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 March 31, 2008

or

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

Commission File Number 1-11921

E*TRADE Financial Corporation

(Exact Name of Registrant as Specified in its Charter)

Delaware	**94-2844166**
(State or Other Jurisdiction of Incorporation or Organization)	**(I.R.S. Employer Identification Number)**

135 East 57th Street, New York, New York 10022
(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 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 ☒	Accelerated filer ☐
Non-accelerated filer ☐ (Do not check if a smaller reporting company)	Smaller reporting company ☐

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 May 5, 2008, there were 473,062,126 shares of common stock outstanding.

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E*TRADE FINANCIAL CORPORATION
FORM 10-Q QUARTERLY REPORT
For the Quarter Ended March 31, 2008

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Unless otherwise indicated, references to "the Company," "We," "Us," "Our" and "E*TRADE" mean E*TRADE Financial Corporation or its subsidiaries.

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ITEM 1. CONSOLIDATED FINANCIAL STATEMENTS (UNAUDITED)

This information is set forth immediately following Item 3, "Quantitative and Qualitative Disclosures about Market Risk."

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.

FORWARD-LOOKING STATEMENTS

This report contains forward-looking statements involving risks and uncertainties. These statements relate to our future plans, objectives, expectations and intentions. These statements may be identified by the use of words such as "expect," "may," "anticipate," "intend," "plan" and similar expressions. Our actual results could differ materially from those discussed in these forward-looking statements, and we caution that we do not undertake to update these statements. Factors that could contribute to our actual results differing from any forward-looking statements include those discussed under "Risk Factors," "Management's Discussion and Analysis of Financial Condition and Results of Operations" and elsewhere in this report. The cautionary statements made in this report should be read as being applicable to all forward-looking statements wherever they appear in this report. Important factors that may cause actual results to differ materially from any forward-looking statements are set forth in our 2007 Form 10-K filed with the Securities and Exchange Commission ("SEC") under the heading "Risk Factors."

We further caution that there may be risks associated with owning our securities other than those discussed in such filings.

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 Item 2, "Management's Discussion and Analysis of Financial Condition and Results of Operations."

OVERVIEW

Strategy

Our strategy centers on growing our global customer base and mitigating the risks associated with our balance sheet. We plan to grow our global customer base by appealing to retail investors, specifically those who are customers of large established financial institutions, by providing them with innovative, easy, low-cost financial solutions and service. Our financial solutions include a suite of trading, investing and banking products.

Our plan to mitigate the risks associated with our balance sheet contains three core goals: reduce credit risk in our loan portfolio, reduce our level of corporate debt and reduce operating expenses. We believe that the successful completion of this plan will significantly improve our financial strength and will help restore customer and investor confidence in our franchise.

We are also focused on simplifying and streamlining the business by exiting and/or restructuring certain non-core operations. We believe these changes will better align our business with the global retail investor.

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;
- the weakness or strength of the residential real estate and credit markets;
- customer perception of the financial strength of our franchise;
- market demand and liquidity in the secondary market for mortgage loans and securities;
- market demand and liquidity in the wholesale borrowings market, including securities sold under agreements to repurchase;
- interest rates and the shape of the interest rate yield curve; and
- the performance, volume and volatility of the equity and capital markets.

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

- continuing our success in the acquisition, growth and retention of customers;
- deepening customer acceptance of our products and services;
- our ability to assess and manage credit risk; and
- disciplined expense control and improved operational efficiency.

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:

	As of or For the Three Months Ended March 31,		Variance
	2008	2007	2008 vs. 2007
Customer Activity Metrics:			
Retail customer assets (dollars in billions)	$ 168.4	$ 200.5	(16)%
Customer cash and deposits (dollars in billions)	$ 34.9	$ 36.0	(3)%
U.S. daily average revenue trades	155,706	141,238	10%
International daily average revenue trades	35,018	28,798	22%
Total daily average revenue trades	190,724	170,036	12%
Average commission per trade	$ 11.04	$ 11.89	(7)%
End of period total accounts	4,778,238	4,546,544	5%
Company Financial Metrics:			
Net revenue growth[(1)]	(51)%	8%	(59)%
Enterprise net interest spread (basis points)	250	274	(9)%
Enterprise interest-earning assets (average in billions)	$ 49.9	$ 52.9	(6)%
Nonperforming loans receivable as a % of gross loans receivable	2.02%	0.39%	1.63%
Allowance for loan losses (dollars in millions)	$ 565.9	$ 68.0	732%
Allowance for loan losses as a % of nonperforming loans	96.84%	58.68%	38.16%
Excess E*TRADE Bank risk-based capital (dollars in millions)	$ 695.3	$ 161.9	329%

(1) Revenue growth is the difference between the current and prior comparable period total net revenue divided by the prior comparable period total net revenue.

