Lender

By: /s/ Jamie Minieri
Name: Jamie Minieri
Title: Authorized Signatory

[If two signatures are required:

By: ___
Name:
Title:

[Signature Page to Amendment No. 1]

The undersigned evidences its consent to the amendments reflected in this Amendment:

Name of Institution:

CREDIT SUISSE AG, CAYMAN ISLANDS BRANCH,
as a Lender

By: /s/ Doreen Barr

Name: Doreen Barr

Title: Authorized Signatory

By: /s/ Michael Moreno

Name: Michael Moreno

Title: Authorized Signatory

[Signature Page to Amendment No. 1]

[ATTACHED]

CREDIT AGREEMENT

dated as of

November 10, 2014,

among

E*TRADE FINANCIAL CORPORATION,
as Borrower,

The Lenders Party Hereto,

JPMORGAN CHASE BANK, N.A.,
as Administrative Agent, and

MORGAN STANLEY SENIOR FUNDING, INC.,
as Syndication Agent

J.P. MORGAN SECURITIES LLC, and MORGAN STANLEY
SENIOR FUNDING, INC.,

as Joint Bookrunners and Co-Lead Arrangers

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 - Exhibit C -- Form of Perfection Certificate
-

CREDIT AGREEMENT dated as of November 10, 2014 (this “Agreement”), among E*TRADE FINANCIAL CORPORATION, the LENDERS party hereto, JPMORGAN CHASE BANK, N.A., as Administrative Agent, and Morgan Stanley Senior Funding, Inc., as Syndication Agent.

The Borrower has requested that the Lenders (such term and each other term used but not defined in this preamble having the meaning assigned to such term in Article I below) extend credit in the form of Loans at any time and from time to time during the Availability Period such that the aggregate principal amount of outstanding Loans will not exceed the aggregate Commitments of the Lenders at any time. The proceeds of the Loans after the Effective Date will be used for general corporate purposes (including ~~Permitted Acquisitions~~ acquisitions).

The Lenders are willing to extend such credit to the Borrower on the terms and subject to the conditions set forth herein. Accordingly, the parties hereto agree as follows:

ARTICLE I

Definitions

SECTION 1.01. Defined Terms. As used in this Agreement, the following terms have the meanings specified below:

“2016 Indenture” means the Indenture dated as of May 19, 2011 between the Borrower and The Bank of New York Mellon Trust Company, N.A., as trustee, as amended or supplemented from time to time.

“2016 Notes” means the 6.75% Notes due 2016 issued pursuant to the 2016 Indenture, to the extent outstanding on the Effective Date.

“2017 Indenture” means the Indenture dated as of November 14, 2012 between the Borrower and The Bank of New York Mellon Trust Company, N.A., as trustee, as amended or supplemented from time to time.

“2017 Notes” means the 6% Senior Notes due 2017 issued pursuant to the 2017 Indenture, to the extent outstanding on the Effective Date.

“2019 Convertible Indenture” means the Indenture dated as of August 25, 2009 between the Borrower and The Bank of New York Mellon, as trustee, as amended or supplemented from time to time.

“2019 Convertible Notes” means the Class A Convertible Debentures due 2019 and the Class B Convertible Debentures due 2019, in each case issued pursuant to the 2019 Indenture, in each case to the extent outstanding on the Effective Date.

“2019 Indenture” means the Indenture dated as of November 14, 2012 between the Borrower and The Bank of New York Mellon Trust Company, N.A., as trustee, as amended or supplemented from time to time.

“2019 Notes” means the 6.375% Senior Notes due 2019 issued pursuant to the 2019 Indenture, to the extent outstanding on the Effective Date.

“2023 Indenture” means the Senior Indenture dated as of November 14, 2012 between the Borrower and The Bank of New York Mellon Trust Company, N.A., as trustee, as amended by the Third Supplemental Indenture dated as of March 5, 2015, and as further amended and supplemented from time to time.

“2023 Notes” means the 4.625% Senior Notes due 2023 issued pursuant to the 2023 Indenture.

“ABR”, when used in reference to any Loan or Borrowing, refers to whether such Loan, or the Loans comprising such Borrowing, are bearing interest at a rate determined by reference to the Alternate Base Rate.

“Acquired Indebtedness” means Indebtedness of a Person existing at the time such Person becomes a Subsidiary or Indebtedness of a Subsidiary assumed in connection with an acquisition of assets by such Subsidiary; provided such Indebtedness was not incurred in connection with or in contemplation of such Person becoming a Subsidiary or such acquisition of assets.

“Adjusted Consolidated Net Income” means, for any period, the aggregate net income (or loss) of the Borrower and its Subsidiaries for such period determined in conformity with GAAP; provided that the following items shall be excluded in computing Adjusted Consolidated Net Income (without duplication):

(a) the net income (or loss) of any Person that is not a Subsidiary, except that the Borrower’s equity in the net income of any such Person for such period (to the extent not otherwise excluded pursuant to clauses (b) through (f) below) will be included up to the aggregate amount of cash actually distributed by such Person during such period to the Borrower or to its Subsidiaries (less minority interest therein) as a dividend or other distribution;

(b) the net income (or loss) of any Person accrued prior to the date it becomes a Subsidiary or is merged into or consolidated with the Borrower or any of its Subsidiaries or all or substantially all of the property and assets of such Person are acquired by the Borrower or any of its Subsidiaries;

(c) the net income of any Subsidiary (other than a Regulated Subsidiary) to the extent that the declaration or payment of dividends or similar distributions by such Subsidiary (other than a Regulated Subsidiary) of such net income is not at the time permitted by the operation of the terms of its charter or any agreement, instrument, judgment, decree, order, statute, rule or governmental regulation applicable to such Subsidiary (other than a Regulated Subsidiary);

(d) the net income of any Regulated Subsidiary (i) to the extent that the declaration or payment of dividends or similar distributions by such Regulated Subsidiary of such net income is not at the time permitted by the operation of the terms of its charter or any agreement or instrument with a Person, other than such Regulated Subsidiary’s applicable regulatory authorities, or any judgment or decree applicable to such Regulated Subsidiary (ii) other than to the extent that such Regulated Subsidiary reasonably believes, in good faith, that such net income could be distributed, declared or paid as a dividend or similar distribution without causing such Regulated Subsidiary to fail to be at least “adequately capitalized” as defined in the regulations of applicable regulatory authorities, or to meet minimum capital requirements imposed by applicable regulatory authorities;

(e) any gains or losses (on an after-tax basis) attributable to asset sales;

(f) solely for purposes of calculating the amount of Restricted Payments that may be made pursuant to Section 6.08(a)(D), any amount paid or accrued as dividends on preferred Equity Interests of the Borrower owned by Persons other than the Borrower and any of its Subsidiaries;

(g) all extraordinary gains and, other than for purposes of calculating the amount of Adjusted Consolidated Net Income for purposes of making Restricted Payments pursuant to Section 6.08(a)(D), extraordinary losses;

(h) the cumulative effect of changes in accounting principles; and

(i) the net after-tax effect of impairment charges related to goodwill and other intangible assets.

“Adjusted LIBO Rate” means, with respect to any Eurodollar Borrowing for any Interest Period, an interest rate per annum (rounded upwards, if necessary, to the next 1/16 of 1%) equal to (a) the LIBO Rate for such Interest Period multiplied by (b) the Statutory Reserve Rate.

“Administrative Agent” means JPMorgan Chase Bank, N.A., in its capacity as administrative agent for the Lenders hereunder, and its successors in such capacity as provided in Article VIII.

“Administrative Agent Fee Letter” means that certain Arrangement Fee Letter between the Borrower and the Administrative Agent, dated as of the date hereof.

“Administrative Questionnaire” means an administrative questionnaire in a form supplied by the Administrative Agent.

~~“Agent Parties” has the meaning assigned to such term in Section 9.01.~~

~~“Agreement” has the meaning assigned to such term in the Preliminary Statements.~~

“Affiliate” means, with respect to a specified Person, another Person that directly, or indirectly through one or more intermediaries, Controls or is Controlled by or is under common Control with the Person specified; provided, however, that for purposes of Section 6.09, the term “Affiliate” shall also include any person that directly, or indirectly through one or more intermediaries, owns 10% or more of any class of Equity Interests of the Person specified or that is an executive officer or director of the Person specified.

~~“Agent Parties” has the meaning assigned to such term in Section 9.01.~~

~~“Agreement” has the meaning assigned to such term in the Preliminary Statements.~~

“Alternate Base Rate” means, for any day, a rate *per annum* equal to the greatest of (a) the Prime Rate in effect on such day, (b) the Federal Funds Effective Rate in effect on such day plus ½ of 1% and (c) the Adjusted LIBO Rate for a one month Interest Period on such day (or if such day is not a Business Day, the immediately preceding Business Day) plus 1%, provided that, for the avoidance of doubt, the Adjusted LIBO Rate for any day shall be based on the LIBO Screen Rate at approximately 11:00 a.m. London time on such day. Any change in the Alternate Base Rate due to a change in the Prime Rate, the Federal Funds Effective Rate or the Adjusted LIBO Rate shall be effective from and including the effective date of such change in the Prime Rate, the Federal Funds Effective Rate or the Adjusted LIBO Rate, respectively.

“Anti-Corruption Laws” means all laws, rules, and regulations of any jurisdiction applicable to the Borrower or any of its Affiliates from time to time concerning or relating to bribery or corruption.

“Applicable Rate” means, for any day with respect to any Loan, the applicable rate per annum set forth below under the caption “Revolving Loan ABR Spread” or “Revolving Loan Eurodollar Spread”, as the case may be, based upon the Ratings then in effect:

Ratings	Revolving Loan ABR Spread	Revolving Loan Eurodollar Spread
Category 1—Ba3 or higher by Moody’s and BB- or higher by S&P	0.50%	1.50%
Category 2—B1 by Moody’s/B+ by S&P	0.75%	1.75%
Category 3—Lower than B1 by Moody’s and lower than B+ by S&P	1.00%	2.00%

In the event of split Ratings that would result in the Moody’s Rating and S&P Rating would fall in different Categories in the pricing grid above, (x) except if the Moody’s Rating and the S&P Rating are both at least as high as those set forth in Category 1, the Applicable Rate shall not be based on Category 1 and (y) the Applicable Rate shall be based upon (I) if the Moody’s Rating and the S&P Rating differ by only one “notch”, the higher Rating, and (II) if the Moody’s Rating and the S&P Rating differ by more than one “notch”, the Rating that is one level below the actual Rating provided by the Rating Agency providing the higher of the two Ratings. If the Borrower ceases to be rated by Moody’s or S&P, Borrower will be deemed by Moody’s or S&P, to have a Rating lower than B1 from Moody’s or B+ from S&P, as applicable (unless Moody’s or S&P, as applicable, ceases to provide Ratings, in which case the Applicable Rate shall be based upon the rating of whichever of Moody’s or S&P continues to provide Ratings)

Each change in the Applicable Rate resulting from a change in the Moody’s Rating or the S&P Rating shall become effective on the date of announcement or publication by the respective Rating Agency of a change in such Rating or, in the absence of such announcement or publication, on the effective date of such changed Rating. Within one Business Day of receipt of any such announcement, publication or effective date, the Administrative Agent shall give each Lender facsimile or telephonic notice (confirmed in writing) of the Applicable Rate in effect from such date.

“Approved Fund” has the meaning assigned to such term in Section 9.04(b).

“Asset Quality Ratio” shall mean the ratio of (i) non-performing assets and, without duplication real estate owned, and other repossessed assets of the Borrower and its Subsidiaries to (ii) total equity plus loan loss reserves (as determined in accordance with GAAP) of the Borrower its Subsidiaries (which shall be reduced by deducting intangible assets and goodwill that is acquired after the Effective Date).

“Assignment and Assumption” means an assignment and assumption entered into by a Lender and an assignee (with the consent of any party whose consent is required by Section 9.04), and accepted

by the Administrative Agent, in the form of Exhibit A or any other form approved by the Administrative Agent.

“Availability Period” means the period from and including the Effective Date to but excluding the earlier of the Maturity Date and the date of termination of the Commitments.

~~“Bank Regulatory Authority” means the Board, the OCC, the FDIC and any other relevant bank regulatory authority having jurisdiction over the Borrower or any Bank Regulated Subsidiary, as applicable.~~

“Bank Regulated Subsidiary” means (a) ETB Holdings (provided that such Person is a savings and loan holding company, as defined under the Home Owners’ Loan Act, as amended, or a bank holding company, as defined under the Bank Holding Company Act, as amended, but in no event shall such Person mean, or include, the Borrower), (b) any direct or indirect insured depository institution Subsidiary that is regulated by foreign, Federal or state banking regulators, including without limitation, the Board, the OCC and the FDIC, or (c) any subsidiary of a Bank Regulated Subsidiary all of the common Equity Interests of which are owned by such Bank Regulated Subsidiary and the sole purpose of which is to issue trust preferred or similar securities where the proceeds of the sale of such securities are invested in such Bank Regulated Subsidiary and where such proceeds would be treated as Tier I capital were such Bank Regulated Subsidiary a bank holding company regulated by the Board.

“Bank Regulatory Authority” means the Board, the OCC, the FDIC and any other relevant bank regulatory authority having jurisdiction over the Borrower or any Bank Regulated Subsidiary, as applicable.

“Board” means the Board of Governors of the Federal Reserve System of the United States of America, together with its constituent banks and agencies.

“Borrower” means E*TRADE Financial Corporation, a Delaware corporation.

“Borrowing” means Loans of the same Type, made, converted or continued on the same date and, in the case of Eurodollar Loans, as to which a single Interest Period is in effect.

“Borrowing Request” means a request by the Borrower for a Borrowing in accordance with Section 2.03.

“Broker Dealer Regulated Subsidiary” means any Subsidiary that is registered as a broker dealer pursuant to Section 15 of the Exchange Act (as in effect from time to time) or that is regulated as a broker dealer or underwriter under any foreign securities law.

“Business Day” means any day that is not a Saturday, Sunday or other day on which commercial banks in New York City are authorized or required by law to remain closed; and when used in connection with a Eurodollar Loan, the term “Business Day” shall also exclude any day on which banks are not open for dealings in dollar deposits in the London interbank market.

“Capital Lease Obligations” of any Person means the obligations of such Person to pay rent or other amounts under any lease of (or other arrangement conveying the right to use) real or personal property, or a combination thereof, which obligations are required to be classified and accounted for as capital leases on a balance sheet of such Person under GAAP, and the amount of such obligations shall be the capitalized amount thereof determined in accordance with GAAP. Notwithstanding any changes in

GAAP after the Effective Date, any lease of the Borrower and its Subsidiaries that would be characterized as an operating lease under GAAP in effect on the Effective Date (whether such lease is entered into before or after the Effective Date) shall not constitute Indebtedness or a Capital Lease Obligation under this Agreement or any other Loan Document as a result of such changes in GAAP.

“CFC” means any Subsidiary that is a “controlled foreign corporation” as defined in Section 957 of the Code.

“Change in Control” means (a) the acquisition of ownership, directly or indirectly, beneficially or of record, by any Person or group (within the meaning of the Exchange Act and the rules of the SEC thereunder as in effect from time to time) of Equity Interests representing more than 35% of the aggregate ordinary voting power represented by the issued and outstanding Equity Interests in the Borrower, (b) the consummation of any merger or business combination if, after such transaction, holders of the Borrower’s ordinary voting power represented by the issued and outstanding Equity Interests before the transaction do not hold a majority of the voting power of the Borrower’s issued and outstanding Equity Interests immediately after the transaction or (c) the occurrence of a “Change of Control” (or similar event, however denominated), as defined in any Subordinated Debt Documents, any indenture or agreement in respect of the 2019 Convertible Notes, the 2019 Notes, the New Notes or any other Material Indebtedness or any certificate of designations (or other provision of the organizational documents of the Borrower) relating to, or any other agreement governing the rights of the holders of, any Qualified Equity Interests.

“Change in Law” means the occurrence after the date of this Agreement (or, with respect to any Lender, such later date on which such Lender becomes a party to this Agreement) of any of the following: (a) the adoption or taking effect of any law, rule, regulation or treaty; (b) any change in any law, rule, regulation or treaty or in the administration, interpretation or application thereof by any Governmental Authority; or (c) compliance by any Lender (or, for purposes of Section 2.12(b), by any lending office of such Lender or by such Lender's holding company, if any) with any request, guideline, requirement or directive (whether or not having the force of law) of any Governmental Authority made or issued after the date of this Agreement; provided that, notwithstanding anything herein to the contrary, (x) the Dodd-Frank Wall Street Reform and Consumer Protection Act and all requests, rules, guidelines, requirements or directives thereunder or issued in connection therewith or in the implementation thereof, and (y) all requests, rules, guidelines, requirements or directives promulgated by United States or foreign regulatory authorities, in each case pursuant to Basel III, shall in each case be deemed to be a “Change in Law”, regardless of the date enacted, adopted, issued or implemented.

“Charges” has the meaning assigned to such term in Section 9.13.

“Code” means the Internal Revenue Code of 1986, as amended from time to time.

“Collateral” means any and all “Collateral,” (or equivalent term) as defined in any applicable Security Document and any other assets pledged (or purported to be pledged) pursuant to a Security Document.

“Collateral Agreement” means the Collateral Agreement between the Borrower and the Administrative Agent, substantially in the form of Exhibit B.

[“Collateral Documents” has the meaning assigned to such term in the Collateral Agreement.](#)

“Collateral Requirement” means, at any time, the requirement that:

(a) the Administrative Agent shall have received from the Borrower a counterpart of the Collateral Agreement duly executed and delivered on behalf of the Borrower;

(b) all outstanding Equity Interests of each direct Domestic Subsidiary (or, in the case of any FSHCO, 65% of the outstanding voting Equity Interests in such FSHCO) held by the Borrower (other than any such Equity Interests if the pledge of such Equity Interests would be prohibited by any Requirement of Law or would require the consent (including non-objection) of any Governmental Authority (including any Bank Regulatory Authority) or Regulatory Supervising Organization) shall have been pledged pursuant to the Collateral Agreement, the Administrative Agent shall have a perfected first priority (subject to Permitted Encumbrances) security interest in such Equity Interests and the Administrative Agent shall have received certificates or other instruments representing all such Equity Interests that are certificated, together with undated stock powers or other instruments of transfer with respect thereto endorsed in blank;

(c) all Indebtedness of each Subsidiary that is owing to the Borrower (other than any such Indebtedness if the pledge of such Indebtedness would reasonably be likely to result in adverse tax consequences to the Borrower, as determined by the Borrower in good faith) shall be evidenced by a promissory note and shall have been pledged pursuant to the Collateral Agreement, the Administrative Agent shall have a perfected first priority (subject to Permitted Encumbrances) security interest in such Indebtedness and the Administrative Agent shall have received all such promissory notes, together with undated instruments of transfer with respect thereto endorsed in blank;

(d) all documents and instruments, including Uniform Commercial Code financing statements, required by law or reasonably requested by the Administrative Agent to be delivered, filed, registered or recorded to create the Liens intended to be created by the Collateral Agreement and perfect such Liens to the extent required by, and with the priority required by, the Collateral Agreement, shall have been delivered, filed, registered or recorded or delivered to the Administrative Agent for filing, registration or recording, in each case, to the extent applicable, in proper form for filing, registration or recordation, as the case may be; and

(e) the Borrower shall have obtained all consents and approvals required to be obtained by it in connection with the execution and delivery of all Security Documents to which it is a party, the performance of its obligations thereunder and the granting by it of the Liens thereunder.

“Commitment” means, with respect to each Lender, the commitment, if any, of such Lender to make Loans hereunder, expressed as an amount representing the maximum possible aggregate principal amount of such Lender’s Loans hereunder, as such commitment may be (a) reduced from time to time pursuant to Section 2.06 and (b) reduced or increased from time to time pursuant to assignments by or to such Lender pursuant to Section 9.04. The initial amount of each Lender’s Commitment is set forth on Schedule 2.01, or in the Assignment and Assumption pursuant to which such Lender shall have assumed its Commitment, as the case may be. The initial aggregate amount of the Lenders’ Commitments is \$200,000,000. Unless the context shall otherwise require, “Commitments” shall include any Incremental Commitments.

“Communications” has the meaning assigned to such term in Section 9.01.

“Consolidated EBITDA” means, for any period, Adjusted Consolidated Net Income for such period plus, to the extent such amount was deducted in calculating such Adjusted Consolidated Net Income:

- (a) Consolidated Interest Expense,
- (b) consolidated income tax expense for such period,
- (c) depreciation expense,
- (d) amortization expense (excluding amortization expense attributable to a prepaid cash item that was paid in a prior period), and

(e) all other non-cash items reducing Adjusted Consolidated Net Income (other than items that will require cash payments and for which an accrual or reserve is, or is required by GAAP to be, made), less, in the case of loan loss provisions, any net charge-offs established during such period associated with such loan loss provisions and less all non-cash items increasing Adjusted Consolidated Net Income, all as determined on a consolidated basis for the Borrower and its Subsidiaries in conformity with GAAP; provided that, if any Subsidiary is not a wholly owned Subsidiary, Consolidated EBITDA shall be reduced (to the extent not otherwise reduced in accordance with GAAP) by an amount equal to (A) the amount of the Adjusted Consolidated Net Income attributable to such Subsidiary multiplied by (B) the percentage of common Equity Interests of such Subsidiary not owned on the last day of such period by the Borrower or any of its wholly owned Subsidiaries.

~~“Consolidated Fixed Charges” means, with respect to the Borrower and its Subsidiaries for any period, the sum, without duplication, of (i) Consolidated Interest Expense, plus (ii) the product of (A) the amount of all dividend payments on any series of preferred Equity Interests of (x) the Borrower and (y) to the extent payable to Persons other than the Borrower and its Subsidiaries (in each case other than (x) dividends paid in Qualified Equity Interests, (y) to the extent they are paid in kind or accrete, except to the extent they constitute Disqualified Equity Interests and (z) dividends paid on any trust preferred securities of the Borrower or any Subsidiary that are outstanding on the Effective Date) paid, accrued or scheduled to be paid or accrued during such period times (B) a fraction, the numerator of which is one and the denominator of which is one minus the then current effective consolidated Federal, state and local tax rate of such Person, expressed as a decimal.~~

“Consolidated Interest Expense” means, for any period, the aggregate amount of interest in respect of Indebtedness (including, without limitation, interest payments on trust preferred securities issued by any Subsidiary, amortization of original issue discount on any Indebtedness and the interest portion of any deferred payment obligation of the type described in clause (4) of the definition of the term “Indebtedness”, calculated in accordance with the effective interest method of accounting, all commissions, discounts and other fees and charges owed with respect to letters of credit and bankers’ acceptance financing; interest expense in respect of Indebtedness that is Guaranteed or secured by the Borrower or any of its Subsidiaries), and all but the principal component of rentals in respect of Capital Lease Obligations, paid, accrued or scheduled to be paid or to be accrued by the Borrower and its Subsidiaries during such period; excluding, however, (i) any amount of such interest of any Subsidiary if the net income of such Subsidiary is excluded in the calculation of Adjusted Consolidated Net Income pursuant to clause (c) or (d) of the definition thereof (but only in the same proportion as the net income of such Subsidiary is excluded from the calculation of Adjusted Consolidated Net Income pursuant to clause (c) or (d) of the definition thereof), (ii) any premium, fees and expenses (and any amortization thereof)

payable in connection with the offering or repayment, repurchase, redemption, cancellation, defeasance or discharge of the 2016 Notes, 2017 Notes, the 2019 Convertible Notes, the 2019 Notes ~~or~~ the New Notes, the 2023 Notes or any other debt securities issued after the date hereof all as determined on a consolidated basis (without taking into account Subsidiaries) in conformity with GAAP and (iii) interest payments ~~(A) on trust preferred or similar securities issued by a Regulated Subsidiary to the extent the proceeds of the sale of such securities are invested in the business of a Regulated Subsidiary or (B)~~ of a Regulated Subsidiary in respect of Indebtedness incurred under (or in respect of Indebtedness outstanding on the Effective Date, set forth on Schedule 6.01 and of the type described in) clause (x), (xi); or (xiv) ~~or (xv)~~ of Section 6.01(a).

~~“Consolidated Net Worth” means, at any date of determination, (x) stockholders’ equity as set forth on the most recent quarterly or annual consolidated balance sheet of the Borrower and its Subsidiaries delivered pursuant to Section 5.01(a) or (b) (which shall not take into account Subsidiaries), plus, (y) to the extent not included in clause (x), any preferred Equity Interests of the Borrower, less (z) any amounts attributable to (i) Disqualified Equity Interests or any equity security convertible into or exchangeable for Indebtedness; (ii) the cost of treasury stock and (iii) the principal amount of any promissory notes receivable from the sale of the Equity Interests of the Borrower or any of its Subsidiaries, each item to be determined in conformity with GAAP (excluding the effects of foreign currency exchange adjustments under Financial Accounting Standards Board Statement of Financial Accounting Standards No. 52).~~

“Control” means the possession, directly or indirectly, of the power to direct or cause the direction of the management or policies of a Person, whether through the ability to exercise voting power, by contract or otherwise. The terms “Controlling” and “Controlled” have meanings correlative thereto.

“Corporate Cash” shall mean unrestricted cash held at the Borrower.

“Default” means any event or condition that constitutes an Event of Default or that upon notice, lapse of time or both would, unless cured or waived, become an Event of Default.

“Defaulting Lender” means any Lender that (a) has failed to fund any portion of its Loans required to be funded by it hereunder within three (3) Business Days of the date required to be funded by it hereunder unless such Lender notifies the Administrative Agent and the Borrower in writing that such failure is the result of such Lender’s determination that one or more conditions precedent to funding (each of which conditions precedent, together with any applicable default, shall be specifically identified in such writing) has not been satisfied, (b) has notified the Borrower or the Administrative Agent that it does not intend to comply with any of its funding obligations under this Agreement (unless such notification relates to such Lenders’ obligation to fund a Loan hereunder and states that such position is based on such Lender’s determination that a condition precedent to funding (which condition precedent, together with any applicable default, shall be specifically identified in such writing or public statement) cannot be satisfied), (c) has otherwise failed to pay over to the Administrative Agent or any other Lender any other amount required to be paid by it hereunder within three (3) Business Days of the date when due, unless the subject of a good faith dispute, (d) in the case of a Lender with a Commitment, is insolvent or has become the subject of a bankruptcy or insolvency proceeding or (e) has any Affiliate that has Control of such Lender that is insolvent or that has become the subject of a bankruptcy or insolvency proceeding; provided that a Lender shall not qualify as a “Defaulting Lender” solely as the result of the acquisition or maintenance of an ownership interest in such Lender or any Person controlling such Lender, or the exercise of control over such Lender or any Person controlling such Lender, by a governmental authority or an instrumentality thereof so long as such ownership interest does not result in or provide such Lender

with immunity from the jurisdiction of courts within the United States or from the enforcement of judgments or writs of attachment on its assets or permit such Lender (or such governmental authority or instrumentality thereof) to reject, repudiate, disavow or disaffirm any contracts or agreements made with such Lender.

“Disclosed Matters” means the actions, suits, proceedings and matters disclosed in Schedule 3.06.

“Disqualified Equity Interests” means Equity Interests that by their terms or otherwise are (1) required to be redeemed prior to a date that is 180 day after the Maturity Date, (2) redeemable at the option of the holder thereof at any time prior to the date that is 180 days after the Maturity Date or (3) convertible or exchangeable for Equity Interests referred to in clause (1) or (2) above or Indebtedness having a scheduled maturity prior to the date that is 180 days after the Maturity Date; provided that any Equity Interests that would not constitute Disqualified Equity Interests but for provisions thereof giving holders thereof the right to require such Person to repurchase or redeem such Equity Interests upon the occurrence of any “asset sale” or “change of control” occurring prior to the date that is 180 days after the Maturity Date shall not constitute Disqualified Equity Interests if the “asset sale” or “change of control” provisions applicable to such Equity Interests are no more favorable to the holders of such Equity Interests than the provisions hereof and such Equity Interests specifically provide that such Person will not repurchase or redeem any such Equity Interests pursuant to such provision prior to the payment in full of the Obligations.

“dollars” or “\$” refers to lawful money of the United States of America.

“Domestic Subsidiary” means any Subsidiary incorporated or organized under the laws of the United States of America, any State thereof or the District of Columbia.

“Effective Date” means the date on which the conditions specified in Section 4.01 are satisfied (or waived in accordance with Section 9.02).

“Electing SPV” has the meaning assigned to such term in Section 9.04(e).

“Electing SPV Register” has the meaning assigned to such term in Section 9.04(e).

“Electronic Signature” means an electronic sound, symbol, or process attached to, or associated with, a contract or other record and adopted by a person with the intent to sign, authenticate or accept such contract or record.

“Electronic System” means any electronic system, including e-mail, e-fax, Intralinks[®], ClearPar[®], Debt Domain, Syndtrak and any other Internet or extranet-based site, whether such electronic system is owned, operated or hosted by the Administrative Agent and any of its Related Parties or any other Person, providing for access to data protected by passcodes or other security system.

“Environmental Laws” means all treaties, laws, rules, regulations, codes, ordinances, orders, decrees, judgments, injunctions, notices or binding agreements issued, promulgated or entered into by any Governmental Authority, relating in any way to the environment, the preservation or reclamation of natural resources, the management, release or threatened release of any Hazardous Material or to health and safety matters.

“Environmental Liability” means any liability, contingent or otherwise (including any liability for damages, costs of environmental remediation, administrative oversight costs, consultants’ fees, fines,

penalties or indemnities), of the Borrower or any Subsidiary directly or indirectly resulting from or based upon (a) any violation of any Environmental Law, (b) the generation, use, handling, transportation, storage, treatment or disposal of any Hazardous Materials, (c) exposure to any Hazardous Materials, (d) the release or threatened release of any Hazardous Materials into the environment or (e) any contract, agreement or other consensual arrangement pursuant to which liability is assumed or imposed with respect to any of the foregoing.

“Equity Interests” means shares of capital stock, partnership interests, membership interests in a limited liability company, beneficial interests in a trust or other equity ownership interests in a Person.

“ERISA” means the Employee Retirement Income Security Act of 1974, as amended from time to time.

“ERISA Affiliate” means any trade or business (whether or not incorporated) that, together with the Borrower, is treated as a single employer under Section 414(b) or (c) of the Code or, solely for purposes of Section 302 of ERISA and Section 412 of the Code, is treated as a single employer under Section 414 of the Code.

“ERISA Event” means (a) any “reportable event”, as defined in Section 4043 of ERISA or the regulations issued thereunder with respect to a Plan (other than an event for which the 30-day notice period is waived), (b) the failure by any Plan to satisfy any “minimum funding standard” (as defined in Sections 412 and 430 of the Code or Section 302 of ERISA), whether or not waived, (c) the filing pursuant to Section 412(d) of the Code or Section 303(d) of ERISA of an application for a waiver of the minimum funding standard with respect to any Plan, (d) the incurrence by the Borrower or any of its ERISA Affiliates of any liability under Title IV of ERISA with respect to the termination of any Plan, (e) a determination that any Plan is, or is expected to be, in “at risk” status (as defined in Section 430 of the Code or Section 303 of ERISA), (f) the receipt by the Borrower or any ERISA Affiliate from the PBGC or a plan administrator of any notice relating to an intention to terminate any Plan or Plans or to appoint a trustee to administer any Plan, (g) the incurrence by the Borrower or any of its ERISA Affiliates of any liability with respect to the withdrawal or partial withdrawal from any Plan or Multiemployer Plan or (h) the receipt by the Borrower or any ERISA Affiliate of any notice, or the receipt by any Multiemployer Plan from the Borrower or any ERISA Affiliate of any notice, concerning the imposition of Withdrawal Liability or a determination that a Multiemployer Plan is, or is expected to be, insolvent or in reorganization or in endangered or critical status, within the meaning of Title IV of ERISA.

“ETB Holdings” means ETB Holdings, Inc., a Delaware corporation and a direct wholly owned Subsidiary.

[“ETCM Holdings” means ETCM Holdings, Inc., a Delaware corporation and a direct wholly owned Subsidiary.](#)

“E*TRADE Clearing” means E*TRADE Clearing LLC, a Delaware limited liability company and indirect wholly owned Subsidiary.

“E*TRADE Securities” means E*TRADE Securities LLC, a Delaware limited liability company and indirect wholly owned Subsidiary.

“Eurodollar”, when used in reference to any Loan or Borrowing, refers to whether such Loan, or the Loans comprising such Borrowing, are bearing interest at a rate determined by reference to the Adjusted LIBO Rate.

“Eurodollar Borrowing” has the meaning assigned to such term in Section 1.02

“Eurodollar Loan” has the meaning assigned to such term in Section 1.02.

“Event of Default” has the meaning assigned to such term in Section 7.01.

“Exchange Act” means the Securities Exchange Act of 1934, as amended.

“Excluded Contribution” means, with respect to the Borrower, net cash proceeds from: (1) contributions to its common equity capital; and (2) the sale (other than to a Subsidiary of the Borrower or to any management equity plan or stock option plan or any other management or employee benefit plan or agreement of the Borrower) of Qualified Equity Interests of the Borrower, in each case designated as Excluded Contributions pursuant to a certificate of a Financial Officer delivered by the Borrower on the date such capital contributions are made or the date such equity interests are sold.

~~“Excluded Property” has the meaning assigned to such term in the Security Agreement.~~

“Excluded Taxes” means, with respect to the Administrative Agent, any Lender or any other recipient of any payment to be made by or on account of any obligation of the Borrower hereunder or under any other Loan Document (a “Recipient”), (a) Taxes imposed on or measured by such Recipient’s net income or profits (however denominated and including, for the avoidance of doubt, any U.S. federal backup withholding in respect of such Taxes pursuant to Section 3406 of the Code), and franchise Taxes, in each case imposed by a jurisdiction as a result of the Recipient being organized or having its principal office or, in the case of any Lender, its applicable lending office in such jurisdiction or having any other present or former connection with such jurisdiction (other than a connection deemed to arise solely from such recipient having executed, delivered, become a party to, or performed its obligations or received a payment under, received or perfected a security interest under, enforced, and/or engaged in any other transaction pursuant to this Agreement or any other Loan Document), (b) any branch profits Taxes imposed under Section 884(a) of the Code or any similar Tax imposed by any jurisdiction described in clause (a), (c) with respect to any Lender (other than an assignee pursuant to a request by any Borrower under Section 2.16(b)), any U.S. federal withholding Tax imposed on amounts payable to such Lender pursuant to a law in effect at the time such Lender becomes a party hereto (or designates a new lending office), except to the extent that such Lender (or its assignor, if any) was entitled, immediately prior to the designation of a new lending office (or assignment), to receive additional amounts from the Borrower with respect to such U.S. federal withholding Tax pursuant to Section 2.14, (d) any withholding Tax resulting from a Recipient’s failure to comply with Section 2.14(e), and (e) any Tax imposed pursuant to FATCA.

“FATCA” means Sections 1471 through 1474 of the Code, as of the date of this Agreement (or any amended or successor version that is substantively comparable and not materially more onerous to comply with), any current or future regulations or official interpretations thereof and any agreements entered into pursuant to Section 1471(b)(1) of the Code as of the date of the Agreement (or any amended or successor version described above) and any intergovernmental agreements implementing any of the foregoing (together with any law implementing any such agreement, including any U.S. or non-U.S. regulations, notes, or any other official guidance).

“FDIC” means Federal Deposit Insurance Corporation.

“Federal Funds Effective Rate” means, for any day, the weighted average (rounded upwards, if necessary, to the next 1/100 of 1%) of the rates on overnight Federal funds transactions with members of

the Federal Reserve System arranged by Federal funds brokers, as published on the next succeeding Business Day by the Federal Reserve Bank of New York, or, if such rate is not so published for any day that is a Business Day, the average (rounded upwards, if necessary, to the next 1/100 of 1%) of the quotations for such day for such transactions received by the Administrative Agent from three Federal funds brokers of recognized standing selected by it; provided that if the Federal Funds Effective Rate shall be less than zero, such rate shall be deemed to be zero for the purposes of this Agreement.

~~“FDIC” means Federal Deposit Insurance Corporation.~~

“Fee Letters” means the Administrative Agent Fee Letter and the Lender Fee Letter.

“Financial Covenants” means the covenants contained in Sections 6.12, 6.13, 6.14, 6.15 and 6.17 of this Agreement.

“Financial Officer” means the chief financial officer, principal accounting officer, treasurer or controller of the Borrower.

~~“Fixed Charge Coverage Ratio” means, for any period of four consecutive fiscal quarters of the Borrower, the ratio of (a) Consolidated EBITDA for such period to (b) Consolidated Fixed Charges for such period.~~ “Fitch” means Fitch, Inc. and any successor thereto.

“Fitch Rating” shall mean, as of any date, the rating most recently announced or published by Fitch relating to the Borrower’s senior unsecured long-term debt rating (without giving effect to any credit enhancements).

“Foreign Lender” means any Lender that is not a United States person within the meaning of Section 7701(a)(30) of the Code.

“Foreign Subsidiary” means any Subsidiary that is not a Domestic Subsidiary.

“FSHCO” means any Domestic Subsidiary that has no material assets other than the Equity Interests of Foreign Subsidiaries that are CFCs.

“GAAP” means generally accepted accounting principles in the United States of America.

“Governmental Authority” means the government of the United States of America, any other nation or any political subdivision thereof, whether state or local, and any agency, authority, instrumentality, regulatory body, exchange, clearing house, court, central bank or other entity exercising executive, legislative, judicial, taxing, regulatory or administrative powers or functions of or pertaining to government (including any supra-national bodies such as the European Union or the European Central Bank).

“Granting Lender” has the meaning assigned to such term in Section 9.04(e).

“Guarantee” of or by any Person (the “guarantor”) means any obligation, contingent or otherwise, of the guarantor guaranteeing or having the economic effect of guaranteeing any Indebtedness or other obligation of any other Person (the “primary obligor”) in any manner, whether directly or indirectly, and including any obligation of the guarantor, direct or indirect, (a) to purchase or pay (or advance or supply funds for the purchase or payment of) such Indebtedness or other obligation or to purchase (or to advance or supply funds for the purchase of) any security for the payment thereof, (b) to purchase or lease

property, securities or services for the purpose of assuring the owner of such Indebtedness or other obligation of the payment thereof, (c) to maintain working capital, equity capital or any other financial statement condition or liquidity of the primary obligor so as to enable the primary obligor to pay such Indebtedness or other obligation or (d) as an account party in respect of any letter of credit or letter of guaranty issued to support such Indebtedness or obligation, provided that the term “Guarantee” shall not include endorsements for collection or deposit in the ordinary course of business or STAMP or other signature guarantees made by a Regulated Subsidiary in the ordinary course of its business.

“Hazardous Materials” means all explosive or radioactive substances, materials or wastes and all hazardous or toxic substances, materials, wastes or other pollutants, including petroleum or petroleum distillates, asbestos or asbestos containing materials, polychlorinated biphenyls, radon gas, infectious or medical wastes and all other substances, materials or wastes of any nature regulated pursuant to any Environmental Law.

“Impacted Interest Period” has the meaning assigned to it in the definition of “LIBO Rate”.

“Incremental Assumption Agreement” shall mean an Incremental Assumption Agreement among, and in form and substance reasonably satisfactory to, the Borrower, the Administrative Agent and one or more Incremental Lenders.

“Incremental Commitment” shall have the meaning assigned to such term in Section 2.18(a).

“Incremental Lender” shall mean a Lender with an Incremental Commitment or an outstanding Loan as a result of an Incremental Commitment.

“Indebtedness” means, with respect to any Person at any date of determination (without duplication): (1) all indebtedness of such Person for borrowed money; (2) all obligations of such Person evidenced by bonds, debentures, notes or other similar instruments; (3) all obligations of such Person in respect of letters of credit or other similar instruments (including reimbursement obligations with respect thereto, but excluding letters of credit issued by such Person and excluding obligations with respect to letters of credit (including trade letters of credit) securing obligations (other than obligations described in (1) or (2) above or (5), (6) or (7) below) entered into in the ordinary course of business of such Person to the extent such letters of credit are not drawn upon or, if drawn upon, to the extent such drawing is reimbursed no later than the third Business Day following receipt by such Person of a demand for reimbursement); (4) all obligations of such Person to pay the deferred and unpaid purchase price of property or services, which purchase price is recorded as a liability under GAAP and due more than six months after the date of placing such property in service or taking delivery and title thereto or the completion of such services, except trade payables and excluding any contingent post-closing purchase price adjustments or earn-outs; (5) all Capital Lease Obligations; (6) all Indebtedness of other Persons secured by a Lien on any asset of such Person, whether or not such Indebtedness is assumed by such Person; provided that the amount of such Indebtedness shall be the lesser of (A) the fair market value of such asset at such date of determination and (B) the amount of such Indebtedness; (7) all Indebtedness of other Persons Guaranteed by such Person to the extent such Indebtedness is Guaranteed by such Person; (8) Acquired Indebtedness; (9) to the extent not otherwise included in this definition, net obligations under Swap Agreements; ~~and~~ (10) all obligations to redeem or repurchase Disqualified Equity Interests issued by such Person and (11) all obligations of such Person to purchase, redeem, retire or defease any trust preferred securities issued by such Person. For the avoidance of doubt, deposits held by any Bank Regulated Subsidiary shall not constitute “Indebtedness” of the holder.

The amount of Indebtedness of any Person at any date shall be the outstanding balance at such date of all unconditional obligations as described above and, with respect to contingent obligations, the maximum liability upon the occurrence of the contingency giving rise to the obligation, provided (A) that the amount outstanding at any time of any Indebtedness issued with original issue discount is the face amount of such Indebtedness less the remaining unamortized portion of the original issue discount of such Indebtedness at such time as determined in conformity with GAAP, (B) that money borrowed and set aside at the time of the incurrence of any Indebtedness in order to prefund the payment of the interest on such Indebtedness shall not be deemed to be “Indebtedness” so long as such money is held to secure the payment of such interest, (C) that Indebtedness shall not include: (x) any liability for federal, state, local or other taxes, (y) performance, surety or appeal bonds provided in the ordinary course of business or (z) agreements providing for indemnification, adjustment of purchase price or similar obligations, or Guarantees or letters of credit, surety bonds or performance bonds securing any obligations of the Borrower or any of its Subsidiaries pursuant to such agreements, in any case incurred in connection with the disposition of any business, assets or Subsidiary (other than Guarantees of Indebtedness incurred by any Person acquiring all or any portion of such business, assets or Subsidiary for the purpose of financing such acquisition), so long as the principal amount does not exceed the gross proceeds actually received by the Borrower or any Subsidiary in connection with such disposition and (D) the amount of Indebtedness of the Borrower or any Subsidiary in respect of any Swap Agreement at any time shall be the maximum aggregate amount (giving effect to any netting agreements) that the Borrower or such Subsidiary would be required to pay if such Swap Agreement were terminated at such time.

“Indemnified Taxes” means Taxes other than Excluded Taxes, imposed on or with respect to any payment made by or on account of any obligation of the Borrower under any Loan Document.

“Indemnitee” has the meaning assigned to such term in Section 9.03(b).

“Ineligible Institution” has the meaning assigned to it in Section 9.04(b).

“Information Memorandum” means the Confidential Information Memorandum dated November 2014, relating to the Borrower and the Transactions.

“Insignificant Subsidiary” has the meaning assigned to such term in Section 7.02.

“Insurance Regulated Subsidiary” means any Subsidiary that conducts an insurance business such that it is regulated by any supervisory agency, state insurance department other state, Federal or foreign insurance regulatory body or the National Association of Insurance Commissioners.

“Interest Coverage Ratio” means, for any Measurement Period, the ratio of (a) Consolidated EBITDA of the Borrower and its Subsidiaries for such Measurement Period to (b) Consolidated Interest Expense of the Borrower and its Subsidiaries for such Measurement Period.

“Interest Election Request” means a request by the Borrower to convert or continue a Borrowing in accordance with Section 2.05.

“Interest Payment Date” means (a) with respect to any ABR Loan, the last day of each March, June, September and December and (b) with respect to any Eurodollar Loan, the last day of the Interest Period applicable to the Borrowing of which such Loan is a part and, in the case of a Eurodollar Borrowing with an Interest Period of more than three months’ duration, each day prior to the last day of such Interest Period that occurs at intervals of three months’ duration after the first day of such Interest Period.

“Interest Period” means, with respect to any Eurodollar Borrowing, the period commencing on the date of such Borrowing and ending on the numerically corresponding day in the calendar month that is one, two, three or six months thereafter (or twelve months thereafter if, at the time of the relevant Borrowing, all Lenders participating therein agree to make an interest period of such duration available), as the Borrower may elect, provided that (a) if any Interest Period would end on a day other than a Business Day, such Interest Period shall be extended to the next succeeding Business Day unless such next succeeding Business Day would fall in the next calendar month, in which case such Interest Period shall end on the next preceding Business Day and (b) any Interest Period that commences on the last Business Day of a calendar month (or on a day for which there is no numerically corresponding day in the last calendar month of such Interest Period) shall end on the last Business Day of the last calendar month of such Interest Period. For purposes hereof, the date of a Borrowing initially shall be the date on which such Borrowing is made and thereafter shall be the effective date of the most recent conversion or continuation of such Borrowing.

“Interpolated Rate” means, at any time, for any Interest Period, the rate *per annum* (rounded to the same number of decimal places as the LIBO Screen Rate) determined by the Administrative Agent (which determination shall be conclusive and binding absent manifest error) to be equal to the rate that results from interpolating on a linear basis between: (a) the LIBO Screen Rate for the longest period for which the LIBO Screen Rate is available) that is shorter than the Impacted Interest Period; and (b) the LIBO Screen Rate for the shortest period (for which that LIBO Screen Rate is available) that exceeds the Impacted Interest Period, in each case, at such time.

~~“Investment Advisers Act” shall mean the Investment Advisers Act of 1940, as amended.~~

“Investment Adviser Company” means a company which is required to be registered as an investment adviser with the SEC under the Investment Advisers Act.

~~“Investment Advisers Act” shall mean the Investment Advisers Act of 1940, as amended.~~

~~“Investment Grade Rating” means a rating equal to or higher than Baa3 (or the equivalent) by Moody’s, BBB- (or the equivalent) by S&P or BBB- (or the equivalent) by Fitch.~~

“Investment Securities” means marketable securities of a Person (other than an Affiliate or joint venture of the Borrower or any Subsidiary), mortgages, credit card and other loan receivables, futures contracts on marketable securities, interest rates and foreign currencies used for the hedging of marketable securities, mortgages or credit card and other loan receivables purchased, borrowed, sold, loaned or pledged by such Person in the ordinary course of its business.

“Joint Bookrunners” means J.P. Morgan Securities LLC and Morgan Stanley Senior Funding, Inc., in their capacity as joint bookrunners.

“Lead Arrangers” means J.P. Morgan Securities LLC and Morgan Stanley Senior Funding, Inc., in their capacities as joint bookrunners and co-lead arrangers.

“Lender Fee Letter” means that certain Fee Letter, dated November 10, 2014, among the Borrower and each Lender party to this Agreement on the Effective Date.

~~“Lender Parent” means, with respect to any Lender, any Person as to which such Lender is, directly or indirectly, a subsidiary.~~

“Lenders” means the Persons listed on Schedule 2.01 and any other Person that shall have become a party hereto pursuant to Section 9.04 or pursuant to an Incremental Assumption Agreement, other than any such Person that ceases to be a party hereto pursuant to Section 9.04.

“Leverage Ratio” means, as of any date, the ratio of (a) Total Indebtedness as of such date to (b) Consolidated EBITDA for the period of four consecutive fiscal quarters, ended on the last day of the fiscal quarter of the Borrower most recently ended prior to such date.

“LIBO Rate” means, with respect to any Eurodollar Borrowing for any Interest Period, the London interbank offered rate as administered by ICE Benchmark Administration (or any other Person that takes over the administration of such rate for U.S. Dollars for a period equal in length to such Interest Period as displayed on pages LIBOR01 or LIBOR02 of the Reuters screen that displays such rate (or, in the event such rate does not appear on a Reuters page or screen, on any successor or substitute page on such screen that displays such rate, or on the appropriate page of such other information service that publishes such rate from time to time as selected by the Administrative Agent in its reasonable discretion; in each case the “LIBO Screen Rate”) at approximately 11:00 a.m., London time, two Business Days prior to the commencement of such Interest Period; provided that if the LIBO Screen Rate shall be less than zero, such rate shall be deemed to be zero for the purposes of this Agreement; provided further that if the LIBO Screen Rate shall not be available at such time for such Interest Period (an “Impacted Interest Period”) then the LIBO Rate shall be the Interpolated Rate; provided that if any Interpolated Rate shall be less than zero, such rate shall be deemed to be zero for purposes of this Agreement.

“LIBO Screen Rate” has the meaning assigned to it in the definition of “LIBO Rate.”

“Lien” means, with respect to any asset, (a) any mortgage, deed of trust, lien, pledge, hypothecation, encumbrance, charge or security interest in, on or of such asset, (b) the interest of a vendor or a lessor under any conditional sale agreement, capital lease or title retention agreement (or any financing lease having substantially the same economic effect as any of the foregoing) relating to such asset and (c) in the case of securities, any purchase option, call or similar right of a third party with respect to such securities.

“Loan Document Obligations” means the due and punctual payment by the Borrower of (i) the principal of and interest (including interest accruing during the pendency of any bankruptcy, insolvency, receivership or other similar proceeding, regardless of whether allowed or allowable in such proceeding) on the Loans, when and as due, whether at maturity, by acceleration or otherwise and (ii) all other monetary obligations of the Borrower to any of the Secured Parties under this Agreement and each of the other Loan Documents, including obligations to pay fees, expense reimbursement obligations and indemnification obligations, whether primary, secondary, direct, contingent, fixed or otherwise (including monetary obligations incurred during the pendency of any bankruptcy, insolvency, receivership or other similar proceeding, regardless of whether allowed or allowable in such proceeding).

“Loan Documents” means this Agreement, including schedules and exhibits, each Incremental Assumption Agreement, the Collateral Agreement and the other Security Documents.

“Loans” means the loans made by the Lenders to the Borrower pursuant to this Agreement.

“Material Adverse Effect” means a material adverse effect on (a) the business, operations, or financial condition of the Borrower and its Subsidiaries, taken as a whole, (b) the ability of the Borrower to perform any of its payment obligations under any Loan Document or (c) the rights and benefits available to the Lenders under the Loan Documents.

“Material Indebtedness” means Indebtedness (other than the Loans) or obligations in respect of one or more Swap Agreements, of any one or more of the Borrower and its Subsidiaries that is outstanding in an aggregate principal amount exceeding \$25,000,000. For purposes of determining Material Indebtedness, (a) the amount of Indebtedness under any Swap Agreement (other than obligations that constitute “Obligations” under this Agreement, which shall be calculated without netting the value of any Collateral that secures such obligations) shall be calculated net of any cash or Permitted Investments pledged to secure the obligations under such Swap Agreement (as calculated by the Borrower in good faith) and (b) the “principal amount” of the obligations of any Regulated Subsidiary in respect of any Indebtedness of the type described in clauses (x), (xi), (xiv) and (xv) of Section 6.01(a) shall be calculated net of collateral posted with the lender thereof to secure such Indebtedness (as determined in good faith by the Borrower).

“Maturity Date” means November 10, 2017; ~~provided that (x) if prior to the date that is 91 days before the maturity date of the 2016 Notes (such 91st day, the “2016 Springing Maturity Date”) the 2016 Notes have not been repaid in full with cash (other than cash which represents the proceeds of Indebtedness) or the proceeds of Indebtedness of the Borrower with a maturity date (and no scheduled repayments before the date) that is at least 91 days after November 10, 2017, the Maturity Date shall be the 2016 Springing Maturity Date and (y) if prior to the date that is 91 days before the maturity date (as such maturity date is in effect on the date hereof) of the 2017 Notes (such 91st day, the “2017 Springing Maturity Date”) the 2017 Notes have not been repaid in full with cash (other than cash which represents the proceeds of Indebtedness) or the proceeds of Indebtedness of the Borrower with a maturity date (and no scheduled repayments before the date) that is at least 91 days after November 10, 2017, the Maturity Date shall be the 2017 Springing Maturity Date.~~ 2017.

“Maximum Rate” has the meaning assigned to such term in Section 9.13.

“Measurement Period” means, ~~except as otherwise expressly provided herein, each period of four consecutive fiscal quarters of the Borrower ending on or after the Effective Date.~~

“Moody’s” means Moody’s Investors Service, Inc. ~~and any successor thereto.~~

“Moody’s Rating” shall mean, as of any date, the rating most recently announced or published by Moody’s relating to the Borrower’s senior unsecured long-term debt rating (without giving effect to any credit enhancements).

“Multiemployer Plan” means a multiemployer plan as defined in Section 4001(a)(3) of ERISA.

“New Indenture” means the Indenture to be dated on or about November 17, 2014 between the Borrower and The Bank of New York Mellon, as trustee, as amended or supplemented from time to time.

“New Notes” means the Senior Notes to be issued pursuant to the New Indenture not to exceed an aggregate principal amount of \$540,000,000 and not to mature earlier than six (6) years after the date of issuance thereof.

“Non-Consenting Lender” has the meaning assigned to such term in Section 9.02(b).

“Obligations” means (a) Loan Document Obligations and (b) to the extent designated in writing by the Borrower as “Obligations” hereunder (provided that any such obligations owed to the Administrative Agent shall be deemed “Obligations” hereunder), the due and punctual payment and performance of all obligations (including interest accruing during the pendency of any bankruptcy,

insolvency, receivership or other similar proceeding, regardless of whether allowed or allowable in such proceeding) of the Borrower under each Swap Agreement that (i) is in effect on the Effective Date with a counterparty that is a Lender or an Affiliate of a Lender as of the Effective Date or (ii) is entered into after the Effective Date with any counterparty that is a Lender or an Affiliate of a Lender at the time such Swap Agreement is entered into.

“OCC” means the United States Office of the Comptroller of the Currency.

“Organizational Documents” means, with respect to any Person, the charter, articles or certificate of organization or incorporation and bylaws or other organizational or governing documents of such Person.

“Other Taxes” means any and all present or future recording, stamp, documentary or similar taxes, charges or levies arising from any payment made under any Loan Document or from the execution, delivery or enforcement of, or otherwise with respect to, any Loan Document.

“Participant” has the meaning assigned to such term in Section 9.04(c).

“Participant Register” has the meaning assigned to such term in Section 9.04(c).

“PBGC” means the Pension Benefit Guaranty Corporation referred to and defined in ERISA and any successor entity performing similar functions.

“Perfection Certificate” means a certificate in the form of Exhibit C or any other form approved by the Administrative Agent.

~~“Permitted Acquisition” means any acquisition by the Borrower or a wholly owned Subsidiary of all the outstanding Equity Interests (other than directors’ qualifying shares) in, all or substantially all the assets of, or all or substantially all the assets constituting a division or line of business of, a Person if (a) no Event of Default has occurred and is continuing and immediately after giving effect thereto no Default would result therefrom, (b) such acquisition and all transactions related thereto are consummated in accordance with applicable laws, (c) all actions required to be taken with respect to such acquired or newly formed Subsidiary or such acquired assets under Sections 5.11 and 5.12 shall have been taken, (d) the business of such Person or such assets, as the case may be, constitutes a business permitted by Section 6.03(b) and (e) the Borrower has delivered to the Administrative Agent a certificate of a Financial Officer to the effect set forth in clauses (a), (b), (c) and (d) above, together with all relevant financial information for the Person or assets to be acquired and setting forth reasonably detailed calculations demonstrating compliance with the proviso in Section 6.04(b) (which calculations shall, if made as of the last day of any fiscal quarter of the Borrower for which the Borrower has not delivered to the Administrative Agent the financial statements and certificate of a Financial Officer required to be delivered by Section 5.01(a) or (b) and Section 5.01(c), respectively, be accompanied by a reasonably detailed calculation of each Financial Covenant for the relevant period);~~

“Permitted Encumbrances” means:

(a) Liens imposed by law for taxes, assessments or other governmental charges that are not yet due or are being contested in compliance with Section 5.05;

(b) carriers’, warehousemen’s, mechanics’, materialmen’s, repairmen’s, landlords’ and other like Liens imposed by law, arising in the ordinary course of business and securing

obligations that are not overdue by more than 30 days or are being contested in compliance with Section 5.05;

(c) pledges and deposits made in the ordinary course of business in compliance with workers' compensation, unemployment insurance and other social security laws or regulations;

(d) Liens incurred or deposits made to secure the performance of tenders, bids, trade contracts, leases, statutory or regulatory obligations, bankers' acceptances, surety and appeal bonds, government contracts, performance and return-of-money bonds and other obligations of a like nature, in each case in the ordinary course of business;

(e) judgment liens in respect of judgments that do not constitute an Event of Default under clause (k) of Section 7.01; and

(f) easements, zoning restrictions, rights-of-way and similar encumbrances on real property imposed by law or that do not materially interfere with the ordinary conduct of business of the Borrower or any Subsidiary;

provided that the term "Permitted Encumbrances" shall not include any Lien securing Indebtedness

"Permitted Investments" means:

(a) direct obligations of, or obligations the principal of and interest on which are unconditionally guaranteed by, the United States of America or Canada (or by any agency thereof to the extent such obligations are backed by the full faith and credit of the United States of America or Canada), in each case maturing within one year from the date of acquisition thereof (unless such obligations are deposited by the Borrower or any Subsidiary (i) to defease any Indebtedness or (ii) in a collateral or escrow account or similar arrangement to pre-fund the payment of interest on any Indebtedness);

(b) investments in commercial paper maturing within one year from the date of acquisition thereof and having, at such date of acquisition, a rating of "P-1" (or higher) according to Moody's or "A1" (or higher) according to S&P;

(c) investments in certificates of deposit, banker's acceptances and time or demand deposits maturing within one year from the date of acquisition thereof issued or guaranteed by or placed with, and money market deposit accounts and Variable Rate Demand Notes issued or offered by, any commercial bank or trust company organized under the laws of the United States of America, any State thereof or any foreign country recognized by the United States of America, in each case that (i) has a combined capital and surplus and undivided profits of not less than \$1,000,000,000 (or the foreign currency equivalent thereof) and (ii) has outstanding debt that is rated "A" (or such similar equivalent rating) or higher by two nationally recognized statistical rating organizations (as defined in Rule 436 under the Securities Act of 1933, as amended), provided that (A) up to \$250,000,000 of any such investments may be made with any such commercial bank or trust company that has outstanding debt that is rated "A" (or such similar equivalent rating) or higher by only one such rating agency and (B) up to \$10,000,000 of any such investments (and any amount of such investments made with a commercial bank or trust company organized under the laws of any such foreign country prior to the date that is 90 days

after the Effective Date) may be made with any such commercial bank or trust company that does not meet the ratings requirement of clause (ii) above or clause (A) of this proviso;

(d) fully collateralized repurchase agreements with a term of not more than 30 days for securities described in clause (a) above and entered into with a financial institution satisfying the criteria described in clause (c) above;

(e) securities with maturities of six months or less from the date of acquisition issued or fully and unconditionally guaranteed by any state, commonwealth or territory of the United States of America, or by any political subdivision or taxing authority thereof, and rated at least “A” by S&P or Moody’s; and

(f) investments in “money market funds” within the meaning of Rule 2a-7 of the Investment Company Act of 1940, as amended.

“Person” means any natural person, corporation, limited liability company, trust, joint venture, association, company, partnership, Governmental Authority or other entity.

“Plan” means any employee pension benefit plan (other than a Multiemployer Plan) subject to the provisions of Title IV of ERISA or Section 412 of the Code or Section 302 of ERISA, and in respect of which the Borrower or any ERISA Affiliate is (or, if such plan were terminated, would under Section 4069 of ERISA be deemed to be) an “employer” as defined in Section 3(5) of ERISA.

“Platform” means Debt Domain, Intralinks, Syndtrak or a substantially similar electronic system.

“Prime Rate” means the rate of interest per annum publicly announced from time to time by JPMorgan Chase Bank, N.A. as its prime rate in effect at its principal office in New York City; each change in the Prime Rate shall be effective from and including the date such change is publicly announced as being effective.

“Pro Forma Basis” means, with respect to the calculation of the ~~Fixed Charge Interest~~ Coverage Ratio, the Leverage Ratio, the Asset Quality Ratio, or any capitalization ratios as of any date, that such calculation shall give pro forma effect to all ~~Permitted Acquisitions~~ acquisitions, all issuances, incurrences or assumptions of Indebtedness (with any such Indebtedness being deemed to be amortized over the applicable testing period in accordance with its terms) and all sales, transfers or other dispositions of any material assets outside the ordinary course of business, in each case that have occurred during ~~(or, if such calculation is being made for the purpose of determining whether any proposed acquisition will constitute a Permitted Acquisition, since the beginning of)~~ the four consecutive fiscal quarter period of the Borrower most-recently ended on or prior to such date as if they occurred on the first day of such four consecutive fiscal quarter period (including, in the case of any ~~Permitted Acquisition~~ acquisition or sale, transfer or disposition of material assets outside the ordinary course of business, cost savings to the extent such cost savings (a) would be permitted to be reflected in pro forma financial information complying with the requirements of GAAP and Article XI of Regulation S-X under the Securities Act of 1933, as amended, as interpreted by the Staff of the SEC, and as certified by a Financial Officer or (b) have been realized or for which the steps necessary for realization have been taken or are reasonably expected to be taken within 365 days following such ~~Permitted Acquisition~~ acquisition or sale, transfer or other disposition, and as certified by a Financial Officer, provided that, in the case of clause (b), if cost savings are included in any pro forma calculations based on the reasonable expectation that steps necessary for realization of such cost savings will be taken within 365 days of ~~a Permitted Acquisition~~ an acquisition or a sale, transfer or other disposition, then on and after the date that is 365 days after the date of such ~~Permitted~~

~~Acquisition~~ acquisition or sale, transfer or other disposition, such pro forma calculations shall not give effect to such cost savings to the extent that the steps necessary for realization were not actually taken during such 365-day period).

“Proposed Change” has the meaning assigned to such term in Section 9.02(b).

“Qualified Equity Interests” means Equity Interests of the Borrower other than Disqualified Equity Interests.

“Rating Agency” means Moody’s ~~or~~ S&P or Fitch, as the case may be.

“Ratings” means the Moody’s Rating, the Fitch Rating and/or the S&P Rating, as the context may require.

“Refinancing Indebtedness” means, with respect to any Indebtedness (the “Refinanced Indebtedness”), extending, renewal or replacement Indebtedness that satisfies the criteria of clauses (A) through (D) of Section 6.01(a)(ii) (as if the Refinanced Indebtedness were indebtedness described in Section 6.01(a)(ii)).

“Register” has the meaning assigned to such term in Section 9.04(b).

“Regulated Subsidiary” means a Broker Dealer Regulated Subsidiary, a Bank Regulated Subsidiary or an Insurance Regulated Subsidiary or any other Subsidiary subject to minimum capital requirements or other similar material regulatory requirements imposed by applicable Governmental Authorities.

“Regulatory Supervising Organization” shall mean, as applicable, FINRA, the SEC or any governmental or self-regulatory organization, exchange, clearing house or financial regulatory authority of which a Broker Dealer Regulated Subsidiary is a member or to whose rules it is subject.

“Related Parties” means, with respect to any specified Person, such Person’s Affiliates and the respective directors, officers, employees, agents and advisors of such Person and such Person’s Affiliates.

“Required Lenders” means, at any time, Lenders having outstanding Loans and unused Commitments representing more than 50% of the aggregate outstanding Loans and unused Commitments at such time (after giving effect to any adjustment required by Section 2.17).

“Requirement of Law” means, with respect to any Person, any statute, law, treaty, rule, regulation, order, decree, writ, injunction or determination of any arbitrator or court or other Governmental Authority, including rules and regulations of and agreements with or required by any Governmental Authority or Regulatory Supervising Organization having jurisdiction over the Borrower or any Subsidiary, including the OCC, the FDIC, Board, the SEC and any self-regulatory organization of which such Subsidiary is a member, or the imposition of conditions or requirements by cease and desist orders, regulatory agreements or otherwise, pursuant to the enforcement authority of any such regulatory authority, in each case applicable to or binding upon such Person or any of its property or to which such Person or any of its property is subject.

“Restricted Payment” has the meaning set forth in section 6.08.

“S&P” means Standard & Poor’s Financial Services LLC and any successor thereto.

“S&P Rating” means, as of any date, the rating most recently announced or published by S&P relating to the Borrower’s senior unsecured long-term debt rating (without giving effect to any credit enhancements).

“Sanctions” means economic or financial sanctions or trade embargoes imposed, administered or enforced from time to time by (a) the Office of Foreign Assets Control of the U.S. Department of the Treasury or the U.S. Department of State or (b) the United Nations Security Council, the European Union or Her Majesty’s Treasury of the United Kingdom.

“Sanctioned Country” means, at any time, a country or territory which is itself the subject or target of any Sanctions (at the time of this Agreement, Cuba, Iran, North Korea, Sudan and Syria).

“Sanctioned Person” means, at any time, (a) any Person listed in any Sanctions-related list of designated Persons maintained by the Office of Foreign Assets Control of the U.S. Department of the Treasury, the U.S. Department of State, the or by the United Nations Security Council or the European Union or Her Majesty’s Treasury of the United Kingdom, (b) any Person located, organized or resident in a Sanctioned Country or (c) any Person owned 50% or more by one or more Persons listed on one of the U.S. Sanctions-related lists.

“SEC” means the Securities and Exchange Commission or any Governmental Authority succeeding to any of its principal functions.

“Secured Parties” has the meaning assigned to such term in the Collateral Agreement.

“Security Documents” means the Collateral Agreement and each other security agreement or other instrument or document executed and delivered pursuant to Section 5.11 or 5.12 to secure any of the Obligations.

~~“Shareholders’ Equity” means, on any date, the consolidated shareholders’ equity of the Borrower that would be reported as shareholders’ equity on a consolidated balance sheet of the Borrower prepared as of such date.~~

“Significant Subsidiary” means (a) E*TRADE Securities and E*TRADE Clearing and (b) at any date of determination, any Subsidiary that, together with its Subsidiaries, (i) for the most recent fiscal year of the Borrower, accounted for more than 10% of the consolidated revenues of the Borrower and its Subsidiaries or (ii) as of the end of such fiscal year, was the owner of more than 10% of the consolidated assets of the Borrower and its Subsidiaries, all as set forth on the most recent consolidated financial statements of the Borrower for such fiscal year that have been delivered to the Administrative Agent pursuant to Section 5.01(a).

“Specified Entities” ~~shall have~~has the meaning assigned to ~~such term~~ in Section 6.03(a).

“SPV” has the meaning assigned to such term in Section 9.04(e).

“Statutory Reserve Rate” means a fraction (expressed as a decimal), the numerator of which is the number one and the denominator of which is the number one minus the aggregate of the maximum reserve percentages (including any marginal, special, emergency or supplemental reserves) expressed as a decimal established by the Board to which the Administrative Agent is subject with respect to the Adjusted LIBO Rate, for eurocurrency funding (currently referred to as “Eurocurrency Liabilities” in Regulation D of the Board). Such reserve percentages shall include those imposed pursuant to such

Regulation D. Eurodollar Loans shall be deemed to constitute eurocurrency funding and to be subject to such reserve requirements without benefit of or credit for proration, exemptions or offsets that may be available from time to time to any Lender under such Regulation D or any comparable regulation. The Statutory Reserve Rate shall be adjusted automatically on and as of the effective date of any change in any reserve percentage.

“Stock Loan” means a “Loan” as used in the Master Securities Loan Agreement published from time to time by the Bond Market Association.

“Subordinated Debt” means unsecured Indebtedness of the Borrower that (a) does not require any scheduled payment of principal (including pursuant to a sinking fund obligation) or mandatory redemption or redemption at the option of the holders thereof (except for redemptions in respect of asset sales and changes in control on terms that are market terms on the date of issuance) prior to the date that is 180 days after the Maturity Date, (b) contains subordination provisions reasonably satisfactory to the Administrative Agent subordinating the Indebtedness thereunder in right of payment to the payment in full in cash of the Loan Document Obligations and (c) contains covenants and events of default that are not materially more restrictive than the covenants and events of default contained in this Agreement and do not require the maintenance or achievement of any financial performance standards other than as a condition to the taking of specified actions.

“Subordinated Debt Documents” means the indenture or indentures under which any Subordinated Debt is issued, all side letters, instruments, agreements and other documents evidencing or governing any Subordinated Debt, providing for any right in respect thereof, affecting the terms of the foregoing or entered into in connection therewith and all schedules, exhibits and annexes to each of the foregoing.

“subsidiary” means, with respect to any Person (the “parent”) at any date, any corporation, limited liability company, partnership, association or other entity the accounts of which would be consolidated with those of the parent in the parent’s consolidated financial statements if such financial statements were prepared in accordance with GAAP, as well as any other corporation, limited liability company, partnership, association or other entity (a) of which securities or other ownership interests representing more than 50% of the equity or more than 50% of the ordinary voting power or, in the case of a partnership, more than 50% of the general partnership interests are, as of such date, owned, controlled or held, or (b) that is, as of such date, otherwise Controlled, by the parent or one or more subsidiaries of the parent or by the parent and one or more subsidiaries of the parent.

“Subsidiary” means any subsidiary of the Borrower.

“Swap Agreement” means any agreement with respect to any (i) currency exchange, interest rate, commodity, credit or equity swap, forward or futures agreements, currency exchange, interest rate, commodity, credit or equity cap agreements, currency exchange, interest rate, commodity, credit or equity collar agreements, or currency exchange, interest rate, commodity, credit or equity puts or call, and (ii) other agreements or arrangements designed to protect such Person, directly or indirectly, against fluctuations in currency exchange, interest rate, commodity or equity prices.

“Syndication Agent” means Morgan Stanley Senior Funding, Inc., in its capacity as syndication agent for the Lenders hereunder, and its successors in such capacity.

“Synthetic Lease” means, as to any Person, any lease (including leases that may be terminated by the lessee at any time) of any property (whether real, personal or mixed) that is designed to permit the

lessee (a) to treat such lease as an operating lease, or not to reflect the leased property on the lessee's balance sheet, under GAAP and (b) to claim depreciation on such property for U.S. Federal income tax purposes, other than any such lease under which such Person is the lessor.

“Synthetic Lease Obligations” of any Person means the obligations of such Person to pay rent or other amounts under any Synthetic Lease, and the amount of such obligations shall be equal to the sum (without duplication) of (a) the capitalized amount thereof that would appear on a balance sheet of such Person in accordance with GAAP if such obligations were accounted for as Capital Lease Obligations and (b) the amount payable by such Person as the purchase price for the property subject to such lease assuming the lessee exercises the option to purchase such property at the end of the term of such lease.

“Taxes” means any and all present or future taxes, levies, imposts, duties, deductions, charges or withholdings (including backup withholding) imposed by any Governmental Authority, including any interest, additions to tax or penalties applicable thereto.

“Total Indebtedness” means, as of any date, the aggregate principal amount of Indebtedness of the Borrower and the Subsidiaries outstanding as of such date of the type described in clauses (1), (2), (3) ~~or~~ (5) or (11) of the definition of “Indebtedness” that would be required to be reflected on the consolidated balance sheet of the Borrower and its Subsidiaries in accordance with GAAP (excluding Indebtedness represented by trust preferred securities that are outstanding on the Effective Date and excluding Indebtedness incurred under (or in respect of Indebtedness outstanding on the Effective Date, set forth on Schedule 6.01 and of the type described in) clause (x), (xi), (xiv) or (xv) of Section 6.01(a)).

“Transactions” means (a) the execution, delivery and performance by the Borrower of the Loan Documents, the borrowing of Loans after the Effective Date, the incurrence of the New Notes and the use of the proceeds thereof (together with cash on hand of the Borrower) to permanently redeem, repay, repurchase, defease or cancel the 2016 Notes and the 2017 Notes and (b) the payment of the Transaction Costs.

“Transaction Costs” means all fees, costs and expense incurred or payable by the Borrower or any Subsidiary in connection with the Transactions.

“Type,” when used in reference to any Loan or Borrowing, refers to whether the rate of interest on such Loan, or on the Loans comprising such Borrowing, is determined by reference to the Adjusted LIBO Rate or the Alternate Base Rate.

“U.S. Tax Compliance Certificate” has the meaning assigned to such term in Section 2.14(e)(ii).

“USA Patriot Act” has the meaning assigned to such term in Section 4.01(j).

“Variable Rate Demand Note” means a note representing borrowings from a commercial bank that is payable on demand and bears interest based upon a money market rate.

“Well Capitalized” means “well capitalized” within the meaning of 12 U.S.C. §1831o or 12 C.F.R. § 225.2 (as applicable, and as in effect on the date of determination) or any higher required capital requirement standard as such term or standard is from time to time defined or imposed by the Board, the OCC or any other regulatory body with supervisory authority over the Borrower or any Subsidiary.