Customer Activity Metrics

- Retail customer assets are an indicator of the value of our relationship with the customer. An increase in retail 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.
- Customer cash and deposits are an indicator of a deepening engagement with our customers and are a key driver of net operating interest income.
- Daily average revenue trades ("DARTs") are the predominant driver of commission revenue from our retail customers.
- Average commission per trade is an indicator of changes in our customer mix, product mix and/or product pricing. As a result, this metric is impacted by both the mix between our retail domestic and international businesses and the mix between active traders, mass affluent and main street customers.
- End of period total accounts is an indicator of the Company's ability to attract and retain customers.

Company Financial Metrics

- Net revenue growth is an indicator of our overall financial well-being and our ability to execute on our strategy. The negative revenue growth during the comparable periods was due to lower revenue in our institutional segment, which was related to an increase in provision for loan losses.
- Enterprise net interest spread is a broad indicator of our ability to generate net operating interest income.
- Enterprise interest-earning assets, in conjunction with our enterprise net interest spread, are indicators of our ability to generate net operating interest income.
- Total nonperforming loans receivable as a percentage of gross loans receivable is an indicator of the performance of our total loan portfolio.
- Allowance for loan losses is an estimate of the losses inherent in our loan portfolio as of the balance sheet date.
- Allowance for loan losses as a percentage of nonperforming loans is a general indicator of the adequacy of our allowance for loan losses. Changes in this ratio are also driven by changes in the mix of our loan portfolio.
- Excess E*TRADE Bank risk-based capital is the excess capital that E*TRADE Bank has compared to the regulatory minimum well-capitalized threshold and is an indicator of E*TRADE Bank's ability to absorb future loan losses.

Significant Events in the First Quarter of 2008

Turnaround Plan Progress

On January 24, 2008, we announced a turnaround plan focused on resolving the risks in our balance sheet and returning our primary focus to the retail investor. We made the following progress on this plan during the first quarter of 2008:

Retail Investor

- Opened 305,000 gross new accounts;
- Produced 62,000 net new accounts;
- Ended the quarter with a record 4.8 million total customer accounts;
- Increased customer cash and deposit balances in March 2008 for the fourth consecutive month; and
- Stabilized retail customer asset flows and generated net inflows of approximately $300 million[1].

(1) Excludes the effects of market movements in the value of customer assets.

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Balance Sheet Risk

- Increased excess E*TRADE Bank risk-based capital (excess to the regulatory minimum well-capitalized threshold) to approximately $695 million, an increase of $260 million compared to December 31, 2007;
- Improved E*TRADE Bank tier-1 and risk-based capital ratios to 6.78% and 12.36%, respectively;
- Ended the quarter with $10.7 billion in excess Federal Home Loan Bank (“FHLB”) borrowing capacity;
- Completed $69 million in non-core asset sales; and
- Reduced holding company debt by $60 million[(1)], including $25 million in debt-for-equity swaps.

Citadel Investment

In January 2008, the Company issued an additional $150.0 million of springing lien notes in accordance with the terms of the agreement with Citadel Limited Partnership (“Citadel”). This was the final note issuance under the agreement with Citadel and brings the total springing lien notes outstanding to $1.9 billion in principal. In connection with this issuance, the Company received $150.0 million in cash. Additionally, the Company received all required regulatory approvals in order to issue to Citadel the remaining 46.7 million shares of common stock required to be issued under the agreement; however as of March 31, 2008 the shares had not yet been issued.

Enhanced Research Tools for the Retail Investor

We began offering expanded tools and services, including improved charting capabilities and redesigned our “Global Markets,” “US Markets,” and “Market News” pages. We also began offering customization, expanded our mutual fund center with research capabilities and improved charting and analytics for Power E*TRADE Pro.

Retirement Planning Tool

We launched Retirement QuickPlan, which provides a quick assessment of an individual’s or family’s retirement savings and investing plan as well as guidelines to get on track with personal retirement goals.