“wholly owned Subsidiary” means, with respect to any Person at any date, a subsidiary of such Person of which securities or other ownership interests representing 100% of the Equity Interests (other

than directors' qualifying shares) are, as of such date, owned, controlled or held by such Person or one or more wholly owned Subsidiaries of such Person or by such Person and one or more wholly owned Subsidiaries of such Person. "wholly owned Regulated Subsidiary" and "wholly owned Subsidiary" shall have the correlative meanings hereunder

"Withdrawal Liability" means liability to a Multiemployer Plan as a result of a complete or partial withdrawal from such Multiemployer Plan, as such terms are defined in Part I of Subtitle E of Title IV of ERISA.

SECTION 1.02. Classification of Loans and Borrowings. For purposes of this Agreement, Loans may be classified and referred to by Type (e.g., a "Eurodollar Loan"). Borrowings also may be classified and referred to by Type (e.g., a "Eurodollar Borrowing").

SECTION 1.03. Terms Generally. The definitions of terms herein shall apply equally to the singular and plural forms of the terms defined. Whenever the context may require, any pronoun shall include the corresponding masculine, feminine and neuter forms. The words "include," "includes" and "including" shall be deemed to be followed by the phrase "without limitation." The word "will" shall be construed to have the same meaning and effect as the word "shall." Unless the context requires otherwise, (a) any definition of or reference to any agreement, instrument or other document herein shall be construed as referring to such agreement, instrument or other document as from time to time amended, amended and restated, supplemented or otherwise modified (subject to any restrictions on such amendments, supplements or modifications set forth herein), (b) any reference herein to any Person shall be construed to include such Person's successors and assigns, (c) the words "herein," "hereof" and "hereunder," and words of similar import, shall be construed to refer to this Agreement in its entirety and not to any particular provision hereof, (d) all references herein to Articles, Sections, Exhibits and Schedules shall be construed to refer to Articles and Sections of, and Exhibits and Schedules to, this Agreement and (e) the words "asset" and "property" shall be construed to have the same meaning and effect and to refer to any and all tangible and intangible assets and properties, including cash, securities, accounts and contract rights.

SECTION 1.04. Accounting Terms: GAAP. Except as otherwise expressly provided herein, all terms of an accounting or financial nature shall be construed in accordance with GAAP, as in effect from time to time, provided that, if the Borrower notifies the Administrative Agent that the Borrower requests an amendment to any provision (including any definition) hereof to eliminate the effect of any change occurring after the date hereof in GAAP or in the application thereof on the operation of such provision (or if the Administrative Agent notifies the Borrower that the Required Lenders request an amendment to any provision hereof for such purpose), regardless of whether any such notice is given before or after such change in GAAP or in the application thereof, then such provision shall be interpreted on the basis of GAAP as in effect and applied immediately before such change shall have become effective until such notice shall have been withdrawn or such provision amended in accordance herewith. Notwithstanding any other provision contained herein, (i) all terms of an accounting or financial nature used herein shall be construed, and all computations of amounts and ratios referred to herein shall be made, without giving effect to any election under Financial Accounting Standards Board Accounting Standards Codification 825 (or any other Financial Accounting Standard having a similar result or effect) to value any Indebtedness or other liabilities of the Borrower or any Subsidiary at "fair value", as defined therein and (ii) with respect to Indebtedness that is convertible into, or exchangeable for, Equity Interests, notwithstanding the treatment of such Indebtedness on the balance sheet of the Borrower or any Subsidiary under GAAP, for all purposes under this Agreement such Indebtedness shall be treated as Indebtedness equal to 100% of the aggregate principal amount at maturity.

SECTION 1.05. Pro Forma Calculations. With respect to any period during which any ~~Permitted Acquisition~~ acquisition, any sale, transfer or other disposition of any material assets outside the ordinary course of business occurs, calculations of the ~~Fixed Charge~~ Interest Coverage Ratio, the Leverage Ratio, the Asset Quality Ratio and any capitalization ratio shall be made on a Pro Forma Basis.

SECTION 1.06. Computation of Financial Covenants. To the extent that any calculation under this Agreement is required to be made (in order to determine whether a transaction may be entered into, Indebtedness may be incurred, or otherwise) as of the end of any four fiscal quarter period ended after the Effective Date, but prior to the date that financial statements are required to be delivered for the fiscal year ended December 31, 2014, compliance with such calculation shall be deemed required as of the four fiscal quarter period ended as of September 30, 2014.

ARTICLE II

The Credits

SECTION 2.01. Commitments. Subject to the terms and conditions set forth herein, each Lender severally agrees to make Loans in US Dollars to the Borrower from time to time during the Availability Period in an aggregate principal amount that will not result in the aggregate principal amount of such Lender's outstanding Loans exceeding such Lender's Commitment. Within the foregoing limits and subject to the terms and conditions set forth herein, the Borrower may borrow, prepay and reborrow Loans. Each Lender having an Incremental Commitment agrees, subject to the terms and conditions and relying upon the representations and warranties set forth herein and in the applicable Incremental Assumption Agreement, to make Loans to the Borrower, in an aggregate principal amount that will not result in the aggregate principal amount of such Lender's outstanding Loans exceeding such Lender's Commitment.

SECTION 2.02. Loans and Borrowings.

(a) Each Loan shall be made as part of a Borrowing consisting of Loans of the same Type made by the Lenders ratably in accordance with their respective Commitments. The failure of any Lender to make any Loan required to be made by it shall not relieve any other Lender of its obligations hereunder, provided that the Commitments of the Lenders are several and no Lender shall be responsible for any other Lender's failure to make Loans as required.

(b) Subject to Section 2.11, each Borrowing shall be comprised entirely of ABR Loans or Eurodollar Loans as the Borrower may request in accordance herewith. Each Lender at its option may make any Eurodollar Loan by causing any domestic or foreign branch or Affiliate of such Lender to make such Loan, provided that any exercise of such option shall not affect the obligation of the Borrower to repay such Loan in accordance with the terms of this Agreement.

(c) At the commencement of each Interest Period for any Eurodollar Borrowing, such Borrowing shall be in an aggregate amount that is an integral multiple of \$1,000,000 and not less than \$5,000,000. At the time that each ABR Borrowing is made, such Borrowing shall be in an aggregate amount that is an integral multiple of \$500,000 and not less than \$1,000,000. Borrowings of more than one Type may be outstanding at the same time, provided that there shall not at any time be more than a total of ten Eurodollar Borrowings outstanding. Notwithstanding anything to the contrary herein, an ABR Borrowing may be in an aggregate amount that is equal to the entire unused balance of the aggregate Commitment.

(d) Notwithstanding any other provision of this Agreement, the Borrower shall not be entitled to request, or to elect to convert or continue, any Borrowing if the Interest Period requested with respect thereto would end after the Maturity Date.

SECTION 2.03. Requests for Borrowings. To request a Borrowing, the Borrower shall notify the Administrative Agent of such request by telephone (a) in the case of a Eurodollar Borrowing, not later than 11:00 a.m., New York City time, three Business Days before the date of the proposed Borrowing or (b) in the case of an ABR Borrowing, not later than 1:00 p.m., New York City time, on the date of the proposed Borrowing. Each such telephonic Borrowing Request shall be irrevocable and shall be confirmed promptly by hand delivery or facsimile to the Administrative Agent of a written Borrowing Request in a form approved by the Administrative Agent and signed by the Borrower. Each such telephonic and written Borrowing Request shall specify the following information:

- (i) the aggregate amount of such Borrowing;
- (ii) the date of such Borrowing, which shall be a Business Day;
- (iii) whether such Borrowing is to be an ABR Borrowing or a Eurodollar Borrowing;
- (iv) in the case of a Eurodollar Borrowing, the initial Interest Period to be applicable thereto, which shall be a period contemplated by the definition of the term "Interest Period";
- (v) the location and number of the Borrower's account to which funds are to be disbursed, which shall comply with the requirements of Section 2.04; and
- (vi) that as of such date Sections 4.02(a) and (b) are satisfied.

If no election as to the Type of Borrowing is specified, then the requested Borrowing shall be an ABR Borrowing. If no Interest Period is specified with respect to any requested Eurodollar Borrowing, then the Borrower shall be deemed to have selected an Interest Period of one month's duration. Promptly following receipt of a Borrowing Request in accordance with this Section, the Administrative Agent shall advise each Lender of the details thereof and of the amount of such Lender's Loan to be made as part of the requested Borrowing.

SECTION 2.04. Funding of Borrowings.

(a) Each Lender shall make each Loan to be made by it hereunder on the proposed date thereof by wire transfer of immediately available funds by 3:00 p.m., New York City time, to the account of the Administrative Agent most-recently designated by it for such purpose by notice to the Lenders. The Administrative Agent will make such Loans available to the Borrower by promptly crediting the amounts so received, in like funds, to an account of the Borrower maintained with the Administrative Agent in New York City and designated by the Borrower in the applicable Borrowing Request.

(b) Unless the Administrative Agent shall have received notice from a Lender prior to the proposed date of any Borrowing that such Lender will not make available to the Administrative Agent such Lender's share of such Borrowing, the Administrative Agent may assume that such Lender has made such share available on such date in accordance with paragraph (a) of this Section and may, in reliance upon such assumption and in its sole discretion, make available to the Borrower a corresponding amount. In such event, if a Lender has not in fact made its share of the applicable Borrowing available to the

Administrative Agent, then the applicable Lender and the Borrower severally agree to pay to the Administrative Agent forthwith on demand such corresponding amount with interest thereon, for each day from and including the date such amount is made available to the Borrower to but excluding the date of payment to the Administrative Agent, at (i) in the case of such Lender, the greater of the Federal Funds Effective Rate and a rate determined by the Administrative Agent in accordance with banking industry rules on interbank compensation or (ii) in the case of the Borrower, the interest rate applicable to ABR Loans. If such Lender pays such amount to the Administrative Agent, then such amount shall constitute such Lender's Loan included in such Borrowing.

SECTION 2.05. Interest Elections.

(a) Each Borrowing initially shall be of the Type specified in the applicable Borrowing Request or designated by Section 2.03 and, in the case of a Eurodollar Borrowing, shall have an initial Interest Period as specified in such Borrowing Request or designated by Section 2.03. Thereafter, the Borrower may elect to convert such Borrowing to a different Type or to continue such Borrowing and, in the case of a Eurodollar Borrowing, may elect Interest Periods therefor, all as provided in this Section. The Borrower may elect different options with respect to different portions of the affected Borrowing, in which case each such portion shall be allocated ratably among the Lenders holding the Loans comprising such Borrowing, and the Loans comprising each such portion shall be considered a separate Borrowing.

(b) To make an election pursuant to this Section, the Borrower shall notify the Administrative Agent of such election by telephone by the time that a Borrowing Request would be required under Section 2.03 if the Borrower were requesting a Borrowing of the Type resulting from such election to be made on the effective date of such election. Each such telephonic Interest Election Request shall be irrevocable and shall be confirmed promptly by hand delivery or facsimile to the Administrative Agent of a written Interest Election Request in a form approved by the Administrative Agent and signed by the Borrower.

(c) Each telephonic and written Interest Election Request shall specify the following information in compliance with Section 2.02:

(i) the Borrowing to which such Interest Election Request applies and, if different options are being elected with respect to different portions thereof, the portions thereof to be allocated to each resulting Borrowing (in which case the information to be specified pursuant to clauses (iii) and (iv) below shall be specified for each resulting Borrowing);

(ii) the effective date of the election made pursuant to such Interest Election Request, which shall be a Business Day;

(iii) whether the resulting Borrowing is to be an ABR Borrowing or a Eurodollar Borrowing; and

(iv) if the resulting Borrowing is a Eurodollar Borrowing, the Interest Period to be applicable thereto after giving effect to such election, which shall be a period contemplated by the definition of the term "Interest Period".

If any such Interest Election Request requests a Eurodollar Borrowing but does not specify an Interest Period, then the Borrower shall be deemed to have selected an Interest Period of one month's duration.

(d) Promptly following receipt of an Interest Election Request, the Administrative Agent shall advise each Lender of the details thereof and of such Lender's portion of each resulting Borrowing.

(e) If the Borrower fails to deliver a timely Interest Election Request with respect to a Eurodollar Borrowing prior to the end of the Interest Period applicable thereto, then, unless such Borrowing is repaid as provided herein, at the end of such Interest Period such Borrowing shall be converted to an ABR Borrowing. Notwithstanding any contrary provision hereof, if an Event of Default has occurred and is continuing and the Administrative Agent, at the request of the Required Lenders, so notifies the Borrower, then, so long as an Event of Default is continuing (i) no outstanding Borrowing may be converted to or continued as a Eurodollar Borrowing and (ii) unless repaid, each Eurodollar Borrowing shall be converted to an ABR Borrowing at the end of the Interest Period applicable thereto.

SECTION 2.06. Termination and Reduction of Commitments.

(a) Unless previously terminated, the Commitments shall terminate on the Maturity Date.

(b) The Borrower may at any time terminate, or from time to time reduce, the Commitments, provided that (i) each reduction of the Commitments shall be in an amount that is an integral multiple of \$1,000,000 and not less than \$5,000,000 and (ii) the Borrower shall not terminate or reduce the Commitments if, after giving effect to any concurrent prepayment of the Loans in accordance with Section 2.08, the aggregate principal amount of outstanding Loans would exceed the aggregate Commitments.

(c) The Borrower shall notify the Administrative Agent of any election to terminate or reduce the Commitments under paragraph (b) of this Section at least three Business Days prior to the effective date of such termination or reduction, specifying such election and the effective date thereof. Promptly following receipt of any such notice, the Administrative Agent shall advise the Lenders of the contents thereof. Each notice delivered by the Borrower pursuant to this Section shall be irrevocable, provided that a notice of termination of the Commitments delivered by the Borrower may state that such notice is conditioned upon the effectiveness of other credit facilities or the receipt of the proceeds from the issuance of other Indebtedness, in which case such notice may be revoked by the Borrower (by notice to the Administrative Agent on or prior to the specified effective date) if such condition is not satisfied. Any termination or reduction of the Commitments shall be permanent.

SECTION 2.07. Repayment of Loans; Evidence of Debt.

(a) The Borrower hereby unconditionally promises to pay to the Administrative Agent for the account of each Lender the then unpaid principal amount of each Loan of such Lender on the Maturity Date.

(b) Any Lender may request that Loans made by it be evidenced by a promissory note. In such event, the Borrower shall prepare, execute and deliver to such Lender a promissory note payable to such Lender and its registered assigns and in a form approved by the Administrative Agent. Thereafter, the Loans evidenced by such promissory note and interest thereon shall at all times (including after assignment pursuant to Section 9.04) be represented by one or more promissory notes in such form payable to such payee and its registered assigns.

SECTION 2.08. Prepayment of Loans.

(a) The Borrower shall have the right at any time and from time to time to prepay any Borrowing in whole or in part, subject to the requirements of this Section.

(b) In the event and on such occasion that the aggregate principal amount of outstanding Loans exceeds the aggregate Commitments, the Borrower shall prepay Borrowings in an aggregate amount equal to such excess.

(c) Prior to any optional prepayment of Borrowings hereunder, the Borrower shall select the Borrowing or Borrowings to be prepaid and shall specify such selection in the notice of such prepayment pursuant to paragraph (d) of this Section.

(d) The Borrower shall notify the Administrative Agent by telephone (confirmed by facsimile) of any prepayment hereunder (i) in the case of prepayment of a Eurodollar Borrowing, not later than 11:00 a.m., New York City time, three Business Days before the date of prepayment or (ii) in the case of prepayment of an ABR Borrowing, not later than 1:00 p.m., New York City time, on the date of prepayment. Each such notice shall be irrevocable and shall specify the prepayment date and the principal amount of each Borrowing or portion thereof to be prepaid, provided that, if a notice of optional prepayment is given in connection with a conditional notice of termination of the Commitments as contemplated by Section 2.06, then such notice of prepayment may be revoked if such notice of termination is revoked in accordance with Section 2.06 by the Borrower (by notice to the Administrative Agent on or prior to the specified date) if such condition is not satisfied. Promptly following receipt of any such notice, the Administrative Agent shall advise the Lenders of the contents thereof. Each partial prepayment of any Borrowing shall be in an amount that would be permitted in the case of an advance of a Borrowing of the same Type as provided in Section 2.02, except as necessary to apply fully the required amount of a mandatory prepayment. Each prepayment of a Borrowing shall be applied ratably to the Loans included in the prepaid Borrowing. Prepayments shall be accompanied by accrued and unpaid interest to the extent required by Section 2.10.

SECTION 2.09. Fees.

(a) The Borrower agrees to pay to the Administrative Agent for the account of each Lender a commitment fee, equal to 0.375% per annum on the average daily unused amount of the Commitment of such Lender during the period from and including the Effective Date to but excluding the date on which such Commitment terminates. If any Lender becomes a defaulting Lender, the commitment fee that would otherwise accrue and be payable for the accounts of such Lender for the period during which such Lender is a defaulting Lender will not be required to be paid. Accrued commitment fees shall be payable in arrears on the last Business Day of March, June, September and December of each year and on the date on which the Commitments terminate, commencing on the first such date to occur after the date hereof. All commitment fees shall be computed on the basis of a year of 360 days and shall be payable for the actual number of days elapsed (including the first day but excluding the last day). For purposes of computing commitment fees, a Commitment of a Lender shall be deemed to be used to the extent of the outstanding Loans.

(b) The Borrower agrees to pay to the Administrative Agent, for the account of each Lender, upfront fees of a percentage, in an amount set forth in the Lender Fee Letter, of the stated principal amount of each Lender's Commitments, at the Effective Date.

(c) The Borrower agrees to pay to the Administrative Agent, for its own account, fees payable in the amounts and at the times separately agreed upon between the Borrower and the Administrative Agent in the Administrative Agent Fee Letter.

(d) All fees payable hereunder shall be paid on the dates due, in immediately available funds, to the Administrative Agent for distribution, in the case of commitment fees, to the Lenders entitled thereto. Fees paid shall not be refundable under any circumstances.

SECTION 2.10. Interest.

(a) The Loans comprising each ABR Borrowing shall bear interest at the Alternate Base Rate plus the Applicable Rate.

(b) The Loans comprising each Eurodollar Borrowing shall bear interest at the Adjusted LIBO Rate for the Interest Period in effect for such Borrowing plus the Applicable Rate.

(c) Notwithstanding the foregoing, if any principal of or interest on any Loan or any fee or other amount payable by the Borrower hereunder is not paid when due, whether at stated maturity, upon acceleration or otherwise, such overdue amount shall bear interest, after as well as before judgment, at a rate per annum equal to (i) in the case of overdue principal of any Loan, 2.00% plus the rate otherwise applicable to such Loan as provided in the preceding paragraphs of this Section or (ii) in the case of any other amount, 2.00% plus the rate applicable to ABR Loans as provided in paragraph (a) of this Section.

(d) Accrued interest on each Loan shall be payable in arrears on each Interest Payment Date for such Loan and upon termination of the Commitments, provided that (i) interest accrued pursuant to paragraph (c) of this Section shall be payable on demand, (ii) in the event of any repayment or prepayment of any Loan (other than a prepayment of an ABR Loan prior to the end of the Availability Period), accrued interest on the principal amount repaid or prepaid shall be payable on the date of such repayment or prepayment and (iii) in the event of any conversion of any Eurodollar Loan prior to the end of the current Interest Period therefor, accrued interest on such Loan shall be payable on the effective date of such conversion.

(e) All interest hereunder shall be computed on the basis of a year of 360 days, except that interest computed by reference to the Alternate Base Rate at times when the Alternate Base Rate is based on the Prime Rate shall be computed on the basis of a year of 365 days (or 366 days in a leap year), and in each case shall be payable for the actual number of days elapsed (including the first day but excluding the last day). The applicable Alternate Base Rate or Adjusted LIBO Rate shall be determined by the Administrative Agent, and such determination shall be conclusive absent manifest error.

SECTION 2.11. Alternate Rate of Interest. If prior to the commencement of any Interest Period for a Eurodollar Borrowing:

(a) the Administrative Agent determines (which determination shall be conclusive absent manifest error) that adequate and reasonable means do not exist for ascertaining the Adjusted LIBO Rate for such Interest Period or

(b) the Administrative Agent is advised by the Required Lenders that the Adjusted LIBO Rate for such Interest Period will not adequately and fairly reflect the cost to such Lenders

of making, continuing or converting or maintaining their Loans included in such Borrowing for such Interest Period, then the Administrative Agent shall give notice thereof to the Borrower and the Lenders by telephone or facsimile as promptly as practicable thereafter and, until the Administrative Agent notifies the Borrower and the Lenders that the circumstances giving rise to such notice no longer exist, (i) any Interest Election Request that requests the conversion of any Borrowing to, or continuation of any Borrowing as, a Eurodollar Borrowing shall be ineffective and (ii) if any Borrowing Request requests a Eurodollar Borrowing, such Borrowing shall be made as an ABR Borrowing.

SECTION 2.12. Increased Costs.

(a) If any Change in Law shall:

(i) impose, modify or deem applicable any reserve, special deposit, compulsory loan, insurance charge or similar requirement against assets of, deposits with or for the account of, or credit extended by, any Lender (except any such reserve requirement reflected in the Adjusted LIBO Rate);

(ii) impose on such Lender (or its applicable lending office) any additional Tax (other than any Indemnified Taxes or Other Taxes indemnified under Section 4.10 or any Excluded Tax) with respect to its loans, letters of credit, commitments, or other obligations, or its deposits, reserves, other liabilities or capital attributable thereto; or

(iii) impose on any Lender or the London interbank market any other condition, cost or expense (other than Taxes) affecting this Agreement or Eurodollar Loans made by such Lender;

and the result of any of the foregoing shall be to increase the cost to such Lender of making or maintaining any Eurodollar Loan (or of maintaining its obligation to make any such Loan), then the Borrower will pay to such Lender such additional amount or amounts as will compensate such Lender for such additional costs incurred or reduction suffered.

(b) If any Lender determines that any Change in Law regarding capital or liquidity requirements has or would have the effect of reducing the rate of return on such Lender's capital or on the capital of such Lender's holding company, if any, as a consequence of this Agreement or the Loans made by such Lender to a level below that which such Lender or such Lender's holding company could have achieved but for such Change in Law (taking into consideration such Lender's policies and the policies of such Lender's holding company with respect to capital adequacy), then from time to time the Borrower will pay to such Lender such additional amount or amounts as will compensate such Lender or such Lender's holding company for any such reduction suffered.

(c) A certificate of a Lender setting forth the amount or amounts necessary to compensate such Lender or its holding company, as the case may be, as specified in paragraph (a) or (b) of this Section shall be delivered to the Borrower and shall be conclusive absent manifest error. The Borrower shall pay such Lender, as the case may be, the amount shown as due on any such certificate within 10 days after receipt thereof.

(d) Failure or delay on the part of any Lender to demand compensation pursuant to this Section shall not constitute a waiver of such Lender's right to demand such compensation, provided that the Borrower shall not be required to compensate a Lender pursuant to this Section for any increased costs or reductions incurred more than 180 days prior to the date that such Lender notifies the Borrower of the Change in Law giving rise to such increased costs or reductions and of such Lender's intention to claim compensation therefor, and provided, further, that, if the Change in Law giving rise to such increased costs or reductions is retroactive, then the 180-day period referred to above shall be extended to include the period of retroactive effect thereof.

SECTION 2.13. Break Funding Payments. In the event of (a) the payment of any principal of any Eurodollar Loan other than on the last day of an Interest Period applicable thereto (including as a result of an Event of Default), (b) the conversion of any Eurodollar Loan other than on the last day of the Interest Period applicable thereto, (c) the failure to borrow, convert, continue or prepay any Loan on the date specified in any notice delivered pursuant hereto (regardless of whether such notice may be revoked under Section 2.09(d) and is revoked in accordance therewith) or (d) the assignment of any Eurodollar Loan other than on the last day of the Interest Period applicable thereto as a result of a request by the Borrower pursuant to Section 2.16 or Section 9.02(c), then, in any such event, the Borrower shall compensate each Lender for the loss, cost and expense attributable to such event. In the case of a Eurodollar Loan, such loss, cost or expense to any Lender shall be deemed to include an amount determined by such Lender to be the excess, if any, of (i) the amount of interest that would have accrued on the principal amount of such Loan had such event not occurred, at the Adjusted LIBO Rate that would have been applicable to such Loan, for the period from the date of such event to the last day of the then current Interest Period therefor (or, in the case of a failure to borrow, convert or continue, for the period that would have been the Interest Period for such Loan), over (ii) the amount of interest that would accrue on such principal amount for such period at the interest rate that such Lender would bid were it to bid, at the commencement of such period, for dollar deposits of a comparable amount and period from other banks in the eurodollar market. A certificate of any Lender setting forth any amount or amounts that such Lender is entitled to receive pursuant to this Section shall be delivered to the Borrower and shall be conclusive absent manifest error. The Borrower shall pay such Lender the amount shown as due on any such certificate within 10 days after receipt thereof.

SECTION 2.14. Taxes.

(a) Any and all payments by or on account of any obligation of the Borrower under any Loan Document shall be made free and clear of and without deduction for any Taxes unless required by applicable law. If an applicable withholding agent is required by applicable law (as determined in good faith by the applicable withholding agent) to deduct any Tax from any payments made under any Loan Document, then (i) if such Tax is an Indemnified Tax or Other Tax, the sum payable by the Borrower shall be increased as necessary so that after such deduction (including such deductions applicable to additional sums payable under this Section) have been made the Lender or the Administrative Agent (in the case of any payments made to the Administrative Agent for its own account), as the case may be, receives an amount equal to the sum it would have received had no such deductions been made, (ii) the applicable withholding agent shall make such deductions and (iii) the applicable withholding agent shall pay the full amount deducted to the relevant Governmental Authority in accordance with applicable law.

(b) Without limiting the provisions of paragraph (a) above, the Borrower shall timely pay any Other Taxes to the relevant Governmental Authority in accordance with applicable law.

(c) The Borrower shall indemnify the Administrative Agent and each Lender within 10 days after written demand therefor, for the full amount of any Indemnified Taxes or Other Taxes (including Indemnified Taxes or Other Taxes imposed or asserted on or attributable to amounts payable under this Section) paid or payable by the Administrative Agent or such Lender, as the case may be, and any reasonable expenses arising therefrom or with respect thereto, whether or not such Indemnified Taxes or Other Taxes were correctly or legally imposed or asserted by the relevant Governmental Authority, provided that the Borrower shall not be obligated to make payment to the Administrative Agent or such Lender pursuant to this Section 2.14 in respect of penalties, interest and other liabilities attributable to any Indemnified Taxes or Other Taxes if such penalties, interest and other liabilities result from gross negligence or willful misconduct of the Administrative Agent or such Lender, as determined by a court of competent jurisdiction in a final non-appealable judgment. A certificate as to the amount of such payment or liability delivered to the Borrower by a Lender or by the Administrative Agent on its own behalf or on behalf of a Lender shall be promptly delivered to the Borrower and such certificate shall be conclusive absent manifest error.

(d) As soon as practicable after any payment of Indemnified Taxes or Other Taxes by the Borrower to a Governmental Authority, the Borrower shall deliver to the Administrative Agent the original or a certified copy of a receipt issued by such Governmental Authority evidencing such payment, a copy of the return reporting such payment or other evidence of such payment reasonably satisfactory to the Administrative Agent.

(e) Any Lender that is entitled to an exemption from or reduction of withholding tax with respect to payments made under any Loan Documents shall deliver to the Borrower and the Administrative Agent, at the time or times reasonably requested by the Borrower or the Administrative Agent, such properly completed and executed documentation reasonably requested by the Borrower or the Administrative Agent as will permit such payments to be made without withholding or at a reduced rate, of withholding. In addition, any Lender, if reasonably requested by the Borrower or the Administrative Agent, shall deliver such other documentation prescribed by applicable law or reasonably requested by the Borrower or the Administrative Agent as will enable the Borrower or the Administrative Agent to determine whether or not such Lender is subject to backup withholding or information reporting requirements. Notwithstanding anything to the contrary in the preceding two sentences, the completion, execution and submission of such documentation shall not be required if in the Lender's reasonable judgment such completion, execution or submission would subject such Lender to any material unreimbursed cost or expense or would materially prejudice the legal or commercial position of such Lender.

Without limiting the generality of the foregoing,

(A) any Lender that is not a Foreign Lender shall deliver to the Borrower and the Administrative Agent on or prior to the date on which such Lender becomes a Lender under this Agreement (and from time to time thereafter upon the reasonable request of the Borrower or the Administrative Agent), executed originals of IRS Form W-9 certifying that such Lender is exempt from U.S. federal backup withholding tax;

(B) any Foreign Lender shall, to the extent it is legally entitled to do so, deliver to the Borrower and the Administrative Agent (in such number of copies as shall be requested by the recipient) on or prior to the date on which such Foreign Lender becomes a Lender under this Agreement (and from time to time thereafter upon the reasonable request of the Borrower or the Administrative Agent), whichever of the following is applicable:

(i) in the case of a Foreign Lender claiming the benefits of an income tax treaty to which the United States is a party (x) with respect to payments of interest under any Loan Document, executed originals of IRS Form W-8BEN or W-8BEN-E establishing an exemption from, or reduction of, U.S. federal withholding Tax pursuant to the “interest” article of such tax treaty and (y) with respect to any other applicable payments under any Loan Document, IRS Form W-8BEN or W-8BEN-E establishing an exemption from, or reduction of, U.S. federal withholding Tax pursuant to the “business profits” or “other income” article of such tax treaty; (ii) executed originals of IRS Form W-8ECI; (iii) in the case of a Foreign Lender claiming the benefits of the exemption for portfolio interest under Section 881(c) of the Code, (x) a certificate substantially in the form of Exhibit J-1 to the effect that such Foreign Lender is not a “bank” within the meaning of Section 881(c)(3)(A) of the Code, a “10 percent shareholder” of the Borrower within the meaning of Section 881(c)(3)(B) of the Code, or a “controlled foreign corporation” described in Section 881(c)(3)(C) of the Code (a “U.S. Tax Compliance Certificate”) and (y) executed originals of IRS Form W-8BEN or W-8BEN-E; or (iv) to the extent a Foreign Lender is not the beneficial owner, executed originals of IRS Form W-8IMY, accompanied by IRS Form W-8ECI, IRS Form W-8BEN or W-8BEN-E, a U.S. Tax Compliance Certificate substantially in the form of Exhibit J-2 or Exhibit J-3, IRS Form W-9, and/or other certification documents from each beneficial owner as applicable provided that if the Foreign Lender is a partnership and one or more direct or indirect partners of such Foreign Lender are claiming the portfolio interest exemption, such Foreign Lender may provide a U.S. Tax Compliance Certificate substantially in the form of Exhibit J-4 on behalf of each such direct and indirect partner;

(C) any Foreign Lender shall, to the extent it is legally entitled to do so, deliver to the Borrower and the Administrative Agent (in such number of copies as shall be requested by the recipient) on or prior to the date on which such Foreign Lender becomes a Lender under this Agreement (and from time to time thereafter upon the reasonable request of the Borrower or the Administrative Agent), executed originals of any other form prescribed by applicable law as a basis for claiming exemption from or a reduction in U.S. federal withholding Tax, duly completed, together with such supplementary documentation as may be prescribed by applicable law to permit the Borrower or the Administrative Agent to determine the withholding or deduction required to be made; and

(D) if a payment made to a Lender under any Loan Document would be subject to U.S. federal withholding Tax imposed by FATCA if such Lender were to fail to comply with the applicable reporting requirements of FATCA (including those contained in Section 1471(b) or 1472(b) of the Code, as applicable), such Lender shall deliver to the Borrower and the Administrative Agent at the time or times prescribed by law and at such time or times reasonably requested by the Borrower or the Administrative Agent such documentation prescribed by applicable law (including as prescribed by Section 1471(b)(3)(C)(i) of the Code) and such additional documentation reasonably requested by the Borrower or the Administrative Agent as may be necessary for the Borrower and the Administrative Agent to comply with their obligations under FATCA and to determine whether such Lender has complied with such Lender’s obligations under FATCA or to determine the amount, if any, to deduct and withhold from such payment. Solely for purposes of this clause (D), “FATCA” shall include any amendments made to FATCA after the date of this Agreement.

Each Lender agrees that if any form or certification it previously delivered expires or becomes obsolete or inaccurate in any respect, it shall update such form or certification or promptly notify the Borrower and the Administrative Agent in writing of its legal inability to do so.

(f) If the Administrative Agent or a Lender determines, in its sole discretion exercised in good faith, that it has received a refund from a Governmental Authority in respect of Indemnified Taxes or Other Taxes as to which it has been indemnified by the Borrower pursuant to this Section 2.14, or with respect to which the Borrower has paid additional amounts pursuant to this Section 2.14, it shall pay over such refund to the Borrower (but only to the extent of indemnity payments made, or additional amounts paid, by the Borrower under this Section with respect to the Indemnified Taxes or Other Taxes giving rise to such refund), net of all out-of-pocket expenses (including Taxes) of the Administrative Agent or such Lender and without interest (other than any interest paid by the relevant Governmental Authority with respect to such refund), provided that the Borrower, upon the request of the Administrative Agent or such Lender, agrees to repay to the Administrative Agent or Lender the amount paid over pursuant to this paragraph (f) (plus any penalties, interest or other charges imposed by the relevant Governmental Authority) in the event that the Administrative Agent or Lender is required to repay such refund to such Governmental Authority. Notwithstanding anything to the contrary in this paragraph (f), in no event will the Administrative Agent or Lender be required to pay any amount to the Borrower pursuant to this paragraph (f) the payment of which would place the Administrative Agent or Lender in a less favorable net after-Tax position than the indemnified party would have been in if the Tax subject to indemnification and giving rise to such refund had not been deducted, withheld or otherwise imposed and the indemnification payments or additional amounts giving rise to such refund had never been paid. This paragraph shall not be construed to require the Administrative Agent or Lender to make available its Tax returns (or any other information relating to its Taxes that it deems confidential) to the Borrower or any other Person.

(g) Each Party's obligations under this Section 2.14 shall survive the resignation or replacement of the Administrative Agent or any assignment of rights by, or the replacement of, a Lender, the termination of the Commitments and the repayment, satisfaction or discharge of all obligations under any Loan Document.

(h) The Administrative Agent shall deliver to the Borrower on or before the date on which it becomes a party to any Loan Document (and from time to time thereafter upon the reasonable request of the Borrower) executed originals of IRS Form W-9.

(i) For purposes of this Section 2.14 the term "applicable law" includes FATCA

SECTION 2.15. Payments Generally; Pro Rata Treatment; Sharing of Setoffs.

(a) The Borrower shall make each payment required to be made by it under any Loan Document (whether of principal, interest or fees, or of amounts payable under Section 2.12, 2.13 or 2.14, or otherwise) prior to the time expressly required hereunder or under such other Loan Document for such payment (or, if no such time is expressly required, prior to 12:00 noon, New York City time), on the date when due, in immediately available funds, without setoff or counterclaim. Any amounts received after such time on any date may, in the discretion of the Administrative Agent, be deemed to have been received on the next succeeding Business Day for purposes of calculating interest thereon. All such payments shall be made to the Administrative Agent at its offices at 383 Madison Avenue, New York, New York, except that payments pursuant to Sections 2.12, 2.13, 2.14 and 9.03 shall be made directly to the Persons entitled thereto and payments pursuant to other Loan Documents shall be made to the Persons specified therein. The Administrative Agent shall distribute any such payments received by it for the account of any other Person to the appropriate recipient promptly following receipt thereof. If any payment under any Loan Document shall be due on a day that is not a Business Day, the date for payment shall be extended to the next succeeding Business Day and, in the case of any payment accruing interest,

interest thereon shall be payable for the period of such extension. All payments under each Loan Document shall be made in dollars.

(b) If at any time insufficient funds are received by and available to the Administrative Agent to pay fully all amounts of principal, interest and fees then due hereunder, such funds shall be applied (i) first, towards payment of interest and fees then due hereunder, ratably among the parties entitled thereto in accordance with the amounts of interest and fees then due to such parties and (ii) second, towards payment of principal then due hereunder, ratably among the parties entitled thereto in accordance with the amounts of principal then due to such parties.

(c) If any Lender shall, by exercising any right of setoff or counterclaim or otherwise, obtain payment in respect of any principal of or interest on any of its Loans resulting in such Lender receiving payment of a greater proportion of the aggregate amount of its Loans and accrued interest thereon than the proportion received by any other Lender, then the Lender receiving such greater proportion shall purchase (for cash at face value) participations in the Loans of other Lenders to the extent necessary so that the benefit of all such payments shall be shared by the Lenders ratably in accordance with the aggregate amount of principal of and accrued interest on their respective Loans, provided that (i) if any such participations are purchased and all or any portion of the payment giving rise thereto is recovered, such participations shall be rescinded and the purchase price restored to the extent of such recovery, without interest, and (ii) the provisions of this paragraph shall not be construed to apply to any payment made by the Borrower pursuant to and in accordance with the express terms of this Agreement or any payment obtained by a Lender as consideration for the assignment of or sale of a participation in any of its Loans to any assignee or participant, other than to the Borrower or any Subsidiary or other Affiliate thereof (as to which the provisions of this paragraph shall apply). The Borrower consents to the foregoing and agrees, to the extent it may effectively do so under applicable law, that any Lender acquiring a participation pursuant to the foregoing arrangements may exercise against the Borrower rights of setoff and counterclaim with respect to such participation as fully as if such Lender were a direct creditor of the Borrower in the amount of such participation.

(d) Unless the Administrative Agent shall have received notice from the Borrower prior to the date on which any payment is due to the Administrative Agent for the account of the Lenders hereunder that the Borrower will not make such payment, the Administrative Agent may assume that the Borrower has made such payment on such date in accordance herewith and may, in reliance upon such assumption and in its sole discretion, distribute to the Lenders the amount due. In such event, if the Borrower has not in fact made such payment, then each of the Lenders severally agrees to repay to the Administrative Agent forthwith on demand the amount so distributed to such Lender with interest thereon, for each day from and including the date such amount is distributed to it to but excluding the date of payment to the Administrative Agent, at the greater of the Federal Funds Effective Rate and a rate determined by the Administrative Agent in accordance with banking industry rules on interbank compensation.

(e) If any Lender shall fail to make any payment required to be made by it pursuant to Section 2.04(a) or (b), 2.15(d) or 9.03(c), then the Administrative Agent may, in its discretion (notwithstanding any contrary provision hereof), apply any amounts thereafter received by the Administrative Agent for the account of such Lender to satisfy such Lender's obligations under such Sections until all such unsatisfied obligations are fully paid.

Notwithstanding anything to the contrary contained herein, the provisions of this Section 2.15 shall be subject to the express provisions of this Agreement which require, or permit, differing payments to be made to non-Defaulting Lenders as opposed to Defaulting Lenders.

SECTION 2.16. Mitigation Obligations; Replacement of Lenders.

(a) If any Lender requests compensation under Section 2.12, or if the Borrower is required to pay any Indemnified Taxes or additional amount to any Lender or any Governmental Authority for the account of any Lender pursuant to Section 2.14, then such Lender shall use reasonable efforts to designate a different lending office for funding or booking its Loans hereunder or to assign its rights and obligations hereunder to another of its offices, branches or affiliates, if, in the judgment of such Lender, such designation or assignment (i) would eliminate or reduce amounts payable pursuant to Section 2.12 or 2.14, as the case may be, in the future and (ii) would not subject such Lender to any unreimbursed cost or expense or otherwise be disadvantageous to such Lender. The Borrower hereby agrees to pay all reasonable costs and expenses incurred by any Lender in connection with any such designation or assignment.

(b) If any Lender requests compensation under Section 2.12, or if the Borrower is required to pay any Indemnified Taxes or additional amount to any Lender or any Governmental Authority for the account of any Lender pursuant to Section 2.14, or if any Lender becomes a Defaulting Lender, then the Borrower may, at its sole expense and effort, upon notice to such Lender and the Administrative Agent, require such Lender to assign and delegate, without recourse (in accordance with and subject to the restrictions contained in Section 9.04), all its interests, rights and obligations under this Agreement to an assignee that shall assume such obligations (which assignee may be another Lender, if a Lender accepts such assignment), provided that (i) to the extent an assignment to such Lender would require the consent of the Administrative Agent under Section 9.04, the Borrower shall have received the prior written consent of the Administrative Agent, which consent shall not unreasonably be withheld, (ii) such Lender shall have received payment of an amount equal to the outstanding principal of its Loans accrued interest thereon, accrued fees and all other amounts payable to it hereunder from the assignee (to the extent of such outstanding principal and accrued interest and fees) or the Borrower (in the case of all other amounts), (iii) the Borrower or such assignee shall have paid to the Administrative Agent the processing and recordation fee specified in Section 9.04(b) and (iv) in the case of any such assignment resulting from a claim for compensation under Section 2.12 or payments required to be made pursuant to Section 2.14, such assignment will result in a reduction in such compensation or payments. A Lender shall not be required to make any such assignment and delegation if, prior thereto, as a result of a waiver by such Lender or otherwise (including as a result of any action taken by such Lender under paragraph (a) above), the circumstances entitling the Borrower to require such assignment and delegation cease to apply.

SECTION 2.17. Defaulting Lenders.

Notwithstanding any provision of this Agreement to the contrary, if any Lender becomes a Defaulting Lender hereunder (as determined by the Administrative Agent), then the following provisions shall apply for so long as such Defaulting Lender is a Defaulting Lender:

(a) the Administrative Agent shall promptly notify the Borrower and each Lender that such Lender is a Defaulting Lender for purposes of this Agreement;

(b) fees under Section 2.09(a) shall cease to accrue on the Commitment of such Defaulting Lender;

(c) the Commitments and Loans of such Defaulting Lender shall be disregarded for all purposes of any determination of whether the Required Lenders have taken or may take any action hereunder (including any consent to any amendment or waiver pursuant to Section 9.02);

(d) for purposes of determining the amount of the total Commitments, the Commitment of each Defaulting Lender shall be excluded therefrom (other than any portion of such Commitment pursuant to which there is then outstanding a Loan from such Defaulting Lender); and

(e) in the Administrative Agent's sole discretion:

(i) any prepayment of the principal amount of any Loans shall be applied solely to prepay the Loans of all non-Defaulting Lenders pro rata prior to being applied to the prepayment of any Loans of any Defaulting Lender; and

(ii) any amount payable to such Defaulting Lender pursuant to this Agreement (whether on account of principal, interest, fees or otherwise and including any amount that would otherwise be payable to such Defaulting Lender pursuant to Section 2.12 or Section 2.15) may, in lieu of being distributed to such Defaulting Lender, be retained by the Administrative Agent in a segregated non-interest bearing account and, subject to any applicable requirements of law, be applied at such time or times as may be determined by the Administrative Agent (i) first, pro rata, to the payment of any amounts owing by such Defaulting Lender to the Administrative Agent, (ii) second, pro rata, to the payment of any amounts owing to the Borrowers or the Lenders as a result of any judgment of a court of competent jurisdiction obtained by any Borrower or any Lender against such Defaulting Lender as a result of such Defaulting Lender's breach of its obligations under this Agreement and (iii) third, to such Defaulting Lender or as otherwise directed by a court of competent jurisdiction.

SECTION 2.18. Incremental Commitments.

(a) The Borrower may, by written notice to the Administrative Agent from time to time, request an increase in the aggregate amount of the Commitments (each such increase, an "Incremental Commitment"), as applicable, in an aggregate amount not to exceed \$50,000,000, from one or more Incremental Lenders, all of which must be permitted to become assignees of Commitments or Loans under Section 9.04. Such notice shall set forth (i) the amount of the Incremental Commitments being requested (which shall be in minimum increments of \$5,000,000 and a minimum amount of \$10,000,000 or such lesser amount equal to the remaining unused amount) and (ii) the date on which such Incremental Commitments are requested to become effective.

(b) The Borrower may seek Incremental Commitments from existing Lenders (each of which shall be entitled to agree or decline to participate in its sole discretion) and, subject to the prior written consent of the Administrative Agent (such consent not to be unreasonably delayed or withheld) and, subject to the prior written consent of the Administrative Agent (such consent not to be unreasonably delayed or withheld), additional banks, financial institutions and other institutional lenders who will become Incremental Lenders in connection therewith, in each case, solely to the extent such consent, if any, would be required under Section 9.04 for an assignment of Loans or Commitments, as applicable, to additional banks, financial institutions and other institutional lenders. The Borrower and each Incremental Lender shall execute and deliver to the Administrative Agent an Incremental Assumption Agreement and such other documentation as the Administrative Agent shall reasonably specify to evidence the Incremental Commitment of such Person. The terms and provisions of the Incremental

Commitments shall be identical to those of the Commitments. The Incremental Commitments shall rank *pari passu* in right of payment and security with the Commitments. The Administrative Agent shall promptly notify each Lender as to the effectiveness of each Incremental Assumption Agreement. Each of the parties hereto hereby agrees that, upon the effectiveness of any Incremental Assumption Agreement, this Agreement shall be deemed amended to the extent (but only to the extent) necessary to reflect the existence and terms of the Incremental Commitments evidenced thereby, and the Administrative Agent and the Borrower may revise this Agreement to evidence such amendments.

(c) Notwithstanding the foregoing, no Incremental Commitment shall become effective under this Section 2.18 unless (i) on the date of such effectiveness, the conditions set forth in paragraphs (a) and (b) of Section 4.02 shall be satisfied, a certificate to that effect dated such date and executed by a Financial Officer of the Borrower, (ii) except as otherwise specified in the applicable Incremental Assumption Agreement, the Administrative Agent shall have received legal opinions, board resolutions and other closing certificates reasonably requested by the Administrative Agent and consistent with those delivered on the ~~Closing~~Effective Date under Section 4.01 and (iii) all fees and expenses owing in respect of such Incremental Commitment to the Administrative Agent and the Lenders shall have been paid in full.

(d) On the date of effectiveness of any Incremental Commitments, the Borrower shall (A) prepay the outstanding Loans (if any) in full, (B) simultaneously borrow new Loans hereunder in an amount equal to such prepayment (in the case of Eurodollar Borrowings, with Adjusted LIBO Rates equal to the outstanding Adjusted LIBO Rate and with Interest Period(s) ending on the date(s) of any then outstanding Interest Period(s)); provided that with respect to subclauses (A) and (B), (x) the prepayment to, and borrowing from, any existing Lender shall be effected by book entry to the extent that any portion of the amount prepaid to such Lender will be subsequently borrowed from such Lender and (y) the existing Lenders, the Incremental Lenders and the existing Lenders shall make and receive payments among themselves, in a manner acceptable to the Administrative Agent, so that, after giving effect thereto, the Loans are held ratably by the Lenders in accordance with the respective Commitments of such Lenders (after giving effect to such Incremental Commitments) and (C) pay to the Lenders the amounts, if any, payable under Section 2.13 as a result of any such prepayment.

ARTICLE III

Representations and Warranties

The Borrower represents and warrants to the Administrative Agent and the Lenders that:

SECTION 3.01. Organization; Powers. Each of the Borrower and its Subsidiaries is duly organized, validly existing and in good standing under the laws of the jurisdiction of its organization, has all requisite power and authority to carry on its business as now conducted and, except where the failure to do so, individually or in the aggregate, could not reasonably be expected to result in a Material Adverse Effect, is qualified to do business in, and is in good standing in, every jurisdiction where such qualification is required. The Borrower has all requisite power and authority to execute, deliver and perform its obligations under each Loan Document and to effect the Transactions.

SECTION 3.02. Authorization; Enforceability. The Transactions have been duly authorized by all necessary corporate or other action. This Agreement has been duly executed and delivered by the Borrower and constitutes, and each other Loan Document, when executed and delivered by the Borrower, will constitute, a legal, valid and binding obligation of the Borrower, enforceable in accordance with its

terms, subject to applicable bankruptcy, insolvency, reorganization, moratorium or other laws affecting creditors' rights generally and subject to general principles of equity, regardless of whether considered in a proceeding in equity or at law.

SECTION 3.03. Governmental Approvals; No Conflicts. The Transactions (a) do not require any consent or approval of, registration or filing with, or any other action by, any Governmental Authority, except (i) such as have been obtained or made and are in full force and effect, (ii) filings necessary to perfect Liens created under the Loan Documents, (iii) any consent, approval, registration, filing or other action required for the exercise of remedies under the Collateral Documents and (iv) filings with the SEC in connection with the Transactions that will be made when required, (b) will not violate the Organizational Documents of the Borrower or any Subsidiary, (c) will not violate any Requirement of Law applicable to the Borrower or any Subsidiary, (d) will not violate or result in a default under any indenture, agreement or other instrument binding upon the Borrower or any Subsidiary or their respective assets, or give rise to a right thereunder to require any payment to be made by the Borrower or any Subsidiary or give rise to a right of, or result in, termination, cancellation or acceleration of any obligation thereunder, and (e) will not result in the creation or imposition of any Lien on any asset of the Borrower or any Subsidiary, except Liens created under the Loan Documents, except in the case of clauses (c) and (d) above where such violations, individually or in the aggregate, could not reasonably be expected to result in a Material Adverse Effect.

SECTION 3.04. Financial Condition; No Material Adverse Change.

(f) The Borrower has heretofore furnished to the Lenders its consolidated balance sheet and consolidated statements of income, stockholders' equity and cash flows (i) as of and for the fiscal years ended December 31, 2011, 2012 and 2013, reported on by Deloitte & Touche LLP, independent public accountants, and (ii) as of and for the fiscal quarter and the portion of the fiscal year ended September 30, 2014 (and comparable period for the prior fiscal year), certified by its chief financial officer. Such financial statements present fairly, in all material respects, the financial position and results of operations and cash flows of the Borrower and its Subsidiaries as of such dates and for such periods in accordance with GAAP consistently applied, subject to year-end audit adjustments and the absence of footnotes in the case of the statements referred to in clause (ii) above.

(g) Except as disclosed in the financial statements referred to above or the notes thereto or in the Information Memorandum and except for the Disclosed Matters, after giving effect to the Transactions, none of the Borrower or the Subsidiaries has, as of the Effective Date, any material direct or contingent liabilities, long-term commitments or unrealized losses.

(h) No event, change or condition has occurred and is continuing that has had, or could reasonably be expected to have, a material adverse effect on the business, operations or financial condition of the Borrower and its Subsidiaries, taken as a whole, since December 31, 2013.

SECTION 3.05. Properties.

(d) Each of the Borrower and its Subsidiaries has good title to, or valid leasehold interests in, all its real and personal property material to its business, except for minor defects in title that do not interfere with its ability to conduct its business as currently conducted or to utilize such properties for their intended purposes or as could not, individually or in the aggregate, reasonably be expected to result in a Material Adverse Effect.

(e) Each of the Borrower and its Subsidiaries owns, or is licensed to use, all trademarks, tradenames, service marks, trade dress, domain names, copyrights, software, data, patents and other intellectual property material to its business, and the operation of their respective businesses by the Borrower and its Subsidiaries does not infringe upon or violate the rights of any other Person, except for any such infringements or violations that, individually or in the aggregate, could not reasonably be expected to result in a Material Adverse Effect.

SECTION 3.06. Litigation and Environmental Matters.

(c) There are no actions, suits or proceedings by or before any arbitrator or Governmental Authority pending against or, to the knowledge of the Borrower or any Subsidiary, threatened against or affecting the Borrower or any Subsidiary (i) that could reasonably be expected, individually or in the aggregate, to result in a Material Adverse Effect (other than the Disclosed Matters) or (ii) that involve any of the Loan Documents or the Transactions.

(d) Except for the Disclosed Matters and except with respect to any other matters that, individually or in the aggregate, could not reasonably be expected to result in a Material Adverse Effect, neither the Borrower nor any Subsidiary (i) has failed to comply with any Environmental Law or to obtain, maintain or comply with any permit, license or other approval required under any Environmental Law, (ii) has become subject to any Environmental Liability, (iii) has received notice of any claim with respect to any Environmental Liability or (iv) knows of any basis for any Environmental Liability.

(e) Since the date of this Agreement, there has been no change in the status of the Disclosed Matters that, individually or in the aggregate, has resulted in, or materially increased the likelihood of, a Material Adverse Effect.

SECTION 3.07. Compliance with Laws and Agreements. Each of the Borrower and its Subsidiaries is in compliance with (a) all Requirements of Law applicable to it or its property and (b) all indentures, agreements and other instruments binding upon it or its property, except, in each case, where the failure to do so, individually or in the aggregate, could not reasonably be expected to result in a Material Adverse Effect.

SECTION 3.08. Investment and Holding Company Status. The Borrower is not registered, and is not required to register, as an “investment company” as such term is defined in the Investment Company Act of 1940.

SECTION 3.09. Taxes. Each of the Borrower and its Subsidiaries (a) has timely filed or caused to be filed all Tax returns and reports required to have been filed and (b) has paid or caused to be paid all Taxes required to have been paid by it, except in each case (i) any Taxes that are being contested in good faith by appropriate proceedings and for which the Borrower or such Subsidiary, as the case may be, has set aside on its books adequate reserves therefor or (ii) to the extent that the failure to make such filings or to pay such Taxes would not reasonably be expected to result in a Material Adverse Effect. No tax deficiency, assessment or claim has been determined with respect to the Borrower or any of the Subsidiaries which has had (nor does the Borrower have any knowledge of any tax deficiency, assessment or claim which, if determined adversely to the Borrower or any of the Subsidiaries, would have) a Material Adverse Effect.

SECTION 3.10. ERISA. No ERISA Event has occurred and is continuing or is reasonably expected to occur that, when taken together with all other such ERISA Events for which liability is

reasonably expected to occur, could reasonably be expected to result in a Material Adverse Effect. The present value of all accumulated benefit obligations under all underfunded Plans (determined for each Plan based on the assumptions used for purposes of Accounting Standards Codification Topic 715) did not, as of the date of the most recent financial statements reflecting such amounts, exceed the fair market value of the assets of all such underfunded Plans by an amount that, if required to be paid by the Borrower and its Subsidiaries, could reasonably be expected to have a Material Adverse Effect. The minimum funding standards of ERISA and the Code with respect to each Plan have been satisfied except to the extent the failure to satisfy such standards could not reasonably be expected to result in a Material Adverse Effect.

SECTION 3.11. Disclosure. Neither the Information Memorandum nor any of the other reports, financial statements, certificates or other information furnished by or on behalf of the Borrower to the Administrative Agent or any Lender in connection with the negotiation of any Loan Document or delivered thereunder (as modified or supplemented by other information so furnished) contains any material misstatement of fact or omits to state any material fact necessary to make the statements therein, in the light of the circumstances under which they were made, not misleading, provided that, with respect to projected financial information, the Borrower represents only that such information was prepared in good faith based upon assumptions believed by it to be reasonable at the time delivered and, if such projected financial information was delivered prior to the Effective Date, as of the Effective Date.

SECTION 3.12. Subsidiaries. Schedule 3.12 sets forth the name of, and the ownership interest of the Borrower and each Subsidiary in, each Subsidiary as of the Effective Date.

SECTION 3.13. Insurance. The Borrower believes that the insurance maintained by or on behalf of the Borrower and the Subsidiaries is in such amounts (with no greater risk retention) and against such risks as is (a) customarily maintained by companies of established repute engaged in the same or similar businesses operating in the same or similar locations and (b) adequate.

SECTION 3.14. Solvency. Immediately after the consummation of the Transactions, (a) the fair value of the assets of the Borrower and its Subsidiaries on a consolidated basis, at a fair valuation, will exceed its debts and liabilities, subordinated, contingent or otherwise, (b) the present fair saleable value of the property of the Borrower and its Subsidiaries on a consolidated basis will be greater than the amount that will be required to pay the probable liability of its debts and other liabilities, subordinated, contingent or otherwise, as such debts and other liabilities become absolute and matured, (c) the Borrower and its Subsidiaries on a consolidated basis will be able to pay their debts and liabilities, subordinated, contingent or otherwise, as such debts and liabilities become absolute and matured, and (d) the Borrower and its Subsidiaries on a consolidated basis will not have unreasonably small capital with which to conduct the business in which it is engaged as such business is now conducted and is proposed to be conducted following the consummation of the Transactions; provided, that in the case of clauses (c) and (d), the Borrower makes no representation as to any regulatory restrictions on its ability to use any of its consolidated assets to pay any such debts, liabilities, obligations or commitments.

SECTION 3.15. ~~Broker Dealer Regulated Subsidiaries and Investment Advisory Companies~~[\[Reserved\]](#).

~~(a) Other than as set forth on Schedule 3.15, none of the Borrower and its Subsidiaries are required to be registered with the SEC or any other governmental entity as a broker or dealer. Each Broker Dealer Regulated Subsidiary which is required to be registered as a broker or dealer with the SEC under the Exchange Act is duly so registered, is a member of FINRA or another self-regulatory~~

organization of which it is required to be a member, and is duly registered and licensed under any applicable state laws, is in compliance in all material respects with the applicable provisions of the Exchange Act, and is in compliance in all material respects with all applicable rules of FINRA except as would not reasonably be expected to have a Material Adverse Effect. All Persons associated with any Broker Dealer Regulated Subsidiary required to be registered or licensed with FINRA or with any other self-regulatory organization or other governmental entity are duly registered or licensed except where any failure to be so registered or licensed individually, or in the aggregate, would not reasonably be expected to have a Material Adverse Effect. Each Investment Adviser Company which is required to be registered as an investment adviser with the SEC under the Investment Advisers Act is duly so registered. No proceeding is pending or threatened with respect to the suspension, revocation, or termination of any such registrations and the termination or withdrawal of any such registrations is not contemplated by the Borrower or any Subsidiary.

~~(b) To the knowledge of the Borrower and each Subsidiary, no Broker Dealer Regulated Subsidiary or its “associated persons” (as defined in the Exchange Act) is currently ineligible or disqualified pursuant to Section 15, Section 15B or Section 15C of the Exchange Act to serve as a broker or dealer or “associated person” of a broker or dealer except as would not reasonably be expected to have a Material Adverse Effect.~~

~~(c) Each Bank Regulated Subsidiary is Well Capitalized. Each of E*TRADE Clearing’s and E*TRADE Securities’ net capital is not less than the greater of (i) 5.0% of such firm’s aggregate debit items, and (ii) 150% of the minimum dollar amount specified in Rule 15c3-1(a)(ii) (which, for the avoidance of doubt is currently \$250,000). As used in this clause, the terms “net capital” and “aggregate debit items” shall be as defined or used in Rule 15c3-1 under the Exchange Act, as in effect from time to time.~~

~~(d) The information contained in the currently effective Form BD of each Broker Dealer Regulated Subsidiary and any amendments thereto filed with the SEC and FINRA by each Broker Dealer Regulated Subsidiary and the information contained in the Investment Adviser Companies’ Forms ADV as on file with the Investment Adviser Registration Depository, was, at the time of filing, complete and accurate in all material respects.~~

~~(e) As of the date hereof, no Investment Adviser Company has received notice that it is the subject of a disciplinary action by a governmental entity alleging that the Investment Adviser Company’s code of ethics or compliance procedures with respect to insider trading, privacy policies and business continuity plans are inadequate.~~

~~(f) No Broker Dealer Regulated Subsidiary or Investment Adviser Company has received a notice from the SEC, FINRA, or any other government authority, self-regulatory organization or securities exchange of any alleged rule violation or other circumstance which could reasonably be expected to have a Material Adverse Effect.~~

~~(g) No governmental authorization, and no notice to or filing with, any governmental authority or any other third party is required for the exercise by any Lender of its rights under the Loan Documents, except with respect to the exercise of any remedies with respect to, or any other transfer of, the equity interests of any Broker Dealer Regulated Subsidiary, giving all necessary notices to third parties and obtaining all necessary governmental and self-regulatory organization authorizations in connection with such exercise of remedies or transfer including, without limitation, to the extent required~~

~~under FINRA's NASD Rule 1017 (or any successor to such rule), except, in each case, as would not otherwise be expected to have a Material Adverse Effect.~~

SECTION 3.16. Senior Indebtedness. To the extent any Subordinated Debt is outstanding, the Obligations constitute "senior indebtedness," "designated senior indebtedness" or any other such comparable term under, and as defined in, the Subordinated Debt Documents related thereto.

SECTION 3.17. No Default. No Default has occurred and is continuing or would result from the consummation of the transactions contemplated by this Agreement or any other Loan Document.

SECTION 3.18. Anti-Corruption Laws and Sanctions. The Borrower has implemented and maintains in effect policies and procedures reasonably designed to promote compliance by the Borrower, its Subsidiaries and their respective directors, officers, employees and agents with Anti-Corruption Laws and applicable Sanctions, and the Borrower, its Subsidiaries and, to the knowledge of the Borrower, their respective officers, employees, directors and agents, are in compliance with Anti-Corruption Laws and applicable Sanctions in all material respects. None of the Borrower, any Subsidiary, any of their respective directors or officers or, to the knowledge of the Borrower, any of their respective employees or any agent of the Borrower or any Subsidiary that will act in any capacity in connection with or benefit from the credit facility established hereby, is a Sanctioned Person.

SECTION 3.19. Use of Proceeds. The proceeds of the Loans made after the Effective Date will be used for general corporate purposes (including ~~Permitted Acquisitions~~ acquisitions and investments). No part of the proceeds of any Loan will be used, whether directly or indirectly, for any purpose that entails a violation of any of the Regulations of the Board, including Regulations T, U and X.

SECTION 3.20. Security Agreement. The Collateral Agreement is effective to create in favor of the Administrative Agent for its benefit and the benefit of the Lenders, legal, valid and enforceable Liens on, and security interests in, the Collateral and, when (i) financing statements and other filings in appropriate form are filed in the office of the Delaware Secretary of State and (ii) upon the taking of possession or control by the Administrative Agent of the Collateral with respect to which a security interest may be perfected only by possession or control (which possession or control shall be given to the Administrative Agent to the extent possession or control by the Administrative Agent is required by each Security Agreement), the Liens created by the Collateral Agreement shall constitute fully perfected Liens on, and security interests in, all right, title and interest of the grantors in the Collateral, in each case subject to no Liens other than Permitted Encumbrances.

ARTICLE IV

Conditions

SECTION 4.01. Effective Date. The obligations of the Lenders to make Loans hereunder shall not become effective until the date on which each of the following conditions is satisfied (or waived in accordance with Section 9.02):

- (a) The Administrative Agent (or its counsel) shall have received from each party hereto either (i) a counterpart of this Agreement signed on behalf of such party or (ii) written evidence satisfactory to the Administrative Agent (which may include facsimile transmission of a signed signature page of this Agreement) that such party has signed a counterpart of this Agreement.

(b) The Administrative Agent shall have received a favorable written opinion (addressed to the Administrative Agent and the Lenders and dated the Effective Date) of Davis Polk & Wardwell LLP, counsel for the Borrower, and of the General Counsel of the Borrower, in each case in form and substance reasonably satisfactory to the Administrative Agent and its counsel. The Borrower hereby requests such counsel to deliver such opinion.

(c) The Administrative Agent shall have received such documents and certificates as the Administrative Agent or its counsel may reasonably request relating to the organization, existence and good standing of the Borrower, the authorization of the Transactions and any other legal matters relating to the Borrower, the Loan Documents or the Transactions, all in form and substance satisfactory to the Administrative Agent and its counsel.

(d) The Administrative Agent shall have received a certificate, dated the Effective Date and signed by a Financial Officer or the President or a Vice President of the Borrower, confirming compliance with the conditions set forth in Sections 4.02(a) and (b).

(e) The Administrative Agent shall have received all fees and other amounts due and payable on or prior to the Effective Date, including under the Fee Letters and including, to the extent invoiced at least one Business Day prior to the Effective Date, reimbursement or payment of all out-of-pocket expenses of the Lead Arrangers and the Administrative Agent (including fees, charges and disbursements of counsel to the extent required under the Fee Letters or Section 9.03(a)) required to be reimbursed or paid by the Borrower under any Loan Document.

(f) The Collateral Requirement shall have been satisfied.

(g) The Lenders shall have received a certificate from the chief financial officer of the Borrower, in form and substance satisfactory to the Lenders, certifying as to the solvency (determined as set forth in Section 3.14) of the Borrower and its Subsidiaries on a consolidated basis after giving effect to the Transactions (assuming for purposes of this Section 4.01(g) that the New Notes have been incurred and the proceeds thereof together with cash on hand of the Borrower have been applied to redeem, repurchase, repay, defease or cancel the 2016 Notes and the 2017 Notes in full).

(h) To the extent requested at least five business days prior to the Effective Date, the Lenders shall have received at least three business days prior to the Effective Date all documentation and other information required by regulatory authorities under applicable "know your customer" and anti-money laundering rules and regulations, including without limitation the PATRIOT Act. (Title III of Pub. L. 107-56 (signed into law October 26, 2001)) (the "USA PATRIOT Act")

(i) The Lenders shall have received the Projections.

(j) Since December 31, 2013, there shall not have occurred any event, change or condition that has had, or could reasonably be expected to have, a material adverse effect on the business, operations or financial condition of the Borrower and its Subsidiaries, taken as a whole.

The Administrative Agent shall notify the Borrower and the Lenders of the Effective Date, and such notice shall be conclusive and binding. Notwithstanding the foregoing, the obligations of the Lenders to make Loans hereunder shall not become effective unless each of the foregoing conditions is satisfied (or waived pursuant to Section 9.02) at or prior to 5:00 p.m., New York City time, on November

30 , 2014 (and, in the event such conditions are not so satisfied or waived, the Commitments shall terminate at such time).

SECTION 4.02. Each Credit Event. The obligation of each Lender to make a Loan on the occasion of any Borrowing (including, for the avoidance of doubt, on the Effective Date) is subject to receipt of the request therefor in accordance herewith and to the satisfaction of the following conditions:

- (a) The representations and warranties of the Borrower set forth in the Loan Documents that are qualified by materiality shall be true and correct, and the representations and warranties that are not so qualified shall be true and correct in all material respects, in each case (i) on and as of the date of such Borrowing and (ii) other than the representations and warranties contained in Section 3.04(c), 3.06(a) and 3.06(c).
- (b) At the time of and immediately after giving effect to such Borrowing no Default or Event of Default shall have occurred and be continuing.
- (c) Receipt of a Borrowing Request by the Administrative Agent.

Each Borrowing (provided that a conversion or a continuation of a Borrowing shall not constitute a “Borrowing” for purposes of this Section) shall be deemed to constitute a representation and warranty by the Borrower on the date thereof as to the matters specified in paragraphs (a) and (b) of this Section.

ARTICLE V

Affirmative Covenants

Until the Commitments have expired or been terminated and the principal of and interest on each Loan and all fees, expenses and other amounts (other than contingent amounts not yet due) payable under any Loan Document shall have been paid in full, the Borrower covenants and agrees with the Administrative Agent and the Lenders that:

SECTION 5.01. Financial Statements and Other Information. The Borrower will furnish to the Administrative Agent on behalf of each Lender:

- (a) within 90 days after the end of each fiscal year of the Borrower, its audited consolidated balance sheet and audited consolidated statements of operations and comprehensive income, stockholders’ equity and cash flows as of the end of and for such year, and related notes thereto, setting forth in each case in comparative form the figures for the previous fiscal year, all reported on by Deloitte & Touche LLP or other independent public accountants of recognized national standing (without a “going concern” or like qualification or exception and without any qualification or exception as to the scope of such audit) to the effect that such consolidated financial statements present fairly in all material respects the financial condition and results of operations of the Borrower and its Subsidiaries on a consolidated basis in accordance with GAAP consistently applied;
- (b) within 45 days after the end of each of the first three fiscal quarters of each fiscal year of the Borrower, its unaudited consolidated balance sheet and unaudited consolidated statements of operations and comprehensive income, stockholders’ equity and cash flows as of the end of and for such fiscal quarter and the then elapsed portion of the fiscal year, setting forth in each case in comparative form the figures for the corresponding period or periods of (or, in the

case of the balance sheet, as of the end of) the previous fiscal year, all certified by a Financial Officer as presenting fairly in all material respects the financial condition and results of operations of the Borrower and its Subsidiaries on a consolidated basis in accordance with GAAP consistently applied, subject to normal year-end audit adjustments and the absence of footnotes;

(c) concurrently with any delivery of financial statements under paragraph (a) or (b) above, (i) a certificate of a Financial Officer (A) certifying as to whether a Default has occurred and, if a Default has occurred, specifying the details thereof and any action taken or proposed to be taken with respect thereto and (B) setting forth reasonably detailed calculations demonstrating compliance with the Financial Covenants, and (ii) a narrative report and management's discussion and analysis, in a form reasonably satisfactory to the Administrative Agent, of the financial condition and results of operations of the Borrower for such fiscal year or portion of such fiscal year, as compared to amounts for the previous fiscal year (or corresponding portion of the previous fiscal year) (it being understood that the information required by clause (c)(ii) may be furnished in the form of a Form 10-K or Form 10-Q);

(d) (i) a written notice to the Administrative Agent if, as a result of any change in GAAP or in the application thereof from those in effect on the Effective Date, the financial statements delivered pursuant to paragraph (a) or (b) above will differ in any material respect from the financial statements that would have been delivered pursuant to such clauses had no such change in GAAP or the application thereof been made, and (ii) if reasonably requested by the Administrative Agent after consultation with the Borrower, together with the first delivery of financial statements pursuant to paragraph (a) or (b) above following such change, a schedule prepared by a Financial Officer on behalf of the Borrower reconciling such changes to what the financial statements would have been without giving effect to such change;

(e) [Reserved];

(f) no later than 60 days after the commencement of each fiscal year of the Borrower, a detailed consolidated budget for such fiscal year (including a projected consolidated balance sheet and consolidated statement of projected operations as of the end of and for such fiscal year and setting forth the assumptions used for purposes of preparing such budget) and, promptly when available, any significant revisions of such budget;

(g) concurrently with any delivery of financial statements under paragraph (a) or (b) above, (i) to the extent permitted to be disclosed by the applicable Regulatory Supervising Organization or any Governmental Authority, audit reports relating to such financial statements that have been prepared by the Borrower or any Subsidiary pursuant to any rules or requirements of any Regulatory Supervising Organization or any governmental authority, including without limitation FINRA and comparable organizations in foreign jurisdictions, to the extent any such report described in this paragraph discloses any violation of applicable rules or regulations which would reasonably be expected to have a Material Adverse Effect;

(h) promptly after the same become publicly available, copies of all periodic and other reports (including FOCUS reports), proxy statements and other materials filed by the Borrower or any Subsidiary with the SEC, any national securities exchange, the OCC, FDIC or any other United States Governmental Authority that regulates a Regulated Subsidiary or distributed by the Borrower to the holders of its Equity Interests generally, as the case may be; and

(i) promptly following any request therefor, such other information regarding the operations, business affairs and financial condition of the Borrower or any Subsidiary, or compliance with the terms of any Loan Document, as the Administrative Agent or any Lender may reasonably request.

Notwithstanding the foregoing, the obligations in paragraphs (a) and (b) of this Section 5.01 may be satisfied with respect to financial information of the Borrower and its Subsidiaries by filing of the Borrower's form 10-K or 10-Q, as applicable, with the SEC.

SECTION 5.02. Notices of Material Events. The Borrower will furnish to the Administrative Agent (for distribution to each Lender through the Administrative Agent) prompt written notice of the following:

- (a) the occurrence of any Default;
- (b) the filing or commencement of any action, suit or proceeding by or before any arbitrator or Governmental Authority against or, to the knowledge of a Financial Officer or another executive officer of the Borrower or any Subsidiary, affecting the Borrower or any Affiliate thereof that could reasonably be expected to result in a Material Adverse Effect;
- (c) the occurrence of any ERISA Event or any fact or circumstance that gives rise to a reasonable expectation that any ERISA Event will occur that, in either case, alone or together with any other ERISA Events that have occurred or are reasonably expected to occur, could reasonably be expected to result in a Material Adverse Effect;
- (d) any change in the Ratings, or any notice from S&P ~~or~~ Moody's or Fitch indicating its intent to effect such a change or to place the Borrower on a "CreditWatch" or "WatchList" or any similar list, in each case with negative implications, or its cessation of, or its intent to cease, providing such Rating; and
- (e) any other development (including notice of any claim or condition arising under or relating to any Environmental Law) that results in, or could reasonably be expected to result in, a Material Adverse Effect.

Each notice delivered under Section 5.02(a) shall be accompanied by a written statement of a Financial Officer or other executive officer of the Borrower setting forth the details of the event or development requiring such notice and any action taken or proposed to be taken with respect thereto. Notwithstanding any other provision of this Section 5.02, the Borrower shall not be required to provide notice of any of the foregoing where the information provided would include confidential supervisory information or would otherwise contravene any applicable Requirement of Law or regulatory guidance.

SECTION 5.03. Information Regarding Collateral.