Summary Financial Results

Income Statement Highlights for the Three Months Ended March 31, 2008 (dollars in millions, except per share amounts)

	Three Months Ended March 31,		Variance
	2008	2007	2008 vs. 2007
Total net revenue	$ 316.2	$ 645.0	(51)%
Net operating interest income	$ 332.8	$ 390.6	(15)%
Provision for loan losses	$ (233.9)	$ (21.2)	1004%
Net operating interest income after provision for loan losses	$ 98.9	$ 369.4	(73)%
Commission revenue	$ 129.8	$ 159.0	(18)%
Fees and service charges revenue	$ 62.6	$ 59.5	5%
Operating margin	$ (56.4)	$ 270.6	(121)%
Net income (loss)	$ (91.2)	$ 169.4	(154)%
Diluted net earnings (loss) per share	$ (0.20)	$ 0.39	(151)%

(1) The $60 million reduction in holding company debt occurred subsequent to the $150 million debt issuance to Citadel in January 2008.

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The operating environment during the first quarter of 2008 remained challenging as the deterioration in the residential real estate and credit markets continued to impact our financial performance. The losses in our institutional segment caused by this deterioration more than offset our retail segment income. Our retail customer base showed positive growth trends during the first quarter of 2008, including the addition of over 60,000 net new customers and net inflows of customer assets of approximately $300 million[(1)]. We believe these are indications that our retail segment has stabilized and has returned to modest growth.

Total net revenue for the three months ended March 31, 2008 decreased 51% compared to the same period in 2007 due primarily to an increase in our provision for loan losses of $212.7 million to $233.9 million. As a result of the decrease in net revenue, net income declined by 154% from the same period in prior year to a loss of $91.2 million for the three months ended March 31, 2008.

Balance Sheet Highlights (dollars in billions)

	March 31, 2008	December 31, 2007	Variance 2008 vs. 2007
Total assets	$ 53.2	$ 56.8	(6)%
Total enterprise interest-earning assets	$ 47.5	$ 52.3	(9)%
Loans, net and margin receivables as a percentage of enterprise interest-earning assets	75%	71%	4%
Retail deposits and customer payables as a percentage of enterprise interest-bearing liabilities	68%	61%	7%

The decrease in total assets was attributable primarily to a decrease of $1.6 billion in loans receivable, net and a decrease of $2.9 billion in available-for-sale mortgage-backed and investment securities. For the foreseeable future, we plan to allow our loans, particularly our home equity loans, to pay down, resulting in an overall decline in the balance of the loan portfolio. During this period, we plan to increase our excess regulatory capital levels at E*TRADE Bank as we focus on mitigating the credit risk inherent in our loan portfolios. During the three months ended March 31, 2008, we increased our excess risk-based capital at E*TRADE Bank by 60% to $695 million. In connection with this strategy and the Citadel Investment, we have updated our secondary market purchase policies to prohibit the acquisition of asset-backed securities, collaterized debt obligations ("CDO") and certain other instruments with a high level of credit risk through January 1, 2010.

EARNINGS OVERVIEW

Net income (loss) decreased 154% to a loss of $91.2 million for the three months ended March 31, 2008 compared to the same period in 2007. The decrease in net income for the three months ended March 31, 2008 was due principally to an increase in our provision for loan losses of $212.7 million to $233.9 million. The losses in our institutional segment more than offset our retail segment income, which was $125.5 million for the three months ended March 31, 2008.

We report corporate interest income and corporate interest expense separately from operating interest income and operating interest expense. We believe reporting these two items separately provides a clearer picture of the financial performance of our operations than would a presentation that combined these two items. Our operating interest income and operating interest expense is generated from the operations of the Company and is a broad indicator of our success in our banking and balance sheet management business. Our corporate debt, which is the primary source of our corporate interest expense, has been issued primarily in connection with the Citadel Investment and past acquisitions, such as Harris*direct* and BrownCo.

(1) Growth in customer assets as compared to December 31, 2007 and excludes the effects of market movements in the value of customer assets.

Similarly, we report gain on sales of investments, net separately from gain (loss) on loans and securities, net. We believe reporting these two items separately provides a clearer picture of the financial performance of our operations than would a presentation that combined these two items. Gain (loss) on loans and securities, net are the result of activities in our operations, namely our balance sheet management businesses, including impairment on our available-for sale mortgage-backed and investment securities portfolio. Gain on sales of investments, net relates to historical equity investments of the Company at the corporate level and are not related to the ongoing business of our operating subsidiaries.

The following sections describe in detail the changes in key operating factors and other changes and events that have affected our consolidated net revenue, expense excluding interest, other income (expense) and income tax expense (benefit).

Revenue

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

	Three Months Ended March 31,		Variance 2008 vs. 2007	
	2008	2007	Amount	%
Revenue:				
Operating interest income	$ 710,737	$ 829,795	$(119,058)	(14)%
Operating interest expense	(377,966)	(439,209)	61,243	(14)%
Net operating interest income	332,771	390,586	(57,815)	(15)%
Provision for loan losses	(233,871)	(21,186)	(212,685)	1004%
Net operating interest income after provision for loan losses	98,900	369,400	(270,500)	(73)%
Commission	129,764	158,993	(29,229)	(18)%
Fees and service charges	62,612	59,498	3,114	5%
Principal transactions	20,495	30,082	(9,587)	(32)%
Gain (loss) on sales of loans and securities, net	(9,145)	17,375	(26,520)	*
Other revenue	13,610	9,650	3,960	41%
Total non-interest income	217,336	275,598	(58,262)	(21)%
Total net revenue	$ 316,236	$ 644,998	$(328,762)	(51)%

* Percentage not meaningful

Total net revenue declined by 51% to $316.2 million for the three months ended March 31, 2008 compared to the same period in 2007. This decline was driven by an increase in the provision for loan losses of $212.7 million to $233.9 million for the three months ended March 31, 2008 compared to the same period in 2007.

Net Operating Interest Income

Net operating interest income decreased 15% to $332.8 million for the three months ended March 31, 2008 compared to the same period in 2007. Net operating interest income is earned primarily through holding credit balances, which include margin, real estate and consumer loans, and by holding customer cash and deposits, which are a low cost source of funding. The decrease in net operating interest income was due primarily to the decrease in enterprise interest-earning assets.

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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 and has been prepared on the basis required by the SEC's Industry Guide 3, "*Statistical Disclosure by Bank Holding Companies*" (dollars in thousands):

	Three Months Ended March 31,					
	2008			2007		
	Average Balance	Operating Interest Inc./Exp.	Average Yield/ Cost	Average Balance	Operating Interest Inc./Exp.	Average Yield/ Cost
Enterprise interest-earning assets:						
Loans, net[1]	$ 29,925,013	$ 451,574	6.04%	$28,093,409	$ 451,399	6.43%
Margin receivables	6,936,549	94,913	5.50%	6,787,828	123,986	7.41%
Mortgage-backed and related available-for-sale securities	9,281,381	110,072	4.74%	12,040,109	157,967	5.25%
Available-for-sale investment securities	176,360	2,902	6.58%	3,651,560	59,860	6.56%
Trading securities	572,817	10,708	7.48%	119,779	3,269	10.92%
Cash and cash equivalents[2]	2,210,282	20,798	3.78%	1,358,120	15,930	4.76%
Stock borrow and other	808,330	15,712	7.78%	820,679	13,687	6.67%
Total enterprise interest-earning assets[3]	49,910,732	706,679	5.67%	52,871,484	826,098	6.27%
Non-operating interest-earning assets[4]	4,797,002			4,422,167		
Total assets	$ 54,707,734			$57,293,651		
Enterprise interest-bearing liabilities:						
Retail deposits	$ 25,383,594	171,535	2.72%	$24,696,611	177,329	2.91%
Brokered certificates of deposit	1,229,811	15,169	4.96%	466,559	5,659	4.92%
Customer payables	5,261,612	14,635	1.12%	6,380,411	20,479	1.30%
Repurchase agreements and other borrowings	7,980,130	94,934	4.71%	12,137,872	159,031	5.24%
FHLB advances	5,974,084	70,802	4.69%	4,996,389	62,852	5.03%
Stock loan and other	1,679,887	10,656	2.51%	1,349,305	12,515	3.76%
Total enterprise interest-bearing liabilities	47,509,118	377,731	3.17%	50,027,147	437,865	3.53%
Non-operating interest-bearing liabilities[5]	4,357,534			3,016,712		
Total liabilities	51,866,652			53,043,859		
Total shareholders' equity	2,841,082			4,249,792		
Total liabilities and shareholders' equity	$ 54,707,734			$57,293,651		
Excess of enterprise interest-earning assets over enterprise interest-bearing liabilities/Enterprise net interest income/Spread	$ 2,401,614	$ 328,948	2.50%	$ 2,844,337	$ 388,233	2.74%
Enterprise net interest margin (net yield on enterprise interest-earning assets)			2.64%			2.94%
Ratio of enterprise interest-earning assets to enterprise interest-bearing liabilities			105.06%			105.69%
Return on average:						
Total assets			(0.67)%			1.18%
Total shareholders' equity			(12.84)%			15.95%
Average equity to average total assets			5.19%			7.42%