(a) The Borrower will furnish to the Administrative Agent prompt written notice of any change (i) in its corporate name, (ii) in its jurisdiction of incorporation or organization, (iii) in its organizational identification number or (iv) in its chief executive office. The Borrower agrees not to effect or permit any change referred to in the preceding sentence unless all filings have been made under the Uniform Commercial Code or otherwise that are required in order for the Administrative Agent to continue at all times following such change to have a valid, legal and perfected security interest in all the Collateral.

(b) At the time of delivery of financial statements pursuant to Section 5.01(a) or (b), the Borrower shall deliver to the Administrative Agent a certificate executed by a Financial Officer or chief legal officer of the Borrower setting forth the information required pursuant to Section 1 of the Perfection Certificate or confirming that there has been no change in such information since the date of the Perfection Certificate delivered on the Effective Date or the date of the most recent certificate delivered pursuant to this Section.

SECTION 5.04. Existence; Conduct of Business. The Borrower will, and will cause each Subsidiary to, do or cause to be done all things necessary to preserve, renew and keep in full force and effect its legal existence and the rights, licenses, permits, privileges, franchises, patents, copyrights, trademarks and trade names material to the conduct of its business, except as could not, individually or in the aggregate, reasonably be expected to result in a Material Adverse Effect; provided that the foregoing shall not prohibit any merger, consolidation, liquidation or dissolution permitted under Section 6.03.

SECTION 5.05. Payment of Obligations. The Borrower will, and will cause each Subsidiary to, pay its material obligations (other than Indebtedness and any obligations in respect of any Swap Agreements), including Tax liabilities, before the same shall become delinquent or in default, except where (a) (i) the validity or amount thereof is being contested in good faith by appropriate proceedings, (ii) the Borrower or such Subsidiary has set aside on its books adequate reserves with respect thereto in accordance with GAAP and (iii) such contest effectively suspends collection of the contested obligation and the enforcement of any Lien securing such obligation or (b) the failure to make payment could not reasonably be expected to result in a Material Adverse Effect.

SECTION 5.06. Maintenance of Properties. The Borrower will, and will cause each Subsidiary to, keep and maintain all property material to the conduct of its business in good working order and condition, ordinary wear and tear excepted.

SECTION 5.07. Insurance. The Borrower will, and will cause each Subsidiary to, maintain, with financially sound and reputable insurance companies, (a) insurance in such amounts (with no greater risk retention) and against such risks as is customarily maintained by companies of established repute engaged in the same or similar businesses operating in the same or similar locations and (b) all insurance as may be required by law or any other Loan Document.

SECTION 5.08. Books and Records; Inspection and Audit Rights. The Borrower will, and will cause each Subsidiary to, keep proper books of record and account in which full, true and correct entries are made of all dealings and transactions in relation to its business and activities. To the extent permitted under any applicable Requirement of Law or regulatory guidance, the Borrower will, and will cause each Subsidiary to, permit any representatives designated by the Administrative Agent or any Lender, upon reasonable prior notice, to visit and inspect its properties, to examine and make extracts from its books and records, and to discuss its affairs, finances and condition with its officers and independent accountants (*provided* that a representative of the Borrower is given the opportunity to be present), all at such reasonable times and as often as reasonably requested (*provided* that unless an Event of Default shall have occurred and be continuing, such visits shall be limited to once per year and coordinated through the Administrative Agent).

SECTION 5.09. Compliance with Laws. The Borrower will, and will cause each Subsidiary to, comply with all Requirements of Law with respect to it or its property, except where the failure to do so, individually or in the aggregate, could not reasonably be expected to result in a Material Adverse Effect. The Borrower will maintain in effect policies and procedures reasonably designed to promote

compliance by the Borrower, its Subsidiaries and their respective directors, officers, employees and agents with Anti-Corruption Laws and applicable Sanctions.

SECTION 5.10. Use of Proceeds. The proceeds of the Loans will be used for general corporate purposes (including ~~Permitted Acquisitions~~ acquisitions and investments). No part of the proceeds of any Loan will be used, whether directly or indirectly, for any purpose that entails a violation of any of the Regulations of the Board, including Regulations T, U and X. The Borrower will not request any Borrowing, and the Borrower shall not use the proceeds of any Borrowing (A) in furtherance of an offer, payment, promise to pay, or authorization of the payment or giving of money, or anything else of value, to any Person in violation of any Anti-Corruption Laws, (B) for the purpose of funding, financing or facilitating any activities, business or transaction of or with any Sanctioned Person, or in any Sanctioned Country, except to the extent licensed by OFAC or otherwise authorized under U.S. law or (C) in any manner that would result in the violation of any Sanctions applicable to any party hereto.

SECTION 5.11. Subsidiaries. If any additional Subsidiary the Equity Interests of which are required to be pledged pursuant to the Collateral Requirement is formed or acquired after the Effective Date or any indirect Subsidiary becomes a direct Subsidiary, and in each case such Subsidiary's Equity Interests would be required to be pledged pursuant to the Collateral Requirement, the Borrower will, (a) within ten (10) Business Days (with respect to any Significant Subsidiary) and (y) within sixty (60) days (with respect to any Subsidiary that is not a Significant Subsidiary), in each case, after such Subsidiary is formed or acquired, redesignated or becomes a direct Subsidiary (in each case, as such date may be extended by the Administrative Agent in its sole discretion), notify the Administrative Agent thereof and cause the Collateral Requirement to be satisfied with respect to any Equity Interest in such Subsidiary owned by or on behalf of the Borrower.

SECTION 5.12. Further Assurances. The Borrower will execute any and all further documents, financing statements, agreements and instruments, and take all such further actions (including the filing and recording of financing statements and other documents), that may be required under any applicable law, or that the Administrative Agent or the Required Lenders may reasonably request, to cause the Collateral Requirement to be and remain satisfied, all at the expense of the Borrower. The Borrower also agrees to provide to the Administrative Agent, from time to time upon request, evidence reasonably satisfactory to the Administrative Agent as to the perfection and priority of the Liens created or intended to be created by the Security Documents.

SECTION 5.13. Registration Status. To the extent required by applicable law, the Borrower and its Subsidiaries shall maintain the Investment Adviser Companies' status as registered "investment advisers" under the Investment Advisers Act, except where the failure to maintain such registration would not be reasonably likely to have a Material Adverse Effect. The Borrower and its Subsidiaries shall maintain each Broker Dealer Regulated Subsidiary's (i) registration as registered "broker-dealers" under the Exchange Act and under the laws of each state in which such registration is required in connection and where a failure to obtain such registration would be likely to have a Material Adverse Effect, and (ii) to maintain its membership in FINRA, except where the failure to maintain such registration would not be reasonably likely to have a Material Adverse Effect. The Borrower and its Subsidiaries shall maintain each Bank Regulated Subsidiary's registration as a savings and loan holding company subject to regulation by the Board under section 10 of the Home Owners' Loan Act and Regulation LL.

SECTION 5.14. Regulatory Matters. The Borrower shall cause (a) (i) the Broker Dealer Regulated Subsidiaries to take all reasonable action to maintain all rights, privileges, broker-dealer licenses and memberships, broker-dealer registrations necessary or desirable in the normal conduct of its

business, except, in each case, to the extent that failure to do so would not reasonably be expected to have a Material Adverse Effect, (ii) all Broker Dealer Regulated Subsidiaries to comply with all material rules and regulations of the SEC and FINRA applicable to it (including such rules and regulations dealing with net capital requirements) and, to the extent applicable to any Broker Dealer Regulated Subsidiary, all similar, equivalent or comparable foreign statutes, rules, regulations and other regulatory requirements, except, in each case, where the failure to so comply would not reasonably be expected to have a Material Adverse Effect and (iii) all Broker Dealer Regulated Subsidiaries to deliver after the end of each fiscal quarter of each fiscal year of the Borrower or soon after the date such information is filed with the SEC, a copy of each Broker Dealer Regulated Subsidiary's Financial and Operational Combined Uniform Single Report filed with the SEC for such fiscal quarter, (b) (i) all of its Investment Adviser Companies to take all reasonable action to maintain all rights, privileges and investment adviser registrations necessary or desirable in the normal conduct of its business, except, in each case, to the extent that failure to do so would not reasonably be expected to have a Material Adverse Effect, (ii) all of its Investment Adviser Companies to comply with all material rules and regulations of the SEC applicable to it and, to the extent applicable to any Investment Adviser Company, all similar, equivalent or comparable foreign statutes, rules, regulations, and other regulatory requirements, except, in each case, where the failure to so comply would not reasonably be expected to have a Material Adverse Effect, and (c) the Bank Regulated Subsidiaries to take all reasonable action to maintain all rights, privileges, licenses and memberships, registrations necessary or desirable in the normal conduct of its business, except, in each case, to the extent that failure to do so would not reasonably be expected to have a Material Adverse Effect, (ii) all Bank Regulated Subsidiaries to comply with all material rules and regulations of any Governmental Authority or Regulatory Supervising Organization applicable to it (including such rules and regulations dealing with minimum capitalization ratios and requirements) and, to the extent applicable to any Bank Regulated Subsidiary, all similar, equivalent or comparable foreign statutes, rules, regulations and other regulatory requirements, except, in each case, where the failure to so comply would not reasonably be expected to have a Material Adverse Effect.

ARTICLE VI

Negative Covenants

Until the Commitments have expired or been terminated and the principal of and interest on each Loan and all fees, expenses and other amounts payable (other than contingent amounts not yet due) under any Loan Document have been paid in full, the Borrower covenants and agrees with the Lenders that:

SECTION 6.01. Indebtedness; Certain Equity Securities.

- (a) The Borrower will not, ~~and will not~~ permit any Subsidiary to, create, incur, assume or permit to exist any Indebtedness, except:
- (i) Indebtedness created under the Loan Documents;
 - (ii) ~~(x)~~ The 2019 ~~Notes, the 2019~~ Convertible Notes, ~~the New Notes,~~ and the other Indebtedness existing on the date hereof and set forth in Schedule 6.01 (other than any Indebtedness permitted by Section 6.01(a)(xv) and Indebtedness of the Borrower listed on such Schedule) and extensions, renewals and replacements of any such Indebtedness, provided that such extending, renewal or replacement Indebtedness (A) shall not be Indebtedness of an obligor that was not an obligor with respect to the Indebtedness being extended, renewed or replaced, (B) shall not be in a principal amount that exceeds the principal amount of the Indebtedness being

extended, renewed or replaced (plus any accrued but unpaid interest and redemption premium payable by the terms of such Indebtedness thereon), (C) shall not have an earlier maturity date or shorter weighted average life than the Indebtedness being extended, renewed or replaced and (D) shall be subordinated to the Obligations on terms at least as favorable to the Lenders as the subordination terms (if any) of the Indebtedness being extended, renewed or replaced ~~and (y) (I) prior to the 2016 Springing Maturity Date, the 2016 Notes (including the guarantees in respect thereof existing on the Effective Date) and (II) prior to the 2017 Springing Maturity Date, the 2017 Notes (including the guarantees in respect thereof existing on the Effective Date);~~

(iii) Indebtedness ~~of the Borrower to any Subsidiary and~~ of any Subsidiary to the Borrower or any other Subsidiary; ~~provided that (A) Indebtedness of any Subsidiary to the Borrower shall be subject to Section 6.04 and (B) Indebtedness of the Borrower to any Subsidiary shall be subordinated to the Obligations on terms reasonably satisfactory to the Administrative Agent;~~

(iv) Guarantees (A) by the Borrower of Indebtedness of any Subsidiary that is permitted by this Section and (B) by any Subsidiary of Indebtedness of any other Subsidiary that is permitted by this Section (other than clause (a)(ii) and (a)(xv));

(v) (A) Indebtedness of ~~the Borrower or~~ any Subsidiary incurred to finance the acquisition, construction or improvement of any fixed or capital assets, including Capital Lease Obligations, Synthetic Lease Obligations and any Indebtedness assumed by ~~the Borrower or~~ any Subsidiary in connection with the acquisition of any such assets or secured by a Lien on any such assets prior to the acquisition thereof, provided that such Indebtedness is incurred prior to or within 270 days after such acquisition or the completion of such construction or improvement, and (B) extensions, renewals and replacements of any such Indebtedness so long as the outstanding principal amount of such extensions, renewals and replacements does not exceed the principal amount of the Indebtedness being extended, renewed or replaced (plus any accrued but unpaid interest and premium payable by the terms of such Indebtedness thereon), provided that no Indebtedness may be incurred under this clause (v) if, after giving effect to such incurrence, the aggregate principal amount of Indebtedness then outstanding under this clause (v) together with all Indebtedness under clause (a)(vi) of this Section ~~that is or~~ secured by ~~a Lien or Liens~~ incurred ~~by a Subsidiary pursuant to clauses (e) and (i) of Section 6.02~~, exceeds \$300,000,000 as of the date of such incurrence;

(vi) Indebtedness of ~~the Borrower or~~ any Subsidiary, provided that (A) the Borrower is in compliance, on a Pro Forma Basis after giving effect to the incurrence of such Indebtedness as of the last day of the most-recently ended fiscal quarter of the Borrower, with the Financial Covenants, and (B) no Indebtedness of any Subsidiary may be incurred under this clause (vi) if, after giving effect to such incurrence, the aggregate principal amount of Indebtedness of Subsidiaries then outstanding under this clause (vi), together with (1) the aggregate principal amount of Indebtedness of the Borrower then outstanding ~~under this clause (vi)~~ that is secured by a Lien on any assets of the Borrower ~~that is incurred pursuant to clause (i) of Section 6.02~~ and (2) the aggregate principal amount of Indebtedness then outstanding under clause (a)(v) of this Section; ~~or secured by Liens incurred pursuant to clause (e) of Section 6.02~~, exceeds \$300,000,000;

(vii) Indebtedness owed to any Person (including obligations in respect of letters of credit for the benefit of such Person) providing workers' compensation, health, disability or other

employee benefits or property, casualty or liability insurance, pursuant to reimbursement or indemnification obligations to such Person, in each case incurred in the ordinary course of business;

(viii) Indebtedness of ~~the Borrower or~~ any Subsidiary in respect of performance bonds, bid bonds, appeal bonds, surety bonds, performance and completion guarantees and similar obligations (other than in respect of other Indebtedness), in each case provided in the ordinary course of business;

(ix) Indebtedness in respect of Swap Agreements not entered into for speculative purposes;

(x) Indebtedness or other obligations arising from products and services offered by Bank Regulated Subsidiaries, Broker Dealer Regulated Subsidiaries or Insurance Regulated Subsidiaries in the ordinary course including, but not limited to, deposits, CDs, prepaid forward contracts, swaps, exchangeable debt securities, foreign currency purchases or sales and letters of credit, customer activities and clearing and clearing-related activities (including, in each case, Indebtedness to finance such activities);

(xi) Indebtedness or other obligations incurred in the ordinary course arising from margin lending, Stock Loan activities, customer activities, clearing and clearing-related activities or foreign currency settlement obligations of a Broker Dealer Regulated Subsidiary (including, in each case, Indebtedness to finance such activities);

(xii) Indebtedness arising from agreements of ~~the Borrower or~~ a Subsidiary providing for indemnification, adjustment of purchase price or similar obligations, in each case, incurred or assumed in connection with the disposition of any business, assets or a Subsidiary, other than Guarantees of Indebtedness incurred by any Person acquiring all or any portion of such business, assets or a Subsidiary for the purpose of financing such acquisition;

(xiii) [Reserved];

(xiv) advances from a Federal Home Loan Bank, a Federal Reserve Bank, Fannie Mae or another institution similar to any of the foregoing, repurchase and reverse repurchase agreements relating to Investment Securities, medium term notes, treasury tax and loan balances, special direct investment balances, bank notes, commercial paper, term investment option balances, brokered certificates of deposit, dollar rolls and federal funds purchased, in each case incurred in the ordinary course of a Regulated Subsidiary's business; and

(xv) Indebtedness of a Bank Regulated Subsidiary consisting of trust preferred or similar securities, in each case, outstanding on the Effective Date (it being understood that such trust preferred or similar securities shall be permitted only under this clause (xv) and not under any other clause of this Section 6.01(a)).

Notwithstanding any other provision of this Section 6.01(a), (I) the Borrower shall not permit any Subsidiary to Guarantee all or any portion of the 2019 Notes, the 2019 Convertible Notes (other than with respect to any guarantees of the 2019 Convertible Notes that are in effect on the Effective Date) or the New Notes, (II) ETB Holdings shall not be permitted to incur any Indebtedness under this Section 6.01(a) after the Effective Date other than under Section 6.01(a)(iii) and (III) no Regulated Subsidiary shall incur

any Indebtedness that is incurred for the purpose of contributing to or meeting any capital requirements applicable to itself or any other Regulated Subsidiary.

(b) The Borrower ~~will not, and~~ will not permit any Subsidiary to, issue any preferred Equity Interests except (i) ~~in the case of the Borrower, preferred Equity Interests that are Qualified Equity Interests, (ii) Equity Interests permitted to be issued under Section 6.05(k), [reserved]; (ii) [reserved];~~ (iii) preferred Equity Interests issued by any Subsidiary to a wholly owned Subsidiary or (iv) in the case of a Regulated Subsidiary or a Subsidiary of a Regulated Subsidiary, preferred Equity Interests, provided that any issuance under this clause (b)(iv) shall reduce the amount of Indebtedness permitted to be incurred by Subsidiaries under Section 6.01(a)(vi).

SECTION 6.02. Liens. The Borrower will not, and will not permit any Subsidiary to, create, incur, assume or permit to exist any Lien on any property or asset now owned or hereafter acquired by it, or assign or sell any income or revenues (including accounts receivable) or rights in respect of any thereof, except:

(a) Liens created under the Loan Documents;

(b) Permitted Encumbrances;

(c) any Lien on any property or asset of the Borrower or any Subsidiary existing on the date hereof and set forth in Schedule 6.02, provided that (A) such Lien shall not apply to any other property or asset of the Borrower or any Subsidiary and (B) such Lien shall secure only those obligations that it secures on the date hereof and extensions, renewals and replacements thereof so long as the principal amount of such extensions, renewals and replacements does not exceed the principal amount of the obligations being extended, renewed or replaced (plus any accrued but unpaid interest and premium payable by the terms of such obligations thereon);

(d) any Lien existing on any property or asset prior to the acquisition thereof by the Borrower or any Subsidiary or existing on any property or asset of any Person that becomes a Subsidiary after the date hereof prior to the time such Person becomes a Subsidiary (other than any Lien created after such Person was designated as a Subsidiary), provided that (A) such Lien is not created in contemplation of or in connection with such acquisition or such Person becoming a Subsidiary, as the case may be, (B) such Lien shall not apply to any other property or asset of the Borrower or any Subsidiary and (C) such Lien shall secure only those obligations that it secures on the date of such acquisition or the date such Person becomes a Subsidiary, as the case may be, and extensions, renewals and replacements thereof so long as the principal amount of such extensions, renewals and replacements does not exceed the principal amount of the obligations being extended, renewed or replaced (plus any accrued but unpaid interest and premium payable by the terms of such obligations thereon);

(e) Liens on fixed or capital assets acquired, constructed or improved (including any such assets made the subject of a Capital Lease Obligation or Synthetic Lease Obligation incurred) by the Borrower or any Subsidiary, provided that (A) such Liens secure Indebtedness incurred to finance such acquisition, construction or improvement and permitted by clause (v)(A) of Section 6.01(a) or to extend, renew or replace such Indebtedness and permitted by clause (v)(B) of Section 6.01(a), (B) such Liens and the Indebtedness secured thereby are incurred prior to or within 270 days after such acquisition or the completion of such construction or improvement (provided that this clause (B) shall not apply to any Indebtedness permitted by clause (v)(B) of

Section 6.01(a) or any Lien securing such Indebtedness), (C) the Indebtedness secured thereby does not exceed the lesser of the cost of acquiring, constructing or improving such fixed or capital asset or, in the case of Indebtedness permitted by clause (v) (A) of Section 6.01(a), its fair market value at the time such security interest attaches and (D) such Liens shall not apply to any other property or assets of the Borrower or any Subsidiary;

(f) Liens of a collecting bank arising in the ordinary course of business under Section 4-208 of the Uniform Commercial Code in effect in the relevant jurisdiction covering only the items being collected upon;

(g) Liens representing any interest or title of a licensor, lessor or sublicensor or sublessor under any lease or license permitted by this Agreement;

(h) Liens that are rights of setoff relating to deposit accounts in favor of banks and other depository institutions arising in the ordinary course of business;

(i) Liens on the assets of the Borrower (other than Equity Interests of a Bank Regulated Subsidiary or a direct or indirect holding company of a Bank Regulated Subsidiary) securing Indebtedness of the Borrower ~~incurred pursuant to clause (vi) of Section 6.01(a)~~, provided that no Lien shall be permitted under this clause (i) if, after giving effect to such Lien, the aggregate principal amount of Indebtedness of the Borrower then outstanding that is secured by a Lien on any assets of the Borrower pursuant to this clause (i), together with the aggregate principal amount of Indebtedness of a Subsidiary then outstanding under clause (a)(v) of Section 6.01 or secured by ~~the Borrower~~ a Lien incurred pursuant to clause (e) of this Section 6.02 or incurred by a Subsidiary as contemplated in the proviso to clause (a)(vi) of Section 6.01, exceeds \$300,000,000;

(j) Liens granted by a Subsidiary in favor of the Borrower in respect of Indebtedness or other obligations owed by such Subsidiary to the Borrower;

(k) Liens arising from filing Uniform Commercial Code financing statements regarding leases;

(l) Liens securing reimbursement obligations with respect to letters of credit permitted by Section 6.01 that encumber documents and other property relating to such letters of credit and the products and proceeds thereof;

(m) Liens in favor of customs and revenue authorities arising as a matter of law to secure payment of customs duties in connection with the importation of goods;

(n) Liens encumbering customary initial deposits and margin deposits, and other Liens that are within the general parameters customary in the industry and incurred in the ordinary course of business, in each case, securing Indebtedness under Swap Agreements not entered into for speculative purposes;

(o) Liens arising out of conditional sale, title retention, consignment or similar arrangements for the sale of goods entered into by the Borrower or any of the Subsidiaries in the ordinary course of business in accordance with the past practices of the Borrower and its Subsidiaries prior to the Effective Date;

(p) Liens on assets of or held by a Regulated Subsidiary (including customer assets as to which such Regulated Subsidiary has a right of rehypothecation) in the ordinary course of such Regulated Subsidiary's business or to secure Indebtedness of a type described in clause (x), (xi) or (xiv) of Section 6.01(a);

(q) [Reserved];

(r) Liens arising from Permitted Investments described in clause (d) of the definition of the term "Permitted Investments";

(s) Liens incurred in the ordinary course of business in connection with clearing and clearing-related activities; and

(t) pledges and deposits made in the ordinary course of business in connection with clearing and clearing-related activities.

Notwithstanding any other provision of this Section 6.02, the Borrower shall not (x) permit any Lien to be created, incurred or assumed, or otherwise to exist, if as a result thereof the Borrower is required under the 2019 Indenture, the 2019 Convertible Indenture, the New Indenture or any other Indebtedness to grant a Lien on any asset of the Borrower or any Subsidiary securing all or any portion of the 2019 Notes, the 2019 Convertible Notes or the New Notes or (y) permit any Lien to exist on the Equity Interests of any Bank Regulated Subsidiary or Broker Dealer Regulated Subsidiary or a direct or indirect holding company of a Bank Regulated Subsidiary or Broker Dealer Regulated Subsidiary, as the case may be, in the case of this clause (y), other than (A) under the Loan Documents, (B) Liens arising by operation of any Requirement of Law, (C) Liens permitted under Section 6.02(d) and (D) Permitted Encumbrances of the types described in clauses (a) and (e) of the definition of "Permitted Encumbrance."

SECTION 6.03. Fundamental Changes.

(a) The Borrower will not, ~~and will not permit any Subsidiary to,~~ merge into or consolidate with any other Person, or permit any other Person to merge into or consolidate with it, or liquidate or dissolve, except that, if at the time thereof no Event of Default shall have occurred and be continuing and immediately after giving effect thereto no Default or Event of Default shall result therefrom ~~(i)~~ any Person may merge into the Borrower in a transaction in which the Borrower is the surviving corporation, ~~(ii) any Person (other than the Borrower) may merge into any Subsidiary in a transaction in which the surviving entity is a Subsidiary and (iii) any Subsidiary may liquidate or dissolve if the Borrower (including through its officers' authority) determines in good faith that such liquidation or dissolution is in the best interests of the Borrower and is not materially disadvantageous to the Lenders, provided that any such merger involving a Person that is not a wholly owned Subsidiary immediately prior to such merger shall not be permitted unless also permitted by Sections 6.04 and 6.05. In addition, (A) any Subsidiary other than ETB Holdings, E*TRADE Bank. In addition, (i) the Borrower will not permit ETB Holdings or E*TRADE Bank to merge with or into, consolidate with, or liquidate or dissolve into any other Person and (ii) the Borrower will not permit ETCM Holdings, E*TRADE Clearing or E*TRADE Securities (the "Specified Entities") may to merge with or into or, consolidate with any other Person, and, or liquidate or dissolve into any other Person (other than the Borrower) may merge into or consolidate with it, or liquidate or dissolve, as may be required pursuant to any applicable Requirement of Law or regulatory guidance or otherwise as required by any Bank Regulatory Authority or other Governmental Authority; provided that the surviving entity in any such merger or consolidation shall be a Subsidiary or the assets of such Subsidiary that dissolves or liquidates are transferred to the Borrower or another Subsidiary and~~

~~(B) either of E*TRADE Securities and E*TRADE Clearing may merge with or into, consolidate with, or liquidate or dissolve into, the other other than any other Specified Entity; provided that, ETCM Holdings may merge with or into, consolidate with, or liquidate or dissolve into the Borrower in a transaction where any Specified Entities that are then Subsidiaries of ETCM Holdings become direct Subsidiaries of the Borrower.~~

(b) The Borrower will not, and will not permit any Subsidiary to, engage to any material extent in any business other than businesses of the type conducted by the Borrower and its Subsidiaries on the Effective Date and businesses reasonably related thereto.

SECTION 6.04. ~~[Reserved].~~

~~SECTION 6.04. Investments, Loans, Advances, Guarantees and Acquisitions. The Borrower will not, and will not permit any Subsidiary to, purchase, hold or acquire (including pursuant to any merger with any Person that was not a wholly owned Subsidiary prior to such merger) any Equity Interests in or evidences of Indebtedness or other securities (including any option, warrant or other right to acquire any of the foregoing) of, make or permit to exist any loans or advances to, Guarantee any obligations of, or make or permit to exist any investment or any other interest in, any other Person, or purchase or otherwise acquire (in one transaction or a series of transactions) any assets of any other Person constituting a business unit, except:~~

~~(a) Permitted Investments;~~

~~(b) Permitted Acquisitions, provided that the Borrower is in compliance, on a Pro Forma Basis after giving effect to such Permitted Acquisition as of the last day of the most-recently ended fiscal quarter of the Borrower, with the Financial Covenants;~~

~~(c) investments existing on the date hereof and set forth on Schedule 6.04;~~

~~(d) investments by the Borrower and any Subsidiary in Equity Interests of any Subsidiary;~~

~~(e)(f) loans or advances made by the Borrower to any Subsidiary and made by any Subsidiary to the Borrower or any other Subsidiary, provided that any such loans and advances made by the Borrower shall be evidenced by a promissory note (which may be a master note with varying principal amount) pledged pursuant to the Collateral Agreement to the extent required by the Collateral and Guarantee Requirement and (i) deposits by the Borrower with any Subsidiary or by any Subsidiary with the Borrower or any other Subsidiary;~~

~~(g) Guarantees of (i) Indebtedness of the Borrower or any Subsidiary that are permitted by Section 6.01 and (ii) the type described in clause (c) of the definition thereof;~~

~~(h) loans or advances to employees of the Borrower or any Subsidiary made in the ordinary course of business of the Borrower or any Subsidiary not exceeding \$5,000,000 in the aggregate outstanding at any time (determined without regard to any write-downs or write-offs of such loans or advances), provided that no such loans or advances to any single employee shall exceed \$1,000,000 in the aggregate outstanding at any time (determined without regard to any write-downs or write-offs of such loans or advances);~~

~~(i) payroll, travel and similar advances to cover matters that are expected at the time of such advances ultimately to be treated as expenses of the Borrower or any Subsidiary for accounting purposes and that are made in the ordinary course of business;~~

~~(j) investments received in connection with the bankruptcy or reorganization of, or settlement of delinquent accounts and disputes with, customers and suppliers, in each case in the ordinary course of business;~~

~~(k) investments in the form of Swap Agreements not entered into for speculative purposes;~~

~~(l) investments of any Person existing at the time such Person becomes a Subsidiary or consolidates or merges with the Borrower or any Subsidiary (including in connection with a Permitted Acquisition) so long as such investments were not made in contemplation of such Person becoming a Subsidiary or of such consolidation or merger;~~

~~(m) investments resulting from pledges or deposits described in clause (c) or (d) of the definition of the term "Permitted Encumbrance";~~

~~(n) investments received in connection with the disposition of any asset permitted by Section 6.05;~~

~~(o) receivables or other trade payables owing to the Borrower or a Subsidiary if created or acquired in the ordinary course of business and payable or dischargeable in accordance with customary trade terms, provided that such trade terms may include such concessionary trade terms as the Borrower or any Subsidiary deems reasonable under the circumstances;~~

~~(p) investments, loans and guarantees (i) arising from products and services offered by Bank Regulated Subsidiaries or Broker Dealer Regulated Subsidiaries, (ii) made by Bank Regulated Subsidiaries or Broker Dealer Regulated Subsidiaries and (iii) any deposits or assets pledged in connection with clearing and clearing-related activities, in each of clauses (i), (ii) and (iii) in the ordinary course of business, including margin loans, Stock Loans, mortgages, home equity lines of credit, clearing and clearing-related activities, other customer financings and investments made pursuant to the Community Reinvestment Act;~~

SECTION 6.05. ~~(q)[Reserved];~~ (r) investments acquired as a capital contribution to, or in exchange for, or out of the proceeds of a substantially concurrent offering of, Equity Interests (other than Disqualified Equity Interests) of the Borrower; and

(s) other investments, loans and advances by the Borrower or any Subsidiary in an aggregate amount, as valued at cost as of the date of each such investment, loan or advance is made and including all related commitments for future investments, loans or advances (and the principal amount of any Indebtedness that is assumed or otherwise incurred in connection with such investment, loan or advance), provided that no investments, loans or advances may be made under this clause (r) if, after giving effect to such investment, loan or advance, the aggregate amount of investments, loans and advances made or committed to be made from and after the Effective Date under this clause (r) would exceed the sum of (i) 5.0% of Consolidated Net Worth as of such date, (ii) the maximum amount of Restricted Payments that may be made under Section 6.08(a) as of such date and (iii) without duplication of any amounts included in clause (q)

above and Section 6.08(a), an amount equal to any returns of capital or sale proceeds actually received in cash in respect of any such investments.

~~SECTION 6.05. Asset Sales. The Borrower will not, and will not permit any Subsidiary to, sell, transfer, lease or otherwise dispose of any asset, including any Equity Interest owned by it, nor will the Borrower permit any Subsidiary to issue any additional Equity Interest in such Subsidiary (other than issuing directors' qualifying shares and other than issuing Equity Interests to another Subsidiary in compliance with Section 6.04(d)), except:~~

~~(a) sales, transfers, leases and other dispositions of (i) inventory, (ii) used, damaged, worn-out, obsolete or surplus assets and (iii) Permitted Investments, in each case in the ordinary course of business;~~

~~(b) sales, transfers, leases and other dispositions to the Borrower or a Subsidiary, provided that any such sales, transfers, leases or other dispositions involving the Borrower shall be made in compliance with Section 6.09;~~

~~(c) sales, transfers and other dispositions of accounts receivable in connection with the compromise, settlement or collection thereof consistent with past practice;~~

~~(d) sales, transfers, leases and other dispositions of property to the extent that such property constitutes an investment permitted by clause (i) or (k) of Section 6.04 or another asset received as consideration for the disposition of any asset permitted by this Section (in each case, other than Equity Interests in a Subsidiary, unless all Equity Interests in such Subsidiary are sold);~~

~~(e) sale and leaseback transactions permitted by Section 6.06;~~

~~SECTION 6.06. [Reserved].~~

~~(f) leases and subleases entered into in the ordinary course of business, to the extent that they do not materially interfere with the business of the Borrower or any Subsidiary;~~

~~(g) licenses or sublicenses of intellectual property in the ordinary course of business, to the extent that they do not materially interfere with the business of the Borrower or any Subsidiary;~~

~~(h) dispositions resulting from any casualty or other insured damage to, or any taking under power of eminent domain or by condemnation or similar proceeding of, any property or asset of the Borrower or any Subsidiary;~~

~~(i) sales, transfer or other dispositions of assets by Regulated Subsidiaries in the ordinary course of business (including pursuant to securitizations under, and foreclosures to satisfy Indebtedness permitted under, clause (x), (xi), (xiv) or (xv) of Section 6.01(a) which is secured by a Lien on the property so foreclosed upon);~~

~~(j) sales of Equity Interests in a Regulated Subsidiary that is an Insignificant Subsidiary or all or substantially all of the assets (or an operating unit of business) of a Regulated Subsidiary that is an Insignificant Subsidiary (other than in connection with a transaction permitted by Section 6.03), provided that no sale may be consummated under this clause (j) if, after giving effect thereto, (i) the aggregate fair market value of all such Regulated Subsidiaries~~

~~sold after the Effective Date under this clause (j) would exceed 15.0% of the consolidated total assets of the Borrower and its Regulated Subsidiaries as of the last day of the fiscal quarter of the Borrower most-recently ended or (ii) the aggregate revenues of all such Regulated Subsidiaries sold after the Effective Date under this clause (j), determined in each case based upon the four fiscal quarters of the Borrower most-recently ended prior to the sale of such Regulated Subsidiary, would exceed 15.0% of the consolidated total revenues of the Borrower and its Subsidiaries during the four-fiscal-quarter period of the Borrower most-recently ended;~~

~~(k) sales, transfers and other dispositions of (i) any asset with a fair market value equal to or less than \$2,500,000 and (ii) Equity Interests in any entity that is not a Subsidiary;~~

~~(l) sales, transfers and other dispositions of assets (other than Equity Interests in a Subsidiary unless all Equity Interests in such Subsidiary are sold) that are not permitted by any other clause of this Section, provided that the aggregate fair market value of all assets sold, transferred or otherwise disposed of in reliance upon this clause (l) in any fiscal year of the Borrower shall not exceed 7.5% of Consolidated Net Worth as of the first day of such fiscal year of the Borrower; and~~

~~(m) to the extent permitted by Section 6.01(b), sales of Equity Interests, other than common Equity Interests, by a Regulated Subsidiary or a Subsidiary of such Regulated Subsidiary;~~

~~provided that all sales, transfers, leases and other dispositions permitted by clause (j) or (l) shall be made for fair value and for at least 75% cash consideration payable at the time of such sale, transfer or other disposition;~~

~~SECTION 6.06. Sale and Leaseback Transactions. Except for the transaction described on Schedule 6.06, the Borrower will not, and will not permit any Subsidiary to, enter into any arrangement, directly or indirectly, whereby it shall sell or transfer any property, real or personal, used or useful in its business, whether now owned or hereafter acquired, and thereafter rent or lease such property or other property that it intends to use for substantially the same purpose or purposes as the property sold or transferred, except for any such sale of any fixed or capital assets by the Borrower or any Subsidiary that is made for cash consideration in an amount not less than the fair value of such fixed or capital asset and is consummated within 90 days after the Borrower or such Subsidiary acquires or completes the construction of such fixed or capital asset, provided that, if such sale and leaseback results in a Capital Lease Obligation or Synthetic Lease Obligation, such Capital Lease Obligation or Synthetic Lease Obligation is permitted by Section 6.01(a)(v) and any Lien made the subject of such Capital Lease Obligation or Synthetic Lease Obligation is permitted by Section 6.02(c);~~

SECTION 6.07. [Reserved].

SECTION 6.08. Restricted Payments; Certain Payments of Indebtedness.

(a) The Borrower will not, and will not permit any Subsidiary to, directly or indirectly:

(i) declare or pay any dividend or make any distribution on or with respect to its Equity Interests held by Persons other than the Borrower or any of its Subsidiaries (other than (A) dividends or distributions payable solely in its Equity Interests (other than Disqualified Equity Interests) or in options, warrants or other rights to acquire such Equity Interests, (B) pro rata

dividends or distributions on common stock of Subsidiaries held by minority stockholders, (C) dividends or distributions on non-voting preferred Equity Interests the proceeds from the sale of which were invested in the business of such Regulated Subsidiary (or any Subsidiary of such Regulated Subsidiary which is also a Regulated Subsidiary), and (D) pro rata dividends on preferred Equity Interests of Subsidiaries that are real estate investment trusts, including Highland REIT, Inc., held by minority stockholders;

(ii) purchase, call for redemption or redeem, retire or otherwise acquire for value any Equity Interests of (A) the Borrower (including options, warrants or other rights to acquire such Equity Interests) held by any Person (other than the Borrower or any Subsidiary) or (B) a Subsidiary (including options, warrants or other rights to acquire such Equity Interests) held by any Affiliate of the Borrower (other than the Borrower or a wholly owned Subsidiary); or

(iii) make any voluntary or optional principal payment, or voluntary or optional redemption, repurchase, defeasance, or other acquisition or retirement for value, of Indebtedness of the Borrower that is subordinated in right of payment to the Loans; (such payments or any other actions described in clauses (i) through (iii) above being collectively "Restricted Payments");

if, at the time of, and after giving effect to, the proposed Restricted Payment: (A) a Default or Event of Default shall have occurred and be continuing; (B) the Borrower could not incur at least \$1.00 of Indebtedness and maintain a ~~Fixed Charge~~ an Interest Coverage Ratio as calculated herein of at least ~~2.00~~ 3.50:1:00; (C) the Subsidiary subject to the Restricted Payment is both a Regulated Subsidiary and a Significant Subsidiary that is not in compliance with applicable regulatory capital or other material requirements of its regulators, such as the OCC, FDIC or Board, or any applicable state, federal or self-regulatory organization, or would fail to be in compliance with applicable regulatory requirements as a consequence of the payment; or (D) the aggregate amount of all Restricted Payments made after the Effective Date shall exceed (I) the sum of (w) 50% of the aggregate amount of the Adjusted Consolidated Net Income (or, if the Adjusted Consolidated Net Income is a loss, minus 100% of the amount of such loss) accrued on a cumulative basis during the period (taken as one accounting period) beginning on the first day of the fiscal quarter in which the Effective Date falls and ending on the last day of such fiscal quarter preceding the date such Restricted Payment is to be made for which financial statements shall have been delivered pursuant to Section 5.01(a) or (b), taken as a single accounting period plus (x) the aggregate net proceeds received by the Borrower after the Effective Date as a capital contribution or from the issuance and sale of its Equity Interests (other than Disqualified Equity Interests, preferred Equity Interests, ~~Equity Interests applied pursuant to Section 6.04(q)~~ or Excluded Contributions) to a Person who is not a Subsidiary of the Borrower, including an issuance or sale permitted by this Agreement of Indebtedness of the Borrower for cash subsequent to the Effective Date upon the conversion of such Indebtedness into Equity Interests (other than Disqualified Equity Interests) of the Borrower, or from the issuance to a Person who is not a Subsidiary of the Borrower of any options, warrants or other rights to acquire Equity Interests of the Borrower (in each case, exclusive of any Disqualified Equity Interests or any options, warrants or other rights that are redeemable at the option of the holder, or are required to be redeemed, prior to the Maturity Date of the Loans), plus (y) an amount equal to the net reduction in investments ~~(other than reductions in investments permitted by Section 6.04 (other than Section 6.04(r)(ii))~~ in any Person resulting from payments of interest on Indebtedness, dividends, repayments of loans or advances, or other transfers of assets, in each case to the Borrower or any Subsidiary or from the net proceeds from the sale of any such investment (except, in each case, to the extent any such payment or proceeds are included in the calculation of Adjusted Consolidated Net Income), not to exceed, in each case, the amount of investments previously made by the Borrower or any Subsidiary in such Person plus

~~(z) \$100,000,000 minus (H) the aggregate amount of all investments, loans and advances made in reliance on clause (r)(ii) of Section 6.04 since the Effective Date: \$100,000,000.~~

(b) The foregoing provision shall not be violated by reason of:

(i) the payment of any dividend or redemption of any Equity Interests within 60 days after the related date of declaration or call for redemption if, at said date of declaration or call for redemption, such payment or redemption would comply with the preceding paragraph;

(ii) the redemption, repurchase, defeasance or other acquisition or retirement for value of Indebtedness that is subordinated in right of payment to the Loans including premium, if any, and accrued interest, with the proceeds of, or in exchange for, indebtedness incurred under Section 6.01(a)(ii) or Refinancing Indebtedness in respect thereof;

(iii) the repurchase, redemption or other acquisition of Equity Interests of the Borrower or a Subsidiary (or options, warrants or other rights to acquire such Equity Interests) or a dividend on such Equity Interests in exchange for, or out of the proceeds of a capital contribution or a substantially concurrent offering of, Equity Interests (other than Disqualified Equity Interests) of the Borrower (or options, warrants or other rights to acquire such Equity Interests); *provided* that such options, warrants or other rights are not redeemable at the option of the holder, or required to be redeemed, in each case other than in connection with a Change of Control of the Borrower, prior to the Maturity Date;

(iv) the making of any principal payment or the repurchase, redemption, retirement, defeasance or other acquisition for value of Indebtedness which is subordinated in right of payment to the Obligations in exchange for, or out of the proceeds of a capital contribution or a substantially concurrent offering of, Equity Interests (other than Disqualified Equity Interests) of the Borrower (or options, warrants or other rights to acquire such Equity Interests); *provided* that such options, warrants or other rights are not redeemable at the option of the holder, or required to be redeemed, in each case other than in connection with a “change of control” of the Borrower, prior to the Maturity Date;

(v) payments or distributions to dissenting stockholders pursuant to applicable law, pursuant to or in connection with a consolidation, merger or transfer of assets of the Borrower, any Subsidiary or any Regulated Subsidiary and that, in the case of the Borrower, comply with the provisions of this Indenture applicable to mergers, consolidations and transfers of all or substantially all of the property and assets of the Borrower; the repurchase of Equity Interests deemed to occur upon the exercise of options or warrants if such Equity Interests represents all or a portion of the exercise price thereof;

(vi) the repurchase of Equity Interests deemed to occur upon the exercise of options or warrants if such Equity Interests represents all or a portion of the exercise price thereof;

(vii) the repurchase, redemption or other acquisition of the Borrower’s Equity Interests (or options, warrants or other rights to acquire such Equity Interests) from Persons who are, or were formerly directors or employees of the Borrower and their Affiliates, heirs and executors upon the death, disability, retirement or termination of employment of any such Person or otherwise in accordance with any management equity plan or stock option plan or any other management or employee benefit plan or other agreement or arrangement; provided that the

aggregate amount of all such repurchases pursuant to this clause (iv) shall not exceed \$50,000,000;

(viii) Restricted Payments by the Borrower or any Subsidiary to allow the payment of cash in lieu of the issuance of fractional shares upon the exercise of options or warrants or upon the conversion or exchange of Equity Interests or debt securities that are convertible into, or exchangeable for, Equity Interests of any such Person; ~~and~~

(ix) Restricted Payments in an amount not to exceed the amount of Excluded Contributions received since the Effective Date;

(i) Restricted Payments by the Borrower or any Subsidiary at any time when (a) at least one Rating Agency has granted and then maintains an Investment Grade Rating of the Borrower, and (b) the Borrower would be in compliance with the Financial Covenants on a Pro Forma Basis after giving effect to such Restricted Payment; provided that, the Borrower may rely on this clause (x) for any Restricted Payment by the Borrower or any Subsidiary made within 60 days after the related date of declaration or call for redemption if, at said date of declaration or call for redemption, the conditions in subclauses (a) and (b) of this clause (x) were met; and

(ii) to the extent constituting Restricted Payments, the Borrower or any Subsidiary may take any action permitted by Section 6.03;

provided that, except in the case of clause (i), no Default or Event of Default shall have occurred and be continuing or occur as a consequence of the actions or payments set forth therein.

(c) Each Restricted Payment permitted pursuant to Section 6.08(b) (other than the Restricted Payment referred to in clause (ii) thereof, the repurchase of Equity Interests referred to in clause (iv) thereof and Restricted Payments referred to in ~~clause~~clauses (vii) and (x) thereof), shall be included in calculating whether the conditions in Section 6.08(a) have been met with respect to any subsequent Restricted Payments. If the proceeds of an issuance of Equity Interests of the Borrower are used for the redemption, repurchase or other acquisition of the Loans, or Indebtedness that is pari passu with such Loans, then the net proceeds of such issuance shall be included in Section 6.08(a) only to the extent such proceeds are not used for such redemption, repurchase or other acquisition of Indebtedness.

(d) For purposes of determining compliance with this Section 6.08, the amount, if other than in cash, of any Restricted Payment shall be determined in good faith by the board of directors of the Borrower (or a committee thereof), whose determination shall be conclusive and evidenced by a resolution of the board of directors of the Borrower (or such committee). If a Restricted Payment meets the criteria of more than one of the types of Restricted Payments described in the above clauses, including the first paragraph of this Section 6.08, the Borrower, in its sole discretion, may order and classify, and from time to time may reclassify, such Restricted Payment if it would have been permitted at the time such Restricted Payment was made and at the time of such reclassification.

SECTION 6.09. Transactions with Affiliates. The Borrower will not, and will not permit any Subsidiary to, sell, lease or otherwise transfer any property or assets to, or purchase, lease or otherwise acquire any property or assets from, or otherwise engage in any other transactions with, any of its Affiliates, except (a) transactions in the ordinary course of business at prices and on terms and conditions not less favorable to the Borrower or such Subsidiary than could be obtained on an arm's-length basis from unrelated third parties, (b) loans or advances to employees ~~permitted under Section 6.04(g)~~, (c)

payroll, travel and similar advances ~~to cover matters permitted under Section 6.04(h)~~ made in the ordinary course of business, (d) the payment of reasonable fees to directors of the Borrower or any Subsidiary who are not employees of the Borrower or any Subsidiary, and compensation and employee benefit arrangements paid to, and indemnities provided for the benefit of, directors, officers or employees of the Borrower or any of the Subsidiaries in the ordinary course of business, (e) any issuances of securities or other payments, awards or grants in cash, securities or otherwise pursuant to, or the funding of, employment agreements, stock options and stock ownership plans approved by the Borrower's board of directors (or a committee thereof), (f) employment and severance arrangements entered into in the ordinary course of business between the Borrower or any Subsidiary and any employee thereof and approved by the Borrower's board of directors (or a committee thereof), (g) any Restricted Payment permitted by Section 6.08, (h) any transaction solely between or among the Borrower and its wholly-owned Subsidiaries, (i) any payments or other transactions pursuant to any tax-sharing agreement between the Borrower and any Subsidiaries with which the Borrower files a consolidated, unified, combined or group tax return, (j) deposit, checking, banking and brokerage products and services typically offered to customers on substantially the same terms and conditions as those offered to customers or, in the case of a Bank Regulated Subsidiary, as otherwise permitted under Regulation O promulgated by the Board and (k) any issuance or sale of Equity Interests (other than Disqualified Equity Interests) of the Borrower.

SECTION 6.10. Restrictive Agreements. The Borrower will not, and will not permit any Subsidiary to, directly or indirectly, enter into, incur or permit to exist any agreement or other arrangement that prohibits, restricts or imposes any condition upon (a) the ability of the Borrower to create, incur or permit to exist any Lien upon any Equity Interests held by the Borrower or any Subsidiary that is not a Bank Regulated Subsidiary or (b) the ability of any Subsidiary to pay dividends or other distributions with respect to any of its Equity Interests or to make or repay loans or advances to the Borrower or any other Subsidiary or to Guarantee Indebtedness of the Borrower or any other Subsidiary, provided that (i) the foregoing shall not apply to restrictions and conditions imposed by (A) any Requirements of Law or (B) any Loan Document, (ii) the foregoing shall not apply to restrictions and conditions existing on the date hereof identified on Schedule 6.10 (or to any extension or renewal of, or any amendment, modification or replacement not expanding the scope of, any such restriction or condition) and (iii) the foregoing shall not apply to restrictions and conditions (A) (1) in any indentures or agreements governing Indebtedness permitted under Section 6.01, provided that the encumbrances and restrictions in any such indentures or agreements are no less favorable to the Lenders in any material respect than those encumbrances or restrictions contained in the 2019 Indenture), (2) in any agreements governing Indebtedness of a type described in clause (x), (xi), (xiv) or (xv) of Section 6.01 consisting of customary financial covenants, minimum net worth requirements or collateral coverage requirements that in the reasonable judgment of the Borrower do not impair its ability to comply with its obligations in respect of the Obligations and (3) restrictions on cash or other deposits imposed by customers on any Regulated Subsidiaries under contracts entered into in the ordinary course of business, (B) with respect to any Person (or the property or assets of any Person) acquired by the Borrower or any Subsidiary and existing at the time of such acquisition and not incurred in contemplation thereof, which encumbrances or restrictions are not applicable to any Person or any property or assets of any Person other than such Person or the property or assets of such Person so acquired and any extensions, refinancings, renewals or replacements of thereof, provided that the encumbrances and restrictions in any such extensions, refinancings, renewals or replacements are no less favorable to the Lenders in any material respect than those encumbrances or restrictions that are being extended, refinanced, renewed or replaced, or (C) existing by virtue of any transfer of, any agreement to transfer, any option or similar right with respect to, or any Lien on, any property or assets of the Borrower or any Subsidiary, in each case not otherwise prohibited by this Agreement.

SECTION 6.11. Amendment of Material Documents. The Borrower will not, and will not permit any Subsidiary to, amend, modify, waive, terminate or release (a) its Organizational Documents or (b) the Indebtedness permitted under Section 6.01(a)(ii), in each case unless such amendment, modification, waiver, termination or release is (i) not materially adverse to the Lenders or (ii) required by any Requirement of Law; provided that, for purposes of this Section 6.11, any amendment or other modification to the Organizational Documents of the Borrower or any Subsidiary to permit or to facilitate the issuance of preferred Equity Interests in such Person (to the extent permitted by Section 6.01) shall be deemed to be not materially adverse to the Lenders.

SECTION 6.12. Fixed Charge Interest Coverage Ratio. The Borrower will not permit the ~~Fixed Charge Interest~~ Coverage Ratio of the Borrower and its Subsidiaries on a consolidated basis, in each case for any ~~period of four consecutive fiscal quarters of the Borrower ending on or after the Effective Date~~ Measurement Period to be less than ~~1.503~~00:1.00.

SECTION 6.13. Leverage Ratio. The Borrower will not permit the Leverage Ratio of the Borrower and its Subsidiaries on a consolidated basis as of the last day of any fiscal quarter of the Borrower ending on or after the Effective Date to be greater than 4.00:1.00.

SECTION 6.14. Asset Quality Ratio. The Borrower, together with its Subsidiaries, will not permit the Asset Quality Ratio of itself and its Subsidiaries, in each case for any period of four consecutive fiscal quarters of the Borrower ending on or after the Effective Date, to be greater than 20%.

SECTION 6.15. Maintenance of Capitalization. The Borrower (a) will not permit (i) the Borrower and its Subsidiaries on a consolidated basis (calculated in a manner consistent with such calculation in the Borrower's Form 10-Q filed with the SEC for the fiscal quarter ended September 30, 2014), (ii) the Borrower and its Subsidiaries on a consolidated basis (calculated in accordance with Basel III) and (iii) any Bank Regulated Subsidiary, in each case of this clause (a), to fail to be at least Well Capitalized at any time and (b) will not permit either of E*TRADE Clearing's or E*TRADE Securities' net capital to be less than the greater of (i) 5.0% of such firm's aggregate debit items, and (ii) 150% of the minimum dollar amount specified in Rule 15c3-1(a)(ii) (which, for the avoidance of doubt is currently \$250,000). As used in this clause, the terms "net capital" and "aggregate debit items" shall be as defined or used in Rule 15c3-1 under the Exchange Act, as in effect from time to time.

SECTION 6.16. Changes in Fiscal Periods. The Borrower will not (a) permit its fiscal year or the fiscal year of any Subsidiary (other than any Insignificant Subsidiary) to end on a day other than December 31 or (b) change its method of determining fiscal quarters.

SECTION 6.17. Corporate Cash. At all times after the Effective Date, the Borrower will not permit Corporate Cash to be less than \$100,000,000 for more than five (5) days in any fiscal quarter.

ARTICLE VII

Events of Default

SECTION 7.01. Events of Default. If any of the following events (any such event, an "Event of Default") shall occur:

(a) the Borrower shall fail to pay any principal of any Loan when and as the same shall become due and payable, whether at the due date thereof or otherwise;

(b) the Borrower shall fail to pay any interest on any Loan or any fee or any other amount (other than an amount referred to in paragraph (a) of this Article) payable under any Loan Document, when and as the same shall become due and payable, and such failure shall continue unremedied for a period of five Business Days;

(c) any representation or warranty made or deemed made by or on behalf of the Borrower or any Subsidiary in or in connection with any Loan Document or any amendment or modification thereof or waiver thereunder, or in any report, certificate, financial statement or other document furnished pursuant to or in connection with any Loan Document or any amendment or modification thereof or waiver thereunder, shall, if qualified by materiality, prove to have been incorrect or, if not so qualified, prove to have been incorrect in any material respect, in each case when made or deemed made;

(d) the Borrower or any of its Subsidiaries shall fail to observe or perform any covenant, condition or agreement contained in Sections 5.02(a), 5.04 (with respect to the Borrower), 5.10 or in Article VI;

(e) the Borrower or any of its Subsidiaries shall fail to observe or perform any covenant, condition or agreement contained in any Loan Document (other than those specified in paragraph (a), (b) or (d) of this Article), and such failure shall continue unremedied for a period of (i) with respect to Section 5.11, 5 Business Days and (ii) otherwise, 30 days after notice thereof from the Administrative Agent to the Borrower (which notice will be given at the request of any Lender);

(f) the Borrower or any of its Subsidiaries shall fail to make any payment (whether of principal or interest and regardless of amount) in respect of any Material Indebtedness, when and as the same shall become due and payable;

(g) (i) any event or condition occurs (A) that results in any Material Indebtedness of the Borrower or any of its Subsidiaries becoming due prior to its scheduled maturity or that enables or permits (with or without the giving of notice, the lapse of time or both) the holder or holders of any Material Indebtedness or any trustee or agent on its or their behalf to cause any Material Indebtedness to become due, or to require the prepayment, repurchase, redemption or defeasance thereof, prior to its scheduled maturity or (ii) any Regulated Subsidiary shall default in any payment of any Material Indebtedness beyond the period of grace, if any, provided in the instrument or agreement under which such Material Indebtedness was created, provided that (1) this paragraph (g) shall not apply to secured Indebtedness that becomes due as a result of the sale, transfer or other disposition (including as a result of a casualty or condemnation event) of the property or assets securing such Indebtedness (to the extent such sale, transfer or other disposition is not prohibited under this Agreement) and (2) clause (i) of this paragraph (g) shall not apply to Indebtedness of a Regulated Subsidiary of the type described in clause (x), (xi), (xiv) or (xv) of Section 6.01(a);

(h) an involuntary proceeding shall be commenced or an involuntary petition shall be filed seeking (i) liquidation, reorganization or other relief in respect of the Borrower or any of its Subsidiaries or its debts, or of a substantial part of its assets, under any Federal, state or foreign bankruptcy, insolvency, receivership or similar law now or hereafter in effect or (ii) the appointment of a receiver, trustee, custodian, sequestrator, conservator or similar official for the Borrower or any of its Subsidiaries or for a substantial part of its assets, and, in any such case,

such proceeding or petition shall continue undismissed for 60 days or an order or decree approving or ordering any of the foregoing shall be entered;

(i) the Borrower or any of its Subsidiaries shall (i) voluntarily commence any proceeding or file any petition seeking liquidation, reorganization or other relief under any Federal, state or foreign bankruptcy, insolvency, receivership or similar law now or hereafter in effect, (ii) consent to the institution of, or fail to contest in a timely and appropriate manner, any proceeding or petition described in paragraph (h) of this Article, (iii) apply for or consent to the appointment of a receiver, trustee, custodian, sequestrator, conservator or similar official for the Borrower or any of its Subsidiaries or for a substantial part of its assets, (iv) file an answer admitting the material allegations of a petition filed against it in any such proceeding, (v) make a general assignment for the benefit of creditors or (vi) take any action for the purpose of effecting any of the foregoing;

(j) the Borrower or any of its Subsidiaries shall become unable, admit in writing its inability or fail generally to pay its debts as they become due;

(k) one or more judgments for the payment of money in an aggregate amount in excess of \$25,000,000 shall be rendered against the Borrower, any of its Subsidiaries or any combination thereof and the same shall remain undischarged for a period of 30 consecutive days during which execution shall not be effectively stayed, or any action shall be legally taken by a judgment creditor to attach or levy upon any assets of the Borrower or any of its Subsidiaries to enforce any such judgment;

(l) an ERISA Event shall have occurred that, when taken together with all other ERISA Events that have occurred, could reasonably be expected to result in a Material adverse Effect;

(m) any Lien purported to be created under any Security Document shall cease to be, or shall be asserted by the Borrower or any of its Subsidiaries not to be, a valid and perfected Lien on any Collateral, with the priority required by the applicable Security Document, except (i) as a result of the sale or other disposition of the applicable Collateral in a transaction permitted under the Loan Documents or (ii) as a result of the Administrative Agent's failure to maintain possession of any stock certificates, promissory notes or other instruments delivered to it under the Collateral Agreement;

(n) any Loan Document shall for any reason be asserted by the Borrower not to be a legal, valid and binding obligation of the Borrower and its Subsidiaries;

(o) (i) any Subordinated Debt shall cease, for any reason, to be, or shall be asserted by the Borrower or the holders of at least 25% in aggregate principal amount of any series of Subordinated Debt not to be, validly subordinated to the Loan Document Obligations as provided in the applicable Subordinated Debt Documents or (ii) the Loan Document Obligations shall cease to constitute, or shall be asserted by the Borrower or the holders of at least 25% in aggregate principal amount of any series of Subordinated Debt not to constitute, "Senior Indebtedness" or "Designated Senior Indebtedness" (or the equivalent thereof) under the subordination provisions of any Subordinated Debt Document; or

(p) a Change in Control shall occur;

then, and in every such event (other than an event with respect to the Borrower described in paragraph (h) or (i) of this Article), and at any time thereafter during the continuance of such event, the Administrative Agent may, and at the request of the Required Lenders shall, by notice to the Borrower, take either or both of the following actions, at the same or different times: (i) terminate the Commitments, and thereupon the Commitments shall terminate immediately, and (ii) declare the Loans then outstanding to be due and payable in whole (or in part, in which case any principal not so declared to be due and payable may thereafter be declared to be due and payable), and thereupon the principal of the Loans so declared to be due and payable, together with accrued interest thereon and all fees and other obligations of the Borrower accrued hereunder, shall become due and payable immediately, without presentment, demand, protest or other notice of any kind, all of which are hereby waived by the Borrower; and in case of any event with respect to the Borrower or any of its Subsidiaries described in paragraph (h) or (i) of this Article, the Commitments shall automatically terminate and the principal of the Loans then outstanding, together with accrued interest thereon and all fees and other obligations of the Borrower accrued hereunder, shall automatically become due and payable, without presentment, demand, protest or other notice of any kind, all of which are hereby waived by the Borrower.

SECTION 7.02. Exclusion of Certain Subsidiaries. Solely for the purposes of determining whether a Default has occurred under paragraph (h), (i), (j) or (k) of Section 7.01, any reference in any such paragraph to any Subsidiary shall be deemed not to include any Subsidiary affected by any event or circumstance referred to in such paragraph that (a) did not, as of the last day of the fiscal quarter of the Borrower most-recently ended, have assets with a fair market value equal to or greater than 5.0% of the consolidated total assets of the Borrower and its Subsidiaries as of such date and (b) did not have revenues during the four fiscal quarter period of the Borrower most-recently ended equal to or greater than 7.5% of the consolidated total revenues of the Borrower and its Subsidiaries during such period (any such Subsidiary, an “Insignificant Subsidiary”), provided that if it is necessary to exclude more than one Subsidiary from paragraph (h), (i), (j) or (k) of Section 7.01 pursuant to this paragraph in order to avoid a Default, the aggregate fair market value of the assets of all such excluded Subsidiaries as of such last day may not exceed 15.0% of the consolidated total assets of the Borrower and its Subsidiaries as of such date and the aggregate revenues of all such excluded Subsidiaries for such four fiscal quarter period may not exceed 15.0% of the consolidated total revenues of the Borrower and its Subsidiaries for such period.

ARTICLE VIII

The Administrative Agent

Each of the Lenders hereby irrevocably appoints the Administrative Agent as its agent and authorizes the Administrative Agent to take such actions on its behalf and to exercise such powers as are delegated to the Administrative Agent by the terms of the Loan Documents, together with such actions and powers as are reasonably incidental thereto. The provisions of this Article are solely for the benefit of the Administrative Agent and the Lenders, and the Borrower shall not have rights as a third party beneficiary of any such provisions. The bank serving as the Administrative Agent hereunder shall have the same rights and powers in its capacity as a Lender as any other Lender and may exercise the same as though it were not the Administrative Agent, and such bank and its Affiliates may accept deposits from, lend money to and generally engage in any kind of business with the Borrower or any Subsidiary or other Affiliate thereof as if it were not the Administrative Agent hereunder.

The Administrative Agent shall not have any duties or obligations except those expressly set forth herein. Without limiting the generality of the foregoing, (a) the Administrative Agent shall not be subject to any fiduciary or other implied duties, regardless of whether a Default has occurred and is continuing,

(b) the Administrative Agent shall not have any duty to take any discretionary action or exercise any discretionary powers, except discretionary rights and powers expressly contemplated by the Loan Documents that the Administrative Agent is required to exercise in writing as directed by the Required Lenders (or such other number or percentage of the Lenders as shall be necessary or believed by the Administrative Agent in good faith to be necessary under the circumstances as provided in Section 9.02) and (c) except as expressly set forth in the Loan Documents, the Administrative Agent shall not have any duty to disclose, and shall not be liable for the failure to disclose, any information relating to the Borrower or any Subsidiary that is communicated to or obtained by the bank serving as Administrative Agent or any of its Affiliates in any capacity. The Administrative Agent shall not be liable for any action taken or not taken by it with the consent or at the request of the Required Lenders (or such other number or percentage of the Lenders as shall be necessary under the circumstances as provided in Section 9.02) or in the absence of its own gross negligence or willful misconduct. The Administrative Agent shall be deemed not to have knowledge of any Default unless and until written notice thereof is given to the Administrative Agent by the Borrower or a Lender, and the Administrative Agent shall not be responsible for or have any duty to ascertain or inquire into (i) any statement, warranty or representation made in or in connection with any Loan Document, (ii) the contents of any certificate, report or other document delivered thereunder or in connection therewith, (iii) the performance or observance of any of the covenants, agreements or other terms or conditions set forth in any Loan Document or the occurrence of any Default or Event of Default, (iv) the validity, enforceability, effectiveness or genuineness of any Loan Document or any other agreement, instrument or document or (v) the satisfaction of any condition set forth in Article IV or elsewhere in any Loan Document, other than to confirm receipt of items expressly required to be delivered to the Administrative Agent.

The Administrative Agent shall be entitled to rely upon, and shall not incur any liability for relying upon, any notice, request, certificate, consent, statement, instrument, document or other writing (including any electronic message, Internet or intranet website posting or other distribution) believed by it to be genuine and to have been signed or sent by the proper Person. The Administrative Agent also may rely upon any statement made to it orally or by telephone and believed by it to be made by the proper Person, and shall not incur any liability for relying thereon. The Administrative Agent may consult with legal counsel (who may be counsel for the Borrower), independent accountants and other experts selected by it, and shall not be liable for any action taken or not taken by it in accordance with the advice of any such counsel, accountants or experts.

The Administrative Agent may perform any and all its duties and exercise its rights and powers by or through any one or more sub-agents appointed by the Administrative Agent. The Administrative Agent and any such sub-agent may perform any and all its duties and exercise its rights and powers by or through their respective Related Parties. The exculpatory provisions of the preceding paragraphs shall apply to any such sub-agent and to the Related Parties of the Administrative Agent and any such sub-agent, and shall apply to their respective activities in connection with the syndication of the credit facilities provided for herein as well as activities as Administrative Agent.

Subject to the appointment and acceptance of a successor Administrative Agent as provided in this paragraph, the Administrative Agent may resign at any time by notifying the Lenders and the Borrower. Upon any such resignation, the Required Lenders shall have the right, in consultation with the Borrower, to appoint a successor. If no successor shall have been so appointed by the Required Lenders and shall have accepted such appointment within 30 days after the retiring Administrative Agent gives notice of its resignation, then the retiring Administrative Agent may, on behalf of the Lenders, appoint a successor Administrative Agent that shall be a bank with an office in New York, New York, or an Affiliate of any such bank. Upon the acceptance of its appointment as Administrative Agent hereunder by a

successor, such successor shall succeed to and become vested with all the rights, powers, privileges and duties of the retiring Administrative Agent, and the retiring Administrative Agent shall be discharged from its duties and obligations under the Loan Documents. The fees payable by the Borrower to a successor Administrative Agent shall be the same as those payable to its predecessor unless otherwise agreed between the Borrower and such successor. After the Administrative Agent's resignation hereunder, the provisions of this Article and Section 9.03 shall continue in effect for the benefit of such retiring Administrative Agent, its sub-agents and their respective Related Parties in respect of any actions taken or omitted to be taken by any of them while the retiring Administrative Agent was acting as Administrative Agent.

Each Lender acknowledges and agrees that the extensions of credit made hereunder are commercial loans and not investments in a business enterprise or securities. Each Lender further represents that it is engaged in making, acquiring or holding commercial loans in the ordinary course of its business and has, independently and without reliance upon the Administrative Agent or any other Lender or any of their Related Parties and based on such documents and information as it has deemed appropriate, made its own credit analysis and decision to enter into this Agreement as a Lender, and to make, acquire or hold Loans hereunder. Each Lender shall, independently and without reliance upon the Administrative Agent or any other Lender or any of their Related Parties and based on such documents and information (which may contain material, non-public information within the meaning of the United States securities laws concerning the Borrower and its Affiliates) as it shall from time to time deem appropriate, continue to make its own decisions in taking or not taking action under or based upon this Agreement, or any related agreement or any document furnished hereunder or thereunder and in deciding whether or to the extent to which it will continue as a Lender or assign or otherwise transfer its rights, interests and obligations hereunder. Notwithstanding anything herein to the contrary, none of the Syndication Agent, Joint Bookrunners or Lead Arrangers listed on the cover page hereof shall have any powers, duties or responsibilities under any Loan Document, except in its capacity, as applicable, as the Administrative Agent or a Lender hereunder.

To the extent required by any applicable law, the Administrative Agent shall withhold from any payment to any Lender an amount equal to any applicable withholding Tax. If the IRS or any Governmental Authority asserts a claim that the Administrative Agent did not properly withhold Tax from any amount paid to or for the account of any Lender for any reason (including because the appropriate form was not delivered or was not properly executed, or because such Lender failed to notify the Administrative Agent of a change in circumstances that rendered the exemption from, or reduction of, withholding Tax ineffective), such Lender shall indemnify and hold harmless the Administrative Agent (to the extent that the Administrative Agent has not already been reimbursed by the Borrower and without limiting or expanding the obligation of the Borrower to do so) for all amounts paid, directly or indirectly, by the Administrative Agent as tax or otherwise, including any penalties, additions to Tax or interest thereon, together with all expenses incurred, including legal expenses and any out-of-pocket expenses, whether or not such Tax was correctly or legally imposed or asserted by the relevant Government Authority. A certificate as to the amount of such payment or liability delivered to any Lender by the Administrative Agent shall be conclusive absent manifest error. Each Lender hereby authorizes the Administrative Agent to set off and apply any and all amounts at any time owing to such Lender under this Agreement or any other Loan Document against any amount due to the Administrative Agent. The agreements in this paragraph shall survive the resignation and/or replacement of the Administrative Agent, any assignment of rights by, or the replacement of, a Lender, the termination of the Loans and the repayment, satisfaction or discharge of all obligations under this Agreement.

ARTICLE IX

Miscellaneous

SECTION 9.01. Notices. Except in the case of notices and other communications expressly permitted to be given by telephone, all notices and other communications provided for herein shall be in writing and shall be delivered by hand or overnight courier service, mailed by certified or registered mail or sent by facsimile, as follows:

(a) to the Borrower, to it at E*TRADE Financial Corporation, 1271 Avenue of the Americas, 14th Floor, New York, NY 10021, Attention of ~~Matthew J. Audette~~ [Michael A. Pizzi](#) (Facsimile: 703-236-~~7397~~[4794](#)) and Karl A. Roessner (Facsimile: 571-227-0365), with a copy to Davis Polk & Wardwell, 450 Lexington Avenue, New York, New York 10017, Attention of Monica Holland (Facsimile: 212-701-5307);

(b) if to the Administrative Agent, to JPMorgan Chase Bank, N.A., 500 Stanton Christiana Road, Ops 2, Floor 03, Newark, DE 19713-2107, United States, Attention Suzie Coplin (Facsimile: 302-634-5545) (email: 12012443577@TLS.Idsprod.com);

(c) if to any other Lender, to it at its address (or facsimile number) set forth in its Administrative Questionnaire.

Any party hereto may change its address or facsimile number for notices and other communications hereunder by notice to the other parties hereto. Notices and other communications to the Lenders hereunder may be delivered or furnished by using Electronic Systems pursuant to procedures approved by the Administrative Agent; provided that the foregoing shall not apply to notices pursuant to Article II unless otherwise agreed by the Administrative Agent and the applicable Lender. The Administrative Agent or the Borrower may, in its discretion, agree to accept notices and other communications to it hereunder by electronic communications pursuant to procedures approved by it; provided that approval of such procedures may be limited to particular notices or communications.

Unless the Administrative Agent otherwise prescribes, (i) notices and other communications sent to an e-mail address shall be deemed received upon the sender's receipt of an acknowledgement from the intended recipient (such as by the "return receipt requested" function, as available, return e-mail or other written acknowledgement), and (ii) notices or communications posted to an Internet or intranet website shall be deemed received upon the deemed receipt by the intended recipient, at its e-mail address as described in the foregoing clause (i), of notification that such notice or communication is available and identifying the website address therefor; provided that, for both clauses (i) and (ii) above, if such notice, email or other communication is not sent during the normal business hours of the recipient, such notice or communication shall be deemed to have been sent at the opening of business on the next business day for the recipient. Notices sent by hand or overnight courier service, or mailed by certified or registered mail, shall be deemed to have been given when received; notices sent by facsimile shall be deemed to have been given when sent (except that, if not given during normal business hours for the recipient, shall be deemed to have been given at the opening of business on the next business day for the recipient). Notices delivered through Electronic Systems, to the extent provided in paragraph (b) below, shall be effective as provided above.

The Borrower agrees that the Administrative Agent may, but shall not be obligated to, make Communications (as defined below) available to the Lenders by posting the Communications on Debt Domain, Intralinks, Syndtrak, ClearPar or a substantially similar Electronic System.

Any Electronic System used by the Administrative Agent is provided “as is” and “as available.” The Agent Parties (as defined below) do not warrant the adequacy of such Electronic Systems and expressly disclaim liability for errors or omissions in the Communications. No warranty of any kind, express, implied or statutory, including any warranty of merchantability, fitness for a particular purpose, non-infringement of third-party rights or freedom from viruses or other code defects, is made by any Agent Party in connection with the Communications or any Electronic System. In no event shall the Administrative Agent or any of its Related Parties (collectively, the “*Agent Parties*”) have any liability to the Borrower, any Lender or any other Person or entity for damages of any kind, including direct or indirect, special, incidental or consequential damages, losses or expenses (whether in tort, contract or otherwise) arising out of the Borrower’s or the Administrative Agent’s transmission of communications through an Electronic System. “*Communications*” means, collectively, any notice, demand, communication, information, document or other material provided by or on behalf of the Borrower pursuant to any Loan Document or the transactions contemplated therein which is distributed by the Administrative Agent or any Lender by means of electronic communications pursuant to this Section, including through an Electronic System.

SECTION 9.02. Waivers; Amendments.