Reconciliation from enterprise net interest income to net operating interest income (dollars in thousands):

	Three Months Ended March 31,	
	2008	2007
Enterprise net interest income[6]	$ 328,948	$ 388,233
Taxable equivalent interest adjustment	(3,698)	(7,320)
Customer cash held by third parties and other[7]	7,521	9,673
Net operating interest income	$ 332,771	$ 390,586

(1) Nonaccrual loans are included in the respective average loan balances. Income on such nonaccrual loans is recognized on a cash basis.
(2) Includes segregated cash balances.
(3) Amount includes a taxable equivalent increase in operating interest income of $3.7 million and $7.3 million for the three months ended March 31, 2008 and 2007, respectively.
(4) Non-operating 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.
(5) Non-operating interest-bearing liabilities consist of corporate debt, accounts payable, accrued and other liabilities that do not generate operating interest expense. Some of these liabilities generate corporate interest expense.
(6) Enterprise net interest income is taxable equivalent basis net operating interest income excluding corporate interest income and corporate interest expense, stock conduit interest income and expense and interest earned on customer cash held by third parties. Management believes this non-GAAP measure is useful to analysts and investors as it is a measure of the net operating interest income generated by our operations.
(7) Includes interest earned on average customer assets of $3.3 billion and $3.9 billion for the three months ended March 31, 2008 and 2007, respectively, held by parties outside E*TRADE Financial, including third party money market funds and sweep deposit accounts at unaffiliated financial institutions. Other consists of net operating interest earned on average stock conduit assets of $0.01 million and $2.7 million for the three months ended March 31, 2008 and 2007, respectively.

Average enterprise interest-earning assets decreased 6% to $49.9 billion for the three months ended March 31, 2008 compared to the same period in 2007, primarily the result of a decrease in our available-for-sale portfolio. Average available-for-sale mortgage-backed and investment securities decreased 40% to $9.5 billion for the three months ended March 31, 2008 compared to the same period in 2007. This decrease was primarily due to the sale of certain mortgage-backed securities in the first quarter of 2008 and the sale of our asset-backed securities portfolio towards the end of the fourth quarter of 2007. This decrease was slightly offset by an increase in average loans, net. Average loans, net grew 7% to $29.9 billion for the three months ended March 31, 2008 compared to the same period in 2007. Average loans, net grew as a result of our focus on growing real estate loan products in the first and second quarters of 2007. Beginning in the second half of 2007, we altered our strategy and halted the focus on growing the balance sheet. For the foreseeable future, we plan to allow our loans, particularly our home equity loans, to pay down, resulting in an overall decline in the balance of the loan portfolio.

Average enterprise interest-bearing liabilities decreased 5% to $47.5 billion for the three months ended March 31, 2008 compared to the same period in 2007. The decrease in average enterprise interest-bearing liabilities was primarily due to a decrease in repurchase agreements. Average repurchase agreements and other borrowings decreased 34% to $8.0 billion for the three months ended March 31, 2008 compared to the same period in 2007. This decrease was slightly offset by an increase in average retail deposits. Average retail deposits increased 3% to $25.4 billion for the three months ended March 31, 2008 compared to the same period in 2007. Increases in average retail deposits were driven by growth in the Complete Savings Account.

Enterprise net interest spread decreased by 24 basis points to 2.50% for the three months ended March 31, 2008 compared to the same period in 2007. This decrease was primarily the result of a challenging interest rate environment throughout the past 12 months as well as growth in our Complete Savings Account, which pays a higher interest rate than the majority of our other deposit products.