(a) No failure or delay by the Administrative Agent or any Lender in exercising any right or power under any Loan Document shall operate as a waiver thereof, nor shall any single or partial exercise of any such right or power, or any abandonment or discontinuance of steps to enforce such a right or power, preclude any other or further exercise thereof or the exercise of any other right or power. The rights and remedies of the Administrative Agent, the Lenders hereunder and under the other Loan Documents are cumulative and are not exclusive of any rights or remedies that they would otherwise have. No waiver of any provision of any Loan Document or consent to any departure by the Borrower therefrom shall in any event be effective unless the same shall be permitted by paragraph (b) of this Section, and then such waiver or consent shall be effective only in the specific instance and for the purpose for which given. Without limiting the generality of the foregoing, the making of a Loan shall not be construed as a waiver of any Default, regardless of whether the Administrative Agent or any Lender may have had notice or knowledge of such Default at the time. No notice or demand on the Borrower in any case shall entitle the Borrower to any other or further notice or demand in similar or other circumstances.

(b) Neither any Loan Document nor any provision thereof may be waived, amended or modified except, in the case of this Agreement, pursuant to an agreement or agreements in writing entered into by the Borrower and the Required Lenders or by the Borrower and the Administrative Agent with the consent of the Required Lenders, provided that no such agreement shall (i) increase the Commitment of any Lender without the written consent of such Lender, (ii) reduce the principal amount of any Loan or reduce the rate of interest thereon, or reduce any fees payable hereunder, without the written consent of each Lender affected thereby, (iii) postpone the maturity of any Loan, or any date for the payment of the principal amount of any Loan or any interest or fees payable hereunder, or reduce the amount of, waive or excuse any such payment, or postpone the scheduled date of expiration of any Commitment, without the written consent of each Lender affected thereby, (iv) change Section 2.15(b) or (c) in a manner that would alter the pro rata sharing of payments required thereby, without the written consent of each Lender adversely affected thereby, (v) change any of the provisions of this Section or the percentage set forth in

the definition of the term “Required Lenders” or any other provision of any Loan Document specifying the number or percentage of Lenders required to waive, amend or modify any rights thereunder or make any determination or grant any consent thereunder, without the written consent of each Lender (it being understood that, with the consent of the Required Lenders, additional extensions of credit pursuant to this Agreement may be included in the determination of the Required Lenders on substantially the same basis as the Commitments on the date hereof) or (vi) release all or substantially all the Collateral from the Liens of the Security Documents, without the written consent of each Lender, provided further, that no such agreement shall amend, modify or otherwise affect the rights or duties of the Administrative Agent without the prior written consent of the Administrative Agent.

(c) In connection with any proposed amendment, modification, waiver or termination (a “Proposed Change”) requiring the consent of all Lenders or all affected Lenders, if the consent of the Required Lenders to such Proposed Change is obtained, but the consent to such Proposed Change of other Lenders whose consent is required is not obtained (any such Lender whose consent is not obtained as described in paragraph (b) of this Section being referred to as a “Non-Consenting Lender”), then, so long as the Lender that is acting as Administrative Agent is not a Non-Consenting Lender, the Borrower may, at its sole expense and effort, upon notice to such Non-Consenting Lender and the Administrative Agent, require such Non-Consenting Lender to assign and delegate, without recourse (in accordance with and subject to the restrictions contained in Section 9.04), all (but not less than all) its interests, rights and obligations under this Agreement to an assignee that shall assume such obligations (which assignee may be another Lender, if a Lender accepts such assignment), provided that (a) to the extent an assignment to such Lender would require the consent of the Administrative Agent under Section 9.04, the Borrower shall have received the prior written consent of the Administrative Agent, which consent shall not unreasonably be withheld, (b) such Non-Consenting Lender shall have received payment of an amount equal to the outstanding principal of its Loans, accrued interest thereon, accrued fees and all other amounts payable to it hereunder from the assignee (to the extent of such outstanding principal and accrued interest and fees) or the Borrower (in the case of all other amounts) and (c) the Borrower or such assignee shall have paid to the Administrative Agent the processing and recordation fee specified in Section 9.04(b).

SECTION 9.03. Expenses; Indemnity; Damage Waiver.

(a) The Borrower shall pay (i) all reasonable out-of-pocket expenses incurred by the Administrative Agent and its Affiliates and the Lead Arrangers, including the reasonable fees, charges and disbursements of counsel for the Administrative Agent, in connection with the syndication of the credit facilities provided for herein, the preparation and administration of the Loan Documents or any amendments, modifications or waivers of the provisions thereof (whether or not the transactions contemplated hereby or thereby shall be consummated) or in connection with an Incremental Assumption Agreement and the transactions contemplated thereby, but limited in the case of fees and expenses of counsel to reasonable fees, disbursements and other charges of a single counsel to the Administrative Agent and the Lead Arrangers, and, if reasonable necessary, of a single local counsel to the Administrative Agent and the Lead Arrangers in such relevant jurisdiction, which may be a single local counsel acting in multiple jurisdictions and (ii) all reasonable out-of-pocket expenses incurred by the Administrative Agent or any Lender or Lead Arranger, including the fees, charges and disbursements of any counsel for any Agent or any Lender or Lead Arranger, in connection with the enforcement or protection of its rights in connection with the Loan Documents, including its rights under this Section, or in connection with the Loans made hereunder, including all such out-of-pocket expenses incurred during any workout, restructuring or negotiations in respect of such Loans, but limited in the case of fees and expenses of counsel to reasonable fees, disbursements and other charges of one counsel to the

Administrative Agent and one counsel to the Lenders taken as whole and, if reasonably necessary, of a single local counsel to the Administrative Agent and a single local counsel to the Lenders in each relevant jurisdiction, which may be a single local counsel acting in multiple jurisdictions and, in the case of an actual or potential conflict of interest, one additional counsel to the affected persons.

(b) The Borrower shall indemnify the Administrative Agent and each Lender, the Lead Arrangers, the Administrative Agent and each Related Party of any of the foregoing Persons (each such Person being called an "Indemnitee"), against, and hold each Indemnitee harmless from, any and all losses, claims, damages, investigation, suit or proceeding, liabilities and related expenses, including the fees, charges and disbursements of any counsel, but limited to reasonable fees, disbursements and other charges of one counsel to the Indemnitees and, if reasonably necessary, of a single local counsel to the Indemnitees in each relevant jurisdiction, which may be a single local counsel acting in multiple jurisdictions and, in the case of an actual or potential conflict of interest, one additional counsel to the affected persons, incurred by or asserted against any Indemnitee by any third party or by the Borrower or any Subsidiary arising out of, in connection with, or as a result of (i) the execution or delivery of any Loan Document or any other agreement or instrument contemplated thereby, the performance by the parties to the Loan Documents of their respective obligations thereunder or the consummation of the Transactions or any other transactions contemplated thereby, (ii) any Loan or the use of the proceeds therefrom, (iii) any actual or alleged presence or release of Hazardous Materials on or from any property currently or formerly owned or operated by the Borrower or any Subsidiary, or any Environmental Liability related in any way to the Borrower or any Subsidiary, or (iv) any actual or prospective claim, litigation, investigation or proceeding relating to any of the foregoing, whether based on contract, tort or any other theory, whether brought by a third party or by the Borrower or any equity holders, Affiliates, creditors and regardless of whether any Indemnitee is a party thereto, provided that such indemnity shall not, as to any Indemnitee, be available to the extent that such losses, claims, damages, costs, expenses or liabilities or related expenses are (x) determined by a court of competent jurisdiction by final non-appealable judgment to have resulted from the gross negligence, bad faith, or willful misconduct of such Indemnitee; or (y) arising out of a dispute solely between or among indemnified persons not involving any act or omission of the Borrower (except that the Administrative Agent or Lead Arrangers in their respective roles as such shall be indemnified on the terms set forth herein). This Section 9.03(b) shall not apply with respect to Taxes other than any Taxes that represent losses, claims, damages, etc. arising from any non-Tax claim.

(c) To the extent that the Borrower fails to pay any amount required to be paid by it to the Administrative Agent under paragraph (a) or (b) of this Section, each Lender severally agrees to pay to the Administrative Agent such Lender's pro rata share (determined as of the time that the applicable unreimbursed expense or indemnity payment is sought) of such unpaid amount, provided that the unreimbursed expense or indemnified loss, claim, damage, liability or related expense, as the case may be, was incurred by or asserted against the Administrative Agent in its capacity as such. For purposes hereof, a Lender's "pro rata share" shall be determined based upon its share of the aggregate principal amount of outstanding Loans and unused Commitments at the time. The obligations of the Lenders under this paragraph (c) are subject to the last sentence of Section 2.02(a) (which shall apply mutatis mutandis to the Lenders' obligations under this paragraph (c)).

(d) To the fullest extent permitted by applicable law, no party to this Agreement and no Indemnitee shall assert, and each hereby waives, any claim against any other party to this Agreement or any Indemnitee, on any theory of liability, for special, indirect, consequential or punitive damages (as opposed to direct or actual damages) arising out of, in connection with, or as a result of, any Loan Document or any agreement or instrument contemplated thereby, the Transactions, any Loan or the use of

the proceeds thereof; provided that nothing in this clause (d) shall relieve the Borrower of any obligation it may have to indemnify any Indemnitee against special, indirect, consequential or punitive damages awarded against such Indemnitee in favor of a third party in a final, non-appealable judgment by a court of competent jurisdiction. No Indemnitee referred to in paragraph (b) above shall be liable for any damages arising from the use by unintended recipients of any information or other materials distributed by it through telecommunications, electronic or other information transmission systems in connection with this Agreement or the other Loan Documents or the transactions contemplated hereby or thereby, except to the extent determined by a court of competent jurisdiction by final non-appealable judgment to have resulted from the gross negligence, bad faith or willful misconduct of such Indemnitee.

(e) All amounts due under this Section shall be payable not later than three Business Days after written demand therefor.

SECTION 9.04. Successors and Assigns.

(a) The provisions of this Agreement shall be binding upon and inure to the benefit of the parties hereto and their respective successors and assigns permitted hereby, except that (i) the Borrower may not assign or otherwise transfer any of its rights or obligations hereunder without the prior written consent of each Lender (and any attempted assignment or transfer by the Borrower without such consent shall be null and void) and (ii) no Lender may assign or otherwise transfer its rights or obligations hereunder except in accordance with this Section. Nothing in this Agreement, expressed or implied, shall be construed to confer upon any Person (other than the parties hereto, their respective successors and assigns permitted hereby, Participants (to the extent provided in paragraph (c) of this Section) and, to the extent expressly contemplated hereby, the Related Parties of each of the Administrative Agent and the Lenders) any legal or equitable right, remedy or claim under or by reason of this Agreement.

(b) (i) Subject to the conditions set forth in paragraph (b)(ii) below, any Lender may assign to one or more assignees (other than an Ineligible Institution) all or a portion of its rights and obligations under this Agreement (including all or a portion of its Commitment and the Loans at the time owing to it) with the prior written consent (such consent not to be unreasonably withheld or delayed) of (A) the Borrower, except to the extent not required pursuant to clause (ii) below and (B) the Administrative Agent.

(ii) Assignments shall be subject to the following additional conditions: (A) except in the case of an assignment to a Lender, an Affiliate of a Lender or an Approved Fund or an assignment of the entire remaining amount of the assigning Lender's Commitment or Loans, the amount of the Commitment or Loans of the assigning Lender subject to each such assignment (determined as of the date the Assignment and Assumption with respect to such assignment is delivered to the Administrative Agent) shall not be less than \$5,000,000, and the Borrower and the Administrative Agent consent (such consent not to be unreasonably withheld or delayed), provided that (I) no consents shall be required for an assignment to an existing Lender or an Affiliate of an existing Lender or an Approved Fund (other than a Defaulting Lender), (II) no such consent of the Borrower shall be required if an Event of Default has occurred and is continuing and (III) such consent will be deemed to have been given if the Borrower has not responded within ten (10) Business Days after its receipt of any request for such consent, (B) each partial assignment shall be made as an assignment of a proportionate part of all the assigning Lender's rights and obligations under this Agreement, (C) the parties to each assignment shall execute and deliver to the Administrative Agent (x) an Assignment and Assumption or (y) to the extent applicable, an agreement incorporating an Assignment and Assumption by reference

pursuant to a Platform as to which the Administrative Agent and the parties to the Assignment and Assumption are participants, together with a processing and recordation fee of \$3,500, provided that assignments made pursuant to Section 2.16(b) or Section 9.02(c) shall not require the signature of the assigning Lender to become effective, and (D) the assignee, if it shall not be a Lender, shall deliver to the Administrative Agent an Administrative Questionnaire and any tax forms required by Section 2.14(e).

For purposes of paragraph (b) of this Section, the terms “Approved Fund” and “Ineligible Institution” have the following meanings:

“Approved Fund” means any Person (other than a natural person) that is engaged in making, purchasing, holding or investing in bank loans and similar extensions of credit in the ordinary course of its business and that is administered or managed by (a) a Lender, (b) an Affiliate of a Lender or (c) an entity or an Affiliate of an entity that administers or manages a Lender.

“Ineligible Institution” means (a) a natural person, (b) a Defaulting Lender or its Lender Parent, (c) a holding company, investment vehicle or trust for, or owned and operated for the primary benefit of, a natural person or relative(s) thereof or (d) the Borrower or any of its Affiliates; provided that, such holding company, investment vehicle or trust shall not constitute an Ineligible Institution if it (x) has not been established for the primary purpose of acquiring any Loans or Commitments, (y) is managed by a professional advisor, who is not such natural person or a relative thereof, having significant experience in the business of making or purchasing commercial loans, and (z) has assets greater than \$25,000,000 and a significant part of its activities consist of making or purchasing commercial loans and similar extensions of credit in the ordinary course of its business.

(iii) Subject to acceptance and recording thereof pursuant to paragraph (b)(v) of this Section, from and after the effective date specified in each Assignment and Assumption, the assignee thereunder shall be a party hereto and, to the extent of the interest assigned by such Assignment and Assumption, have the rights and obligations of a Lender under this Agreement, and the assigning Lender thereunder shall, to the extent of the interest assigned by such Assignment and Assumption, be released from its obligations under this Agreement (and, in the case of an Assignment and Assumption covering all of the assigning Lender’s rights and obligations under this Agreement, such Lender shall cease to be a party hereto but shall continue to be entitled to the benefits of Sections 2.12, 2.13, 2.14 and 9.03 and to any fees payable hereunder that have accrued for such Lender’s account but have not yet been paid). Any assignment or transfer by a Lender of rights or obligations under this Agreement that does not comply with this Section shall be treated for purposes of this Agreement as a sale by such Lender of a participation in such rights and obligations in accordance with paragraph (c)(i) of this Section.

(iv) The Administrative Agent, acting for this purpose as an agent of the Borrower, shall maintain at one of its offices a copy of each Assignment and Assumption delivered to it and a register for the recordation of the names and addresses of the Lenders, and the Commitment of, and principal amount of the Loans owing to, each Lender pursuant to the terms hereof from time to time (the “Register”). The entries in the Register shall be conclusive absent manifest error, and the Borrower, the Administrative Agent and the Lenders shall treat each Person whose name is recorded in the Register pursuant to the terms hereof as a Lender hereunder for all purposes of this Agreement, notwithstanding notice to the contrary. The Register shall be available for

inspection by the Borrower and any Lender, at any reasonable time and from time to time upon reasonable prior notice.

(v) Upon its receipt of (x) a duly completed Assignment and Assumption executed by an assigning Lender and an assignee or (y) to the extent applicable, an agreement incorporating an Assignment and Assumption by reference pursuant to a Platform as to which the Administrative Agent and the parties to the Assignment and Assumption are participants, the assignee's completed Administrative Questionnaire and any tax forms required by Section 2.14(e) (unless the assignee shall already be a Lender hereunder), the processing and recordation fee referred to in paragraph (b) of this Section and any written consent to such assignment required by paragraph (b) of this Section, the Administrative Agent shall accept such Assignment and Assumption and record the information contained therein in the Register. No assignment shall be effective for purposes of this Agreement unless it has been recorded in the Register as provided in this paragraph.

(vi) The words "execution," "signed," "signature" and words of like import in any Assignment and Assumption shall be deemed to include electronic signatures or the keeping of records in electronic form, each of which shall be of the same legal effect, validity or enforceability as a manually executed signature or the use of a paper-based recordkeeping system, as the case may be, to the extent and as provided for in any applicable law, including the Federal Electronic Signatures in Global and National Commerce Act, the New York State Electronic Signatures and Records Act or any other similar state laws based on the Uniform Electronic Transactions Act.

(c) (i) Any Lender may, without the consent of the Borrower or the Administrative Agent, sell participations to one or more banks or other entities (a "Participant") other than an Ineligible Institution, in all or a portion of such Lender's rights and obligations under this Agreement (including all or a portion of its Commitment and the Loans owing to it), provided that (A) such Lender's obligations under this Agreement shall remain unchanged, (B) such Lender shall remain solely responsible to the other parties hereto for the performance of such obligations and (C) the Borrower, the Administrative Agent and the other Lenders shall continue to deal solely and directly with such Lender in connection with such Lender's rights and obligations under this Agreement. Any agreement or instrument pursuant to which a Lender sells such a participation shall provide that such Lender shall retain the sole right to enforce the Loan Documents and to approve any amendment, modification or waiver of any provision of the Loan Documents, provided that such agreement or instrument may provide that such Lender will not, without the consent of the Participant, agree to any amendment, modification or waiver described in the first proviso to Section 9.02(b) that affects such Participant. Subject to paragraph (c)(ii) of this Section, the Borrower agrees that each Participant shall be entitled to the benefits of Sections 2.12, 2.13 and 2.14 (subject to all requirements and limitations therein, including the requirements under Section 2.14(e)) to the same extent as if it were a Lender and had acquired its interest by assignment pursuant to paragraph (b) of this Section. To the extent permitted by law, each Participant also shall be entitled to the benefits of Section 9.08 as though it were a Lender, provided that such Participant agrees to be subject to Section 2.15(c) as though it were a Lender. Each Lender that sells a participation shall, acting solely for this purpose as a non-fiduciary agent of the Borrower, maintain a register complying with the requirements of Sections 163(f), 871(h) and 881(c)(2) of the Code on which it enters the name and address of each Participant and the principal amounts (and stated interest) of each Participant's interest in the Loans or other obligations under this Agreement (the "Participant Register"); provided, that no Lender shall have any obligation to disclose all or any portion of the Participant Register (including the identity of any Participant or any information relating to a Participant's interest in the Loans or other obligation under

this Agreement) to any Person except to the extent such disclosure is necessary in connection with a Tax audit or other Tax proceeding to establish that any loans are in registered form for U.S. federal income tax purposes. The entries in the Participant Register shall be conclusive absent manifest error, and such Lender shall treat each person whose name is recorded in the Participant Register as the owner of such participation for all purposes of this Agreement notwithstanding any notice to the contrary.

(ii) A Participant shall not be entitled to receive any greater payment under Section 2.12 or Section 2.14 than the applicable Lender would have been entitled to receive with respect to the participation sold to such Participant, except to the extent such entitlement to a greater payments results from a Change in Law occurring after the sale of such participation.

(d) Any Lender may at any time pledge or assign a security interest in all or any portion of its rights under this Agreement to secure obligations of such Lender, including any pledge or assignment to secure obligations to a Federal Reserve Bank, and this Section shall not apply to any such pledge or assignment of a security interest, provided that no such pledge or assignment of a security interest shall release a Lender from any of its obligations hereunder or substitute any such pledgee or assignee for such Lender as a party hereto.

(e) Notwithstanding anything to the contrary contained herein, any Lender (a "Granting Lender") may grant to a special purpose funding vehicle (an "SPV"), identified as such in writing from time to time by the Granting Lender to the Administrative Agent and the Borrower, the option to provide to the Borrower all or any part of any Loan that such Granting Lender would otherwise be obligated to make to the Borrower pursuant to this Agreement, provided that (i) nothing herein shall constitute a commitment by any SPV to make any Loan and (ii) if an SPV elects not to exercise such option or otherwise fails to provide all or any part of such Loan, the Granting Lender shall be obligated to make such Loan pursuant to the terms hereof. The making of a Loan by an SPV hereunder shall utilize the Commitment of the Granting Lender to the same extent, and as if, such Loan were made by such Granting Lender. Each SPV exercising the option (an "Electing SPV") shall be entitled to the benefits of Sections 2.12, 2.13 and 2.14 (subject to all requirements and limitations therein, including the requirements under Section 2.14(e)) to the same extent as if it were a Granting Lender and had acquired its interest by assignment pursuant to paragraph (b) of this Section, providing that a SPV shall not be entitled to receive any greater payment under Section 2.12 or Section 2.14 than the Granting Lender would have been entitled to receive with respect to the Loan made by such SPV, except to the extent such entitlement to a greater payments results from a Change in Law occurring after the sale of such participation. Each Granting Lender shall, acting solely for this purpose as an agent of the Borrower, maintain a register complying with the requirements of Sections 163(f), 871(h) and 881(c)(2) of the Code on which it enters the name and address of each Electing SPV and the principal amounts (and stated interest) of each Electing SPV's interest in the Loans or other obligations under this Agreement (the "Electing SPV Register"); provided, that no Granting Lender shall have any obligation to disclose all or any portion of the Electing SPV Register (including the identity of any Electing SPV or any information relating to an Electing SPV's interest in the Loans or other obligation under this Agreement) to any Person except to the extent such disclosure is necessary in connection with a Tax audit or other Tax proceeding to establish that any loans are in registered form for U.S. federal income tax purposes. The entries in the Electing SPV Register shall be conclusive absent manifest error, and such Granting Lender shall treat each person whose name is recorded in the Electing SPV Register as the owner of such Loan for all purposes of this Agreement notwithstanding any notice to the contrary. Each party hereto hereby agrees that no SPV shall be liable for any indemnity or similar payment obligation under this Agreement (all liability for which shall remain with the Granting Lender). In furtherance of the foregoing, each party hereto hereby agrees (which agreement shall survive the termination of this Agreement) that, prior to the date that is one year

and one day after the payment in full of all outstanding commercial paper or other senior indebtedness of any SPV, such party will not institute against, or join any other person in instituting against, such SPV any bankruptcy, reorganization, arrangement, insolvency or liquidation proceedings under the laws of the United States or any State thereof. In addition, notwithstanding anything to the contrary contained in this Section 9.04, any SPV may (i) with notice to, but without the prior written consent of, the Borrower and the Administrative Agent and without paying any processing fee therefor, assign all or a portion of its interests in any Loans to the Granting Lender or to any financial institutions (consented to by the Borrower and Administrative Agent) providing liquidity or credit support to or for the account of such SPV to support the funding or maintenance of Loans and (ii) disclose on a confidential basis any non-public information relating to its Loans to any rating agency, commercial paper dealer or provider of any surety, guarantee or credit or liquidity enhancement to such SPV.

SECTION 9.05. Survival. All covenants, agreements, representations and warranties made by the Borrower in the Loan Documents and in the certificates or other instruments delivered in connection with or pursuant to any Loan Document shall be considered to have been relied upon by the other parties hereto and shall survive the execution and delivery of the Loan Documents and the making of any Loans, regardless of any investigation made by any such other party or on its behalf and notwithstanding that the Administrative Agent or any Lender may have had notice or knowledge of any Default or incorrect representation or warranty at the time any credit is extended hereunder, and shall continue in full force and effect as long as the principal of or any accrued interest on any Loan or any fee or any other amount payable under this Agreement is outstanding and unpaid and so long as the Commitments have not expired or terminated. The provisions of Sections 2.12, 2.13, 2.14 and 9.03 and Article VIII shall survive and remain in full force and effect regardless of the consummation of the transactions contemplated hereby, the repayment of the Loans, the expiration or termination of the Commitments or the termination of this Agreement or any provision hereof.

SECTION 9.06. Counterparts; Integration; Effectiveness.

(a) This Agreement may be executed in counterparts (and by different parties hereto on different counterparts), each of which shall constitute an original, but all of which when taken together shall constitute a single contract. This Agreement, the other Loan Documents and any separate letter agreements with respect to fees payable to the Administrative Agent or the syndication of the Loans and Commitments constitute the entire contract among the parties relating to the subject matter hereof and supersede any and all previous agreements and understandings, oral or written, relating to the subject matter hereof. Except as provided in Section 4.01, this Agreement shall become effective when it shall have been executed by the Administrative Agent and when the Administrative Agent shall have received counterparts hereof that, when taken together, bear the signatures of each of the other parties hereto, and thereafter shall be binding upon and inure to the benefit of the parties hereto and their respective successors and assigns. Delivery of an executed counterpart of a signature page of this Agreement by facsimile shall be effective as delivery of a manually executed counterpart of this Agreement.

(b) Delivery of an executed counterpart of a signature page of this Agreement by telecopy, emailed pdf. or any other electronic means that reproduces an image of the actual executed signature page shall be effective as delivery of a manually executed counterpart of this Agreement. The words "execution," "signed," "signature," "delivery," and words of like import in or relating to any document to be signed in connection with this Agreement and the transactions contemplated hereby shall be deemed to include Electronic Signatures, deliveries or the keeping of records in electronic form, each of which shall be of the same legal effect, validity or enforceability as a manually executed signature, physical delivery thereof or the use of a paper-based recordkeeping system, as the case may be, to the extent and as

provided for in any applicable law, including the Federal Electronic Signatures in Global and National Commerce Act, the New York State Electronic Signatures and Records Act, or any other similar state laws based on the Uniform Electronic Transactions Act.

SECTION 9.07. Severability. Any provision of this Agreement held to be invalid, illegal or unenforceable in any jurisdiction shall, as to such jurisdiction, be ineffective to the extent of such invalidity, illegality or unenforceability without affecting the validity, legality and enforceability of the remaining provisions hereof; and the invalidity of a particular provision in a particular jurisdiction shall not invalidate such provision in any other jurisdiction.

SECTION 9.08. Right of Setoff. If an Event of Default shall have occurred and be continuing, each Lender and its Affiliates is hereby authorized at any time and from time to time, to the fullest extent permitted by law, to set off and apply any and all deposits (general or special, time or demand, provisional or final, in whatever currency, other than funds held on behalf of customers) at any time held and other obligations (in whatever currency) at any time owing by such Lender or any such Affiliate to or for the credit or the account of the Borrower against any of and all the obligations of the Borrower now or hereafter existing under this Agreement held by such Lender, irrespective of whether or not such Lender shall have made any demand under this Agreement and although such obligations may be unmaturing or are owed to a branch or office of such Lender different from the branch or office holding such deposit or obligated on such Indebtedness. The applicable Lender shall notify the Borrower and the Administrative Agent of such setoff and application, provided that any failure to give or any delay in giving such notice shall not affect the validity of any such setoff and application under this Section. The rights of each Lender and its respective Affiliates under this Section are in addition to other rights and remedies (including other rights of setoff) that such Lender and its respective Affiliates may have.

SECTION 9.09. Governing Law; Jurisdiction; Consent to Service of Process.

(a) This Agreement shall be construed in accordance with and governed by the law of the State of New York.

(b) The Borrower hereby irrevocably and unconditionally submits, for itself and its property, to the exclusive jurisdiction of the Supreme Court of the State of New York sitting in the borough of Manhattan and of the United States District Court of the Southern District of New York sitting in the borough of Manhattan, and any appellate court from any thereof, in any action or proceeding arising out of or relating to any Loan Document, or for recognition or enforcement of any judgment, and each of the parties hereto hereby irrevocably and unconditionally agrees that all claims in respect of any such action or proceeding may be heard and determined in such New York State or, to the extent permitted by law, in such Federal court. Each of the parties hereto agrees that a final judgment in any such action or proceeding shall be conclusive and may be enforced in other jurisdictions by suit on the judgment or in any other manner provided by law. Nothing in any Loan Document shall affect any right that the Administrative Agent or any Lender may otherwise have to bring any action or proceeding relating to any Loan Document against the Borrower or its respective properties in the courts of any jurisdiction.

(c) The Borrower hereby irrevocably and unconditionally waives, to the fullest extent it may legally and effectively do so, any objection that it may now or hereafter have to the laying of venue of any suit, action or proceeding arising out of or relating to any Loan Document in any court referred to in paragraph (b) of this Section. Each of the parties hereto hereby irrevocably waives, to the fullest extent permitted by law, the defense of an inconvenient forum to the maintenance of such action or proceeding in any such court.

(d) Each party to this Agreement irrevocably consents to service of process in the manner provided for notices in Section 9.01. Nothing in any Loan Document will affect the right of any party to this Agreement to serve process in any other manner permitted by law.

SECTION 9.10. WAIVER OF JURY TRIAL. EACH PARTY HERETO HEREBY WAIVES, TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW, ANY RIGHT IT MAY HAVE TO A TRIAL BY JURY IN ANY LEGAL PROCEEDING DIRECTLY OR INDIRECTLY ARISING OUT OF OR RELATING TO ANY LOAN DOCUMENT OR THE TRANSACTIONS CONTEMPLATED THEREBY (WHETHER BASED ON CONTRACT, TORT OR ANY OTHER THEORY). EACH PARTY HERETO (A) CERTIFIES THAT NO REPRESENTATIVE, AGENT OR ATTORNEY OF ANY OTHER PARTY HAS REPRESENTED, EXPRESSLY OR OTHERWISE, THAT SUCH OTHER PARTY WOULD NOT, IN THE EVENT OF LITIGATION, SEEK TO ENFORCE THE FOREGOING WAIVER AND (B) ACKNOWLEDGES THAT IT AND THE OTHER PARTIES HERETO HAVE BEEN INDUCED TO ENTER INTO THIS AGREEMENT BY, AMONG OTHER THINGS, THE MUTUAL WAIVERS AND CERTIFICATIONS IN THIS SECTION.

SECTION 9.11. Headings. Article and Section headings and the Table of Contents used herein are for convenience of reference only, are not part of this Agreement and shall not affect the construction of, or be taken into consideration in interpreting, this Agreement.

SECTION 9.12. Confidentiality. Each of the Administrative Agent and the Lenders agrees to maintain the confidentiality of the Information (as defined below), except that Information may be disclosed (a) to its and its Affiliates' directors, officers, employees and agents, including accountants, legal counsel and other advisors (it being understood that the Persons to whom such disclosure is made will be informed of the confidential nature of such Information and instructed to keep such Information confidential), (b) to the extent requested by any regulatory authority, (c) to the extent required by applicable laws or regulations or by any subpoena or similar legal process, (d) to any other party to this Agreement, (e) in connection with the exercise of any remedies hereunder or any suit, action or proceeding relating to any Loan Document or the enforcement of rights thereunder, (f) subject to an agreement containing provisions substantially the same as those of this Section, to (i) any assignee of or Participant in, or any prospective assignee of or Participant in, any of its rights or obligations under this Agreement or (ii) any actual or prospective counterparty (or its advisors) to any Swap Agreement relating to the Borrower and its obligations under the Loan Documents, (g) with the consent of the Borrower or (h) to the extent such Information (i) becomes publicly available other than as a result of a breach of this Section or (ii) becomes available to the Administrative Agent or any Lender on a nonconfidential basis from a source other than the Borrower. For the purposes of this Section, the term "Information" means all information received from the Borrower relating to the Borrower or its business, other than any such information that is available to the Administrative Agent or any Lender on a nonconfidential basis prior to disclosure by the Borrower, provided that, in the case of information received from the Borrower or any Subsidiary after the date hereof, such information is clearly identified at the time of delivery as confidential. Any Person required to maintain the confidentiality of Information as provided in this Section shall be considered to have complied with its obligation to do so if such Person has exercised the same degree of care to maintain the confidentiality of such Information as such Person would accord to its own confidential information.

SECTION 9.13. Interest Rate Limitation. Notwithstanding anything herein to the contrary, if at any time the interest rate applicable to any Loan, together with all fees, charges and other amounts that are treated as interest on such Loan or participation therein under applicable law (collectively, the "Charges"), shall exceed the maximum lawful rate (the "Maximum Rate") that may be contracted for,

charged, taken, received or reserved by the Lender holding such Loan or participation therein in accordance with applicable law, the rate of interest payable in respect of such Loan hereunder, together with all Charges payable in respect thereof, shall be limited to the Maximum Rate and, to the extent lawful, the interest and Charges that would have been payable in respect of such Loan or participation therein but were not payable as a result of the operation of this Section shall be cumulated and the interest and Charges payable to such Lender in respect of other Loans or participation therein or periods shall be increased (but not above the Maximum Rate therefor) until such cumulated amount, together with interest thereon at the Federal Funds Effective Rate to the date of repayment, shall have been received by such Lender.

SECTION 9.14. USA Patriot Act. Each Lender hereby notifies the Borrower that pursuant to the requirements of the USA Patriot Act, it is required to obtain, verify and record information that identifies the Borrower, which information includes the name and address of the Borrower and other information that will allow such Lender to identify the Borrower in accordance with the Act.

SECTION 9.15. Material Non-Public Information.

(a) EACH LENDER ACKNOWLEDGES THAT INFORMATION AS DEFINED IN SECTION 9.12 FURNISHED TO IT PURSUANT TO THIS AGREEMENT MAY INCLUDE MATERIAL NON-PUBLIC INFORMATION CONCERNING THE BORROWER AND ITS RELATED PARTIES OR THEIR RESPECTIVE SECURITIES, AND CONFIRMS THAT IT HAS DEVELOPED COMPLIANCE PROCEDURES REGARDING THE USE OF MATERIAL NON-PUBLIC INFORMATION AND THAT IT WILL HANDLE SUCH MATERIAL NON-PUBLIC INFORMATION IN ACCORDANCE WITH THOSE PROCEDURES AND APPLICABLE LAW, INCLUDING FEDERAL AND STATE SECURITIES LAWS.

(b) ALL INFORMATION, INCLUDING REQUESTS FOR WAIVERS AND AMENDMENTS, FURNISHED BY THE BORROWER OR THE ADMINISTRATIVE AGENT PURSUANT TO, OR IN THE COURSE OF ADMINISTERING, THIS AGREEMENT WILL BE SYNDICATE-LEVEL INFORMATION, WHICH MAY CONTAIN MATERIAL NON-PUBLIC INFORMATION ABOUT THE BORROWER AND ITS RELATED PARTIES OR ITS SECURITIES. ACCORDINGLY, EACH LENDER REPRESENTS TO THE BORROWER AND THE ADMINISTRATIVE AGENT THAT IT HAS IDENTIFIED IN ITS ADMINISTRATIVE QUESTIONNAIRE A CREDIT CONTACT WHO MAY RECEIVE INFORMATION THAT MAY CONTAIN MATERIAL NON-PUBLIC INFORMATION IN ACCORDANCE WITH ITS COMPLIANCE PROCEDURES AND APPLICABLE LAW.

SECTION 9.16. Collateral Matters.

Each of the Lenders irrevocably authorize the Administrative Agent, at its option and in its discretion, to release any Lien on any property granted to or held by the Administrative Agent under any Loan Document (i) upon the payment in full of all Loan Document Obligations, termination or expiration of the Commitments in accordance with the provisions of this Agreement, (ii) that is sold or to be sold as part of or in connection with any sale permitted hereunder or under any other Loan Document to a Person other than the Borrower or (iii) if approved, authorized or ratified in writing in accordance with Section 9.02.

Upon request by the Administrative Agent at any time, the Required Lenders will confirm in writing the Administrative Agent's authority to release its interest in particular types or items of property

pursuant to this Section 9.16. In each case as specified in this Section 9.16, the Administrative Agent will, at the Borrower's expense, execute and deliver to the Borrower such documents as the Borrower may reasonably request to evidence the release of such item of Collateral from the assignment and security interest granted under the Collateral Documents in accordance with the terms of the Loan Documents and this Section 9.16.

SECTION 9.17. No Fiduciary Duty; Conflicts of Interest.

The Administrative Agent, each Lender and their Affiliates (collectively, solely for purposes of this paragraph, the "Lenders"), may have economic interests that conflict with those of the Borrower, its stockholders and/or their respective affiliates. The Borrower agrees that nothing in the Loan Documents or otherwise will be deemed to create an advisory, fiduciary or agency relationship or fiduciary or other implied duty between any Lender, on the one hand, and the Borrower, its stockholders or its affiliates, on the other. The Borrower acknowledges and agrees that (i) the transactions contemplated by the Loan Documents (including the exercise of rights and remedies hereunder and thereunder) are arm's-length commercial transactions between the Lenders, on the one hand, and the Borrower, on the other, and (ii) in connection therewith and with the process leading thereto, (x) no Lender has assumed an advisory or fiduciary responsibility in favor of the Borrower, its stockholders or its affiliates with respect to the transactions contemplated hereby (or the exercise of rights or remedies with respect thereto) or the process leading thereto (irrespective of whether any Lender has advised, is currently advising or will advise the Borrower, its stockholders or its Affiliates on other matters) or any other obligation to the Borrower except the obligations expressly set forth in the Loan Documents and (y) each Lender is acting solely as principal and not as the agent or fiduciary of the Borrower, its management, stockholders, creditors or any other Person. The Borrower acknowledges and agrees that it has consulted its own legal and financial advisors to the extent it deemed appropriate and that it is responsible for making its own independent judgment with respect to such transactions and the process leading thereto. The Borrower agrees that it will not claim that any Lender has rendered advisory services of any nature or respect, or owes a fiduciary or similar duty to the Borrower, in connection with such transaction or the process leading thereto.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be duly executed by their respective authorized officers as of the day and year first above written.

E*TRADE FINANCIAL CORP.,

By: _____
Name:
Title:

JPMORGAN CHASE BANK, N.A.,
as a Lender and Administrative Agent,

By: _____
Name:
Title:

MORGAN STANLEY SENIOR FUNDING, INC., as a Lender and Syndication
Agent,

By: _____
Name:
Title:

CREDIT SUISSE AG, CAYMAN ISLANDS BRANCH as a Lender,

By: _____
Name:
Title:

By: _____
Name:
Title:

GOLDMAN SACHS BANK USA, as a Lender,

By: _____
Name:
Title:

EMPLOYMENT AGREEMENT

This Employment Agreement (this “**Agreement**”) is made and entered into by and between E*TRADE Financial Corporation (the “**Company**”) and Paul T. Idzik (“**Executive**”) as of January 1, 2016, (the “**Effective Date**”).

1. *Position and Duties:* As of the Effective Date, Executive will continue in the role as Chief Executive Officer of the Company. Executive will continue to devote all necessary time, energy and skill to Executive’s duties at the Company; *provided* that Executive will be permitted to participate as a member of the board of directors of one or more public companies if such participation is approved in advance by the Governance Committee of the Board of Directors of the Company.

The Company shall provide Executive with the same indemnification and D&O insurance protection provided from time to time to its officers and directors generally. Notwithstanding anything to the contrary in this Agreement, the rights of Executive to indemnification and the D&O insurance coverage with respect to all matters, events or transactions occurring or effected during the Executive’s period of employment with the Company shall survive the termination of Executive’s employment.

2. *Term of Agreement:* This Agreement shall remain in effect through December 31, 2018 (the “**Term**”), unless Executive’s employment is terminated earlier by either party, subject to payments under Section 5 hereof to the extent applicable; *provided* that in the event of a Change in Control during the Term of this Agreement, the Term shall be extended to the date that is 24 months following such Change in Control. Executive’s employment with the Company shall be “at-will”. Unless Executive terminates Executive’s employment prior to the end of the Term pursuant to the terms of this Agreement, Executive’s continued employment following the end of the Term shall continue to be on an at-will basis and on such terms and conditions as the parties may agree.

3. *Compensation:* During the Term, Executive shall be compensated by the Company for Executive’s services as follows:

(a) *Base Salary:* Executive shall be paid an annualized base salary of \$1,000,000 per year, subject to applicable withholding, in accordance with the Company’s normal payroll procedures. Executive’s base salary may be adjusted from time to time in the discretion of the Company, subject to the provisions of Section 5 (incorporating the definitions set forth in Section 7) (this is referred to as the “**Base Salary**”).

(b) *Performance Bonus*: Executive shall have the opportunity to earn an annual performance bonus. The performance bonus shall be earned upon the Executive and the Company meeting pre-established performance targets. Executive's current cash bonus target amount is \$3,000,000. The annual cash bonus, if earned, will be paid at the same time and in the same manner as payments to similarly situated executives of the Company and, except as expressly provided otherwise in this Agreement or in the applicable bonus plan document, shall not be earned unless Executive remains employed with the Company on the date of payment.

(c) *Benefits*: Executive shall have the right, on the same basis as other senior executives of the Company, to participate in and to receive benefits under any of the Company's employee benefit plans, as such plans may be modified from time to time.

4. *Equity Compensation*. Executive will be eligible to receive equity compensation awards from time to time if the Company's Board of Directors or its designee, in its sole discretion, determines that such an award(s) is appropriate. Executive's target equity bonus for 2016 performance is \$4,000,000, fifty percent (50%) of which shall be in the form of Restricted Stock Units ("RSUs") and the remaining (50%) of which shall be in the form of Performance Stock Units, each subject to the Company's 2015 Omnibus Incentive Plan, as amended from time to time and the then current form of RSU and PSU agreement, each substantially in the form attached hereto as **Exhibits A and B**.

5. *Effect of Termination of Employment During the Term*:

(a) *Involuntary Termination outside a Change in Control Period*: If Executive's employment with the Company is terminated as a result of an Involuntary Termination outside of a Change in Control Period, then subject to Executive signing the Release and any revocation period with respect thereto expiring without revocation within 60 days following the date of termination, Executive shall receive the following benefits, in addition to any compensation and benefits earned and unpaid under Section 3 through the date of Executive's termination of employment:

(i) a lump sum cash severance payment equal to one times the sum of (x) Executive's annual Base Salary and (y) Executive's annual cash performance bonus at the target payment level, which payment shall be paid within 30 days following the effectiveness of the Release, but in no event later than March 15 of the year following the year in which such termination of employment occurs;

(ii) a lump sum cash payment equal to the product of (x) the annual cash performance bonus that would have been paid to Executive had he remained employed through the date of payment in accordance with Section 3(b), based on the Company's

actual performance for the year in which such termination occurs, and (y) a fraction, the numerator of which is the number of days elapsed in the calendar year in which such termination occurs and the denominator of which is 365, which payment shall be paid no later than March 15 of the year following the year in which such termination of employment occurs;

(iii) reimbursement for the cost of medical coverage at a level equivalent to that provided by the Company immediately prior to termination of employment, through the earlier of: (A) 24 months following Executive's termination of employment, or (B) the date that Executive becomes eligible for medical coverage from a subsequent employer; *provided* that (x) it shall be the obligation of Executive to inform the Company that Executive has become eligible for such medical coverage and (y) such reimbursement shall be made by the Company subsidizing or reimbursing COBRA premiums or, if Executive is no longer eligible for COBRA continuation coverage, by a lump sum payment based on the monthly premiums immediately prior to the expiration of COBRA coverage.

(iv) any options, restricted stock awards, restricted stock units and other equity awards at any particular time that are subject to vesting based solely on the Executive's continued employment ("**Time-Based Equity Grants**") that are issued after the date hereof and unvested on the date of termination of employment (collectively, the "**Post-Termination Awards**") shall not terminate, but will remain eligible to become vested (and, with respect to RSUs, converted into shares) on their normal vesting dates as if Executive's employment had not terminated (the "**Scheduled Vesting Date**"); *provided* that all of the Post-Termination Awards will be canceled immediately if any of the following events (the "**Post-Termination Events**") occur at any time before the applicable Scheduled Vesting Date:

- Executive acts in any manner that the Compensation Committee of the Company Board of Directors determines is contrary or materially harmful to the interests of the Company or any of its subsidiaries;
- Executive fails to comply with the covenants in Section 6 hereof; *provided* that such covenants shall be of no further force or effect as of the twelve (12) month anniversary of the termination of Executive's employment;
- Executive encourages or solicits any employee, consultant, or contractor of the Company or its affiliates to leave or diminish their relationship with the Company for any reason or to accept employment, consultancy or a contracting relationship with any other company

- Executive, directly or indirectly, encourages or solicits or attempts to encourage or solicit any customers, clients, partners or affiliates of the Company to terminate or diminish their relationship with the Company;
- Executive disparages the Company or its officers, directors, employees, products or services;
- Executive misuses or discloses the Company's confidential or Proprietary Information, breaches any proprietary information, confidentiality agreement or any other agreement between Executive and the Company (or any of its affiliates), or breaches the Release;
- Executive fails or refuses to reasonably cooperate with or assist the Company in a timely manner in connection with any investigation, regulatory matter, lawsuit or arbitration in which the Company is a subject, target or party and as to which Executive may have pertinent information; or
- the Company determines that Executive's employment could have been terminated for Cause (regardless of any "cure" periods) or that Executive's actions or omissions during employment caused a restatement of the Company's financial statements or constituted a violation of the Company's policies and standards.

Subject to this Section 5(a), any RSUs that were issued prior to the date hereof ("**Initial Equity Awards**") and unvested on the date of termination of employment shall become fully vested (and converted into shares) as of the date on which the Release becomes effective.

Notwithstanding the foregoing, (i) the Post-Termination Awards shall become fully vested and, if applicable, settled upon the death of Executive or upon a Change in Control that constitutes a "a change in ownership", a "change in effective control", or a "change in the ownership of a substantial portion of the assets" of the Company under Section 409A and the Section 409A Regulations (a "**409A Change in Control**"), so long as such death or 409A Change in Control occurs following the applicable termination date and prior to the earlier of the final Scheduled Vesting Date or the occurrence of a Post-Termination Event, and (ii) to the extent required to avoid acceleration taxation or tax penalties under Section 409A, the settlement of the tranche of RSUs that would first vest following the termination date if the Executive remained in employment shall occur on the latest of (1) the applicable Scheduled Vesting Date, (2) the date the Release becomes effective and (3) the 60th day following the date of termination, if the 60 day period

referenced in this Section 5(a) in respect of the Release begins in one calendar year and ends in another.

(b) *Involuntary Termination during a Change in Control Period*: If Executive's employment with the Company is terminated as a result of an Involuntary Termination during a Change in Control Period, then subject to Executive signing the Release and any revocation period with respect thereto expiring without revocation within 60 days following the date of termination, Executive shall receive the following benefits, in addition to any compensation and benefits earned and unpaid under Section 3 through the date of Executive's termination of employment:

(i) a lump sum cash severance payment equal to two times the sum of (x) Executive's annual Base Salary and (y) Executive's annual cash performance bonus at the target payment level, which payment shall be paid within 30 days following the effectiveness of the Release, but in no event later than March 15 of the year following the year in which such termination of employment occurs;

(ii) a lump sum cash payment equal to the product of (x) the annual cash performance bonus that would have been paid to Executive had he remained employed through the date of payment in accordance with Section 3(b), based on the Company's actual performance for the year in which such termination occurs, and (y) a fraction, the numerator of which is the number of days elapsed in the calendar year in which such termination occurs and the denominator of which is 365, which payment shall be paid no later than March 15 of the year following the year in which such termination of employment occurs;

(iii) each Time-Based Equity Grant (including any Initial Equity Awards) shall become fully vested (and, with respect to RSUs, converted into shares) in full as of the date on which the Release becomes effective; provided that, to the extent necessary to avoid accelerated taxation or tax penalties under Section 409A, (x) if such termination occurs during a Change in Control Period but prior to a 409A Change in Control, then to the extent necessary to avoid accelerated taxation or tax penalties under Section 409A, any RSUs will be settled on the same dates on which such settlement would have occurred if the Executive remained employed and (y) if the 60 day period referenced in this Section 5(b) in respect of the Release begins in one calendar year and ends in another, then the RSUs will be settled in the second calendar year;

(iv) reimbursement for the cost of medical coverage at a level equivalent to that provided by the Company immediately prior to termination of employment, through the earlier of: (A) 24 months following Executive's termination of employment, or (B)

the date that Executive becomes eligible for medical coverage from a subsequent employer; *provided* that (x) it shall be the obligation of Executive to inform the Company that Executive has become eligible for such medical coverage and (y) such reimbursement shall be made by the Company subsidizing or reimbursing COBRA premiums or, if Executive is no longer eligible for COBRA continuation coverage, by a lump sum payment based on the monthly premiums immediately prior to the expiration of COBRA coverage.

(c) *Death or Permanent Disability.*

(i) In the event of Executive's death or termination as a result of Permanent Disability, all Time-Based Equity Grants (including any Initial Equity Awards) held by Executive, to the extent then outstanding, shall become fully vested (and, with respect to RSUs, converted into shares) as of the date of such termination.

(ii) In the event the Executive's employment terminates as a result of Executive's death or Permanent Disability, Executive (or Executive's estate, as applicable) shall be entitled to a pro rata share of the Executive's cash or other performance bonus to the date of death or Permanent Disability, based on target performance.

(d) *Retirement and Retirement Eligibility.*

(i) *Retirement outside a Change in Control Period:* If Executive's employment with the Company is terminated as a result of Executive's Retirement outside of a Change in Control Period, then subject to Executive signing the Release and any revocation period with respect thereto expiring without revocation within 60 days following the date of termination, any Post-Termination Awards shall not terminate, but will remain eligible to become vested (and, with respect to RSUs, converted into shares) on the applicable Scheduled Vesting Dates; *provided* that (1) to the extent required to avoid acceleration taxation or tax penalties under Section 409A, the settlement of the tranche of RSUs that would first vest following the termination date if the Executive remained in employment shall occur on the latest of (x) the applicable Scheduled Vesting Date, (y) the date the Release becomes effective and (z) the 60th day following the date of termination, if the 60 day period referenced in this Section 5(a) in respect of the Release begins in one calendar year and ends in another, (2) all of the Post-Termination Awards will be canceled immediately if any of the Post-Termination Events occur at any time before the applicable Scheduled Vesting Date and (3) notwithstanding anything set forth in this paragraph to the contrary, the Post-Termination Awards shall become fully vested and settled upon the death of the Participant or upon a 409A Change in Control.

(ii) *Retirement-Eligibility during a Change in Control Period:* If Executive is or becomes Retirement-Eligible during a Change in Control Period, then subject to Executive signing the Release and any revocation period with respect thereto expiring without revocation within 60 days following the date thereof, each Time-Based Equity Grant shall become fully vested (and, with respect to RSUs, converted into shares) in full as of the date on which the Release becomes effective; provided that, to the extent necessary to avoid accelerated taxation or tax penalties under Section 409A, (x) if such Retirement-Eligibility occurs during a Change in Control Period but prior to a 409A Change in Control, then to the extent necessary to avoid accelerated taxation or tax penalties under Section 409A, any RSUs will be settled on the same dates on which such settlement would have occurred if the Executive remained employed and (y) if the 60 day period referenced in this Section in respect of the Release begins in one calendar year and ends in another, then the RSUs will be settled in the second calendar year.

(e) *Other Termination:* In the event of a termination of Executive's employment not specified under Section 5(a), Section 5(b), Section 5(c) or Section 5(d) above, including, without limitation, a termination for Cause, Executive shall not be entitled to any compensation or benefits from the Company, other than those earned and unpaid under Section 3 through the date of Executive's termination and, in the case of each stock option, restricted stock award or other Company stock-based award granted to Executive, the extent to which such awards are vested through the date of Executive's termination or as otherwise provided in the applicable award agreement.

6. *Agreement Not to Compete:*

(a) During Executive's employment with the Company and for twelve (12) months thereafter, Executive shall not hold any position, or engage in any activities as an employee, agent, contractor, or otherwise, with

(i) Charles Schwab Corporation, Fidelity Investments, Merrill Edge, Scottrade, Inc., TD Ameritrade Holding Corporation ("**Competitors**"), or

(ii) any of Competitors' affiliates, subsidiaries, successors or assigns other than Merrill Edge's parent corporation;

provided that the Company shall have the right to revise the list of Competitors on one occasion during the Term upon written notice to Executive, but in no event shall such revision take place after Executive has given the Company notice that Executive's employment with the Company will terminate, and only so long as the list of Competitors is comprised of no more than five (5) entities.

(b) Executive acknowledges that the restrictions contained in this Section 6, in view of the nature of the business in which the Company is engaged, are reasonable and necessary in order to protect the legitimate interests of the Company, and that any violation thereof would result in irreparable injuries to the Company, and the Executive therefore acknowledges that, in the event of Executive's violation of any of these restrictions, the Company shall be entitled to obtain from any court of competent jurisdiction preliminary and permanent injunctive relief (without the posting of any bond) as well as damages and an equitable accounting of all earnings, profits and other benefits arising from such a violation, which rights shall be cumulative and in addition to any other rights or remedies to which the Company may be entitled.

(c) The invalidity or unenforceability of any provision or provisions of this Section 6 shall not affect the validity or enforceability of any other provision or provisions of this Section 6, which shall remain in full force and effect. If any provision of this Section 6 is held to be invalid, void or unenforceable in any jurisdiction, any court or arbitrator so holding shall substitute a valid, enforceable provision that preserves, to the maximum lawful extent, the terms and intent of this Agreement.

7. *Certain Tax Considerations:*

(a) *Section 409A:*

(i) The payments under Section 5 are intended to qualify for the short-term deferral exception to Section 409A of the Code ("**Section 409A**") described in the regulations promulgated under Section 409A (the "**Section 409A Regulations**") to the maximum extent possible, and to the extent they do not so qualify, they are intended to qualify for the involuntary separation pay plan exception to Section 409A described in the Section 409A Regulations to the maximum extent possible. To the extent Section 409A is applicable to this Agreement, this Agreement is intended to comply with Section 409A, and shall be interpreted and construed and shall be performed by the parties consistent with such intent, and the Company shall have no right, without Executive's consent, to accelerate any payment or the provision of any benefits under this Agreement if such payment or provision of such benefits would, as a result, be subject to tax under Section 409A. To the extent any payment hereunder is determined to be deferred compensation subject to Section 409A and the timing of such payment is conditioned on the Release becoming effective, then to the extent required to avoid penalty under Section 409A, any such payment hereunder that could be paid in either of two taxable years shall be made in the second taxable year.

(ii) Without limiting the generality of the foregoing, if Executive is a “specified employee” within the meaning of Section 409A, as determined under the Company’s established methodology for determining specified employees, on the date of termination of employment, then to the extent required in order to comply with Section 409A, amounts that would otherwise be payable under this Agreement during the six-month period immediately following such termination date shall instead be paid (together with interest at the then current six-month LIBOR rate) on the first business day after the first to occur of (i) the date that is six months following Executive’s termination of employment and (ii) the date of Executive’s death.

(iii) Except as expressly provided otherwise herein, no reimbursement payable to Executive pursuant to any provisions of this Agreement or pursuant to any plan or arrangement of the Company covered by this Agreement shall be paid later than the last day of the calendar year following the calendar year in which the related expense was incurred, and no such reimbursement during any calendar year shall affect the amounts eligible for reimbursement in any other calendar year, except, in each case, to the extent that the right to reimbursement does not provide for a “deferral of compensation” within the meaning of Section 409A of the Code.

(iv) For purposes of this Agreement, the terms “terminate,” “terminated” and “termination” mean a termination of Executive’s employment that constitutes a “separation from service” within the meaning of the default rules of Section 409A of the Code; *provided*, however, that, in the event of the Executive’s Permanent Disability, “separation from service” means the date that is six months after the first day of disability.

(b) *280G Limitation:*

(i) If the payments and benefits provided to Executive under this Agreement, either alone or together with other payments and benefits provided to Executive from the Company (including, without limitation, any accelerated vesting thereof) (the “**Total Payments**”), would constitute a “parachute payment” (as defined in Section 280G of the Code) and be subject to the excise tax (the “**Excise Tax**”) imposed under Section 4999 of the Code, the Total Payments shall be reduced if and to the extent that a reduction in the Total Payments would result in Executive retaining a larger amount than if Executive received all of the Total Payments, in each case measured on an after-tax basis (taking into account federal, state and local income taxes and, if applicable, the Excise Tax). The determination of any reduction in the Total Payments shall be made at the Company’s cost by the Company’s independent public accountants or another firm designated by the Company and reasonably approved by Executive, and may be determined using

reasonable, good faith interpretations concerning the application of Sections 280G and 4999 of the Code. The Company shall pay Executive's costs incurred for tax, accounting and other professional advice in the event of a challenge of any such reasonable, good faith interpretations by the Internal Revenue Service.

(ii) In the case of a reduction in the Total Payments pursuant to Section 7(b)(i), the Total Payments will be reduced in the following order: (a) payments that are payable in cash that are valued at full value under Treasury Regulation Section 1.280G-1, Q&A 24(a) will be reduced (if necessary, to zero), with amounts that are payable last reduced first; (b) payments and benefits due in respect of any equity valued at full value under Treasury Regulation Section 1.280G-1, Q&A 24(a), with the highest values reduced first (as such values are determined under Treasury Regulation Section 1.280G-1, Q&A 24) will next be reduced; (c) payments that are payable in cash that are valued at less than full value under Treasury Regulation Section 1.280G-1, Q&A 24, with amounts that are payable last reduced first, will next be reduced; (d) payments and benefits due in respect of any equity valued at less than full value under Treasury Regulation Section 1.280G-1, Q&A 24, with the highest values reduced first (as such values are determined under Treasury Regulation Section 1.280G-1, Q&A 24) will next be reduced; and (e) all other non-cash benefits not otherwise described in clauses (b) or (d) will be next reduced pro-rata.

8. *Certain Definitions:* For the purposes of this Agreement, the following capitalized terms shall have the meanings set forth below. For the avoidance of doubt, to the extent any of the following defined terms conflict with any corresponding defined term in any other agreement applicable to Executive, the following defined terms shall prevail.

(a) "**Cause**" shall mean any of the following:

(i) Executive's theft, dishonesty, willful misconduct, breach of fiduciary duty for personal profit, or falsification of any material employment or Company records;

(ii) Executive's conviction (including any plea of guilty or nolo contendere) of any criminal act involving fraud, dishonesty, misappropriation or moral turpitude, or which impairs Executive's ability to perform Executive's duties with the Company;

(iii) Executive's intentional and repeated failure to perform stated duties after notice from the Company of, and a reasonable opportunity to cure, such failure;

(iv) Executive's improper disclosure of the Company's confidential or Proprietary Information;

(v) any material breach by Executive of the Company's Code of Professional Conduct, which breach shall be deemed "material" if it results from an intentional act by Executive and has a material detrimental effect on the Company's reputation or business; or

(vi) any material breach by Executive of this Agreement or of any agreement regarding proprietary information and inventions, which breach, if curable, is not cured within thirty (30) days following written notice of such breach from the Company.

In the event that the Company terminates Executive's employment for Cause, the Company shall provide written notice to Executive of that fact prior to, or concurrently with, the termination of employment. Failure to provide written notice that the Company contends that the termination is for Cause shall constitute a waiver of any contention that the termination was for Cause, and the termination shall be irrebuttably presumed to be an involuntary termination without Cause. However, if, within thirty (30) days following the termination, the Company first discovers facts that would have established "Cause" for termination, and those facts were not known by the Company at the time of the termination, then the Company shall provide Executive with written notice, including the facts establishing that the purported "Cause" was not known at the time of the termination, and the Company will pay no severance.

(b) "**Change in Control**" shall have the meaning set forth in the Company's 2015 Omnibus Incentive Plan, as in effect from time-to-time, or any successor thereto.

(c) "**Change in Control Period**" shall mean the period commencing on the earlier of: (i) 60 days prior to the date of consummation of the Change in Control; (ii) the date of the first public announcement of a definitive agreement that would result in a Change in Control (even though still subject to approval by the Company's stockholders and other conditions and contingencies); or (iii) the date of the public announcement of a tender offer that is not approved by the Incumbent Directors and ending on the two year anniversary date of the consummation of the Change in Control.

(d) "**Change in Control Period Good Reason**" shall mean any of the following conditions:

(i) a material decrease in Executive's Base Salary other than as part of any across-the-board reduction applying to all senior executives of an acquiror;

(ii) a material, adverse change in Executive's title, authority, responsibilities or duties, as measured against Executive's title, authority, responsibilities or duties immediately prior to such change; *provided* that for purposes of this subsection (ii), in addition to any other material, adverse change in title, authority, responsibilities or duties,

a material diminution in the authority, duties, or responsibilities of the supervisor to whom the Executive is required to report shall constitute an event of “Change in Control Period Good Reason”;

(iii) any material breach by the Company of any provision of this Agreement, which breach is not cured within thirty (30) days following written notice of such breach from Executive, or Non-Renewal;

(iv) any failure of the Company to obtain the assumption (by operation of law or by contract) of this Agreement by any successor or assign of the Company; or

(v) any purported termination of Executive’s employment for “material breach of contract” which is purportedly effected without providing the “cure” period, if applicable, described in Section 7(a)(vi), above;

provided that Executive shall have provided written notice to the Company of the existence of the condition constituting Good Reason within 90 days of the initial existence of the condition.

(e) “**Code**” means the Internal Revenue Code of 1986, as amended.

(f) “**Incumbent Directors**” shall mean members of the Board who either (i) are members of the Board as of the date hereof, or (ii) are elected, or nominated for election, to the Board with the affirmative vote of at least a majority of the Incumbent Directors at the time of such election or nomination (but shall not include an individual whose election or nomination is in connection with an actual or threatened proxy contest relating to the election of members of the Board).

(g) “**Involuntary Termination**” shall mean the occurrence of one of the following:

(i) termination by the Company of Executive’s employment with the Company for any reason other than Cause at any time;

(ii) Executive’s resignation from employment for Non Change in Control Period Good Reason within six months following the occurrence of the event constituting Non Change in Control Period Good Reason; or

(iii) during a Change in Control Period, Executive’s resignation from employment for Change in Control Period Good Reason within six months following the occurrence of the event constituting Change in Control Period Good Reason.

(h) “**Non Change in Control Period Good Reason**” shall mean any of the following conditions first occurring outside of a Change in Control Period and occurring without Executive’s written consent:

(i) a decrease in Executive’s Base Salary of greater than 15% during the Term, in the aggregate;

(ii) a material, adverse change in Executive’s title, authority, responsibilities or duties, as measured against Executive’s title, authority, responsibilities or duties immediately prior to such change; *provided* that for purposes of this subsection, a material, adverse change shall not occur merely by a change in reporting relationship; or

(iii) any material breach by the Company of any provision of this Agreement, which breach is not cured within thirty (30) days following written notice of such breach from Executive, or Non-Renewal;

provided that Executive shall have provided written notice to the Company of the existence of the condition constituting Good Reason within 90 days of the initial existence of the condition.

(i) “**Non-Renewal**” shall mean at least 90 days’ prior to the end of the Term that the Company, other than with Cause has either: (A) delivered Executive in writing notice of its intention not to either extend this Agreement or to enter into a new employment agreement with Executive; or (B) has failed to deliver to Executive a new employment agreement on terms and conditions substantially comparable to or better than those under this Agreement, that the Company is prepared to execute. For the avoidance of doubt, a decrease in Executive’s Base Salary of up to 15% shall be considered substantially comparable with respect to such term.

(j) “**Permanent Disability**” shall mean Executive’s permanent and total disability within the meaning of Section 22(e) (3) of the Code.

(k) “**Proprietary Information**” is information that was developed, created, or discovered by or on behalf of the Company, or which became or will become known by, or was or is conveyed to the Company, which has commercial value in the Company’s business. “Proprietary Information” includes, but is not limited to, software programs and subroutines, source and object code, algorithms, trade secrets, designs, technology, know-how, processes, data, ideas, techniques, inventions (whether patentable or not), works of authorship, formulas, business and product development plans, vendor lists, customer lists, terms of compensation and performance levels of Company employees, and other information concerning the Company’s actual or anticipated business, research or

development, or which is received in confidence by or for the Company from another person or entity.

(l) “**Release**” shall mean a general release of claims substantially in the form attached as Exhibit C hereto.

(m) “**Retirement**” means termination of the Executive’s employment at or following the Executive becoming Retirement-Eligible.

(n) “**Retirement-Eligible**” means the Executive is at least age 60 and has at least 5 years of service with the Company and its affiliates.

9. *Insider Trading Policy*: Executive agrees to abide by the terms and conditions of the Company’s Insider Trading Policy, as it may be amended from time to time.

10. *Dispute Resolution*: In the event of any dispute or claim relating to or arising out of this Agreement (including, but not limited to, any claims of breach of contract, wrongful termination or age, sex, race or other discrimination), Executive and the Company agree that all such disputes shall be fully and finally resolved by binding arbitration conducted by the American Arbitration Association in New York, New York in accordance with its National Employment Dispute Resolution rules. Executive acknowledges that by accepting this arbitration provision Executive is waiving any right to a jury trial in the event of such dispute. In connection with any such arbitration, the Company shall bear all costs not otherwise borne by a plaintiff in a court proceeding.

11. *Attorneys’ Fees*: The prevailing party shall be entitled to recover from the losing party its attorneys’ fees and costs incurred in any action brought to enforce any right arising out of this Agreement. The Company shall pay Executive’s reasonable legal fees in connection with the review and negotiation of this Agreement and any ancillary services related thereto.

12. *General*.

(a) *Successors and Assigns*: The provisions of this Agreement shall inure to the benefit of and be binding upon the Company, Executive and each and all of their respective heirs, legal representatives, successors and assigns. The duties, responsibilities and obligations of Executive under this Agreement shall be personal and not assignable or delegable by Executive in any manner whatsoever to any person, corporation, partnership, firm, company, joint venture or other entity. Executive may not assign, transfer, convey, mortgage, pledge or in any other manner encumber the compensation or other benefits to be received by Executive or any rights which Executive may have

pursuant to the terms and provisions of this Agreement, except to the extent permitted by the applicable plan for financial or estate planning purposes.

(b) *Amendments; Waiver:* No provision of this Agreement shall be modified, waived or discharged unless the modification, waiver or discharge is agreed to in writing and signed by Executive and by an authorized officer of the Company. No waiver by either party of any breach of, or of compliance with, any condition or provision of this Agreement by the other party shall be considered a waiver of any other condition or provision or of the same condition or provision at another time.

(c) *Notices:* Any notices to be given pursuant to this Agreement by either party to the other party may be effected by personal delivery or by overnight delivery with receipt requested. Mailed notices shall be addressed to the parties at the addresses stated below, but each party may change its or Executive's address by written notice to the other in accordance with this Paragraph:

Mailed notices to Executive shall be addressed to the last known address provided by Executive to the Company,

Mailed notices to the Company shall be addressed as follows:

E*TRADE Financial Corporation
Time & Life Building
1271 Avenue of the Americas
14th Floor
New York, NY 10020-1302
Attention: EVP, General Counsel

(d) *Entire Agreement:* This Agreement constitutes the entire employment agreement between Executive and the Company regarding the terms and conditions of Executive's employment and any amounts due on termination of such employment, with the exception of (i) the Agreement Regarding Employment and Proprietary Information and Inventions between the Company and Executive, (ii) any stock option, restricted stock, restricted stock unit award or other Company stock-based award agreements between Executive and the Company to the extent not modified by this Agreement, (iii) any indemnification agreement referenced in Section 1 and (iv) the Company's employee benefit plans referenced in Section 3(c). This Agreement (including the documents described in (i) through (iv) herein) supersedes all prior negotiations, representations or agreements between Executive and the Company, whether written or oral, concerning Executive's employment by or service to the Company, including without limitation, the

Employment Agreement by and between the Company and Executive, dated as of January 17, 2013, which is of no further force or effect as of the Effective Date.

(e) *Withholding Taxes*: All payments made under this Agreement shall be subject to reduction to reflect taxes required to be withheld by law.

(f) *Counterparts*: This Agreement may be executed by the Company and Executive in counterparts, each of which shall be deemed an original and which together shall constitute one instrument.

(g) *Headings*: Each and all of the headings contained in this Agreement are for reference purposes only and shall not in any manner whatsoever affect the construction or interpretation of this Agreement or be deemed a part of this Agreement for any purpose whatsoever.

(h) *Savings Provision*: To the extent that any provision of this Agreement or any paragraph, term, provision, sentence, phrase, clause or word of this Agreement shall be found to be illegal or unenforceable for any reason, such paragraph, term, provision, sentence, phrase, clause or word shall be modified or deleted in such a manner as to make this Agreement, as so modified, legal and enforceable under applicable laws. The remainder of this Agreement shall continue in full force and effect.

(i) *Construction*: The language of this Agreement and of each and every paragraph, term and provision of this Agreement shall, in all cases, for any and all purposes, and in any and all circumstances whatsoever be construed as a whole, according to its fair meaning, not strictly for or against Executive or the Company, and with no regard whatsoever to the identity or status of any person or persons who drafted all or any portion of this Agreement.

(j) *Further Assurances*: From time to time, at the Company's request and without further consideration, Executive shall execute and deliver such additional documents and take all such further action as reasonably requested by the Company to be necessary or desirable to make effective, in the most expeditious manner possible, the terms of this Agreement and to provide adequate assurance of Executive's due performance hereunder.

(k) *Governing Law*: Executive and the Company agree that this Agreement shall be interpreted in accordance with and governed by the laws of the State of New York.

IN WITNESS WHEREOF, the parties have executed this Agreement as of the date and year written below.

Dated: October 21, 2015

E*TRADE Financial Corporation

/s/ Rodger A. Lawson

By: Rodger A. Lawson
Chairman of the Board of Directors

Dated: October 21, 2015

/s/ Paul T. Idzik

Paul T. Idzik

**CERTIFICATION PURSUANT TO RULE 13a-14(a)/15d-14(a), AS ADOPTED PURSUANT TO
SECTION 302 OF THE SARBANES-OXLEY ACT OF 2002**

I, Michael A. Pizzi, certify that:

1. I have reviewed this Quarterly Report on Form 10-Q of E*TRADE Financial Corporation;
2. Based on my knowledge, this report does not contain any untrue statement of a material fact or omit to state a material fact necessary to make the statements made, in light of the circumstances under which such statements were made, not misleading with respect to the period covered by this report;
3. Based on my knowledge, the financial statements, and other financial information included in this report, fairly present in all material respects the financial condition, results of operations and cash flows of the registrant as of, and for, the periods presented in this report;
4. The registrant's other certifying officer and I are responsible for establishing and maintaining disclosure controls and procedures (as defined in Exchange Act Rules 13a-15(e) and 15d-15(e)) and internal control over financial reporting (as defined in Exchange Act Rules 13a-15(f) and 15d-15(f)) for the registrant and have:
 - a) Designed such disclosure controls and procedures, or caused such disclosure controls and procedures to be designed under our supervision, to ensure that material information relating to the registrant, including its consolidated subsidiaries, is made known to us by others within those entities, particularly during the period in which this report is being prepared;
 - b) Designed such internal control over financial reporting, or caused such internal control over financial reporting to be designed under our supervision, to provide reasonable assurance regarding the reliability of financial reporting and the preparation of financial statements for external purposes in accordance with generally accepted accounting principles;
 - c) Evaluated the effectiveness of the registrant's disclosure controls and procedures and presented in this report our conclusions about the effectiveness of the disclosure controls and procedures, as of the end of the period covered by this report based on such evaluation; and
 - d) Disclosed in this report any change in the registrant's internal control over financial reporting that occurred during the registrant's most recent fiscal quarter (the registrant's fourth fiscal quarter in the case of an annual report) that has materially affected, or is reasonably likely to materially affect, the registrant's internal control over financial reporting; and
5. The registrant's other certifying officer and I have disclosed, based on our most recent evaluation of internal control over financial reporting, to the registrant's auditors and the audit committee of the registrant's board of directors (or persons performing the equivalent functions):
 - a) All significant deficiencies and material weaknesses in the design or operation of internal control over financial reporting which are reasonably likely to adversely affect the registrant's ability to record, process, summarize and report financial information; and
 - b) Any fraud, whether or not material, that involves management or other employees who have a significant role in the registrant's internal control over financial reporting.

Dated: November 4, 2015

E*TRADE Financial Corporation
(Registrant)

By _____ /s/ MICHAEL A. PIZZI
Michael A. Pizzi
Chief Financial Officer
(Principal Financial Officer)

**CERTIFICATION PURSUANT TO 18 U.S.C. SECTION 1350,
AS ADOPTED PURSUANT TO SECTION 906 OF THE SARBANES-OXLEY ACT OF 2002**

The certification set forth below is being submitted in connection with this Quarterly Report on Form 10-Q of E*TRADE Financial Corporation (the "Quarterly Report") for the purpose of complying with Rule 13a-14(b) or Rule 15d-14(b) of the Securities Exchange Act of 1934 (the "Exchange Act") and Section 1350 of Chapter 63 of Title 18 of the United States Code.

Paul T. Idzik, the Chief Executive Officer and Michael A. Pizzi, the Chief Financial Officer of E*TRADE Financial Corporation, each certifies that, to the best of their knowledge:

1. the Quarterly Report fully complies with the requirements of Section 13(a) or 15(d) of the Exchange Act; and
2. the information contained in the Quarterly Report fairly presents, in all material respects, the financial condition and results of operations of E*TRADE Financial Corporation.

Dated: November 4, 2015

/s/ PAUL T. IDZIK

Paul T. Idzik
Chief Executive Officer
(Principal Executive Officer)

/s/ MICHAEL A. PIZZI

Michael A. Pizzi
Chief Financial Officer
(Principal Financial Officer)