Provision for Loan Losses

Provision for loan losses increased $212.7 million to $233.9 million for the three months ended March 31, 2008 compared to the same period in 2007. The increase in the provision for loan losses was related primarily to deterioration in the performance of our home equity loan portfolio, which began in the second half of 2007. During the first quarter of 2008, we also observed deterioration in the performance of our one- to four-family loan portfolio. We believe the deterioration in both of these portfolios was caused by several factors, including: home price depreciation in key markets; growing inventories of unsold homes; rising foreclosure rates; significant contraction in the availability of credit; and a general decline in economic growth. In addition, the combined impact of home price depreciation and the reduction of available credit made it increasingly difficult for borrowers to refinance existing loans. We believe these factors will cause the provision for loan losses to continue at historically high levels in future periods.

Commission

Commission revenue decreased 18% to $129.8 million for the three months ended March 31, 2008, compared to the same period in 2007, which was driven primarily by a decrease of $34.3 million, or 96%, in institutional commission revenue as a result of our exit of our institutional brokerage operations. This was partially offset by an increase of $5.1 million, or 4%, in our retail commission revenue. The primary factors that affect our retail commission revenue are DARTs and average commission per trade, which is impacted by both trade types and the mix between our domestic and international businesses. Each business has a different pricing structure, unique to its customer base and local market practices, and as a result, a change in the relative number of executed trades in these businesses impacts average commission per trade. Each business also has different trade types (e.g. equities, options, fixed income, exchange-traded funds, contract for difference and mutual funds) that can have different commission rates. As a result, changes in the mix of trade types within either of these businesses may impact average commission per trade.

DARTs increased 12% to 190,724 for the three months ended March 31, 2008 compared to the same period in 2007. Our U.S. DART volume increased 10% for the three months ended March 31, 2008 compared to the same period in 2007. Our international DARTs grew by 22% for the three months ended March 31, 2008 compared to the same period in 2007, driven entirely by organic growth. Our international operations continue to be a strong growth contributor within our retail trading business, and we believe that over time they will become a significant component of our entire business. In addition, option-related DARTs further increased as a percentage of our total U.S. DARTs and now represent 17% of U.S. trading volume versus 14% a year ago.

Average commission per trade decreased 7% to $11.04 for the three months ended March 31, 2008 compared to the same period in 2007. The decrease was primarily a function of the mix of customers. Main Street Investors, who generally have a higher commission per trade, traded less during the period compared to Active Traders and Mass Affluent customers, who generally have a lower commission per trade. Customer appreciation and win-back campaigns also contributed to the decrease in average commission per trade.

Fees and Service Charges

Fees and service charges increased 5% to $62.6 million for the three months ended March 31, 2008 compared to the same period in 2007. This increase was due to an increase in foreign currency margin revenue, fixed income product revenue and mutual fund fees, partially offset by a decrease in CDO management fee revenue.

Principal Transactions

Principal transactions decreased 32% to $20.5 million for the three months ended March 31, 2008 compared to the same period in 2007. The decrease in principal transactions resulted from lower institutional trading volumes. Our principal transactions revenue is influenced by overall trading volumes, the number of stocks for which we act as a market maker, the trading volumes of those specific stocks and the performance of our proprietary trading activities.

Gain (Loss) on Loans and Securities, Net

Gain (loss) on loans and securities, net was a loss of $9.1 million for the three months ended March 31, 2008, as shown in the following table (dollars in thousands):

	Three Months Ended March 31,		Variance 2008 vs. 2007	
	2008	2007	Amount	%
Gain on sales of originated loans	$ 730	$ 1,915	$ (1,185)	(62)%
Loss on sales of loans held-for-sale, net	(157)	(1,662)	1,505	(91)%
Gain on sales of loans, net	573	253	320	126%
Gain on securities and other investments	13,263	8,517	4,746	56%
Loss on impairment	(26,602)	(249)	(26,353)	*
Gain on trading securities	3,621	8,854	(5,233)	(59)%
Gain (loss) on securities, net	(9,718)	17,122	(26,840)	*
Gain (loss) on loans and securities, net	$ (9,145)	$17,375	$(26,520)	*

* Percentage not meaningful

The decrease in the total gain (loss) on loans and securities, net during the three months ended March 31, 2008 was due primarily to the $26.6 million impairment that was recorded on certain AAA-rated and AA-rated collateralized mortgage obligations ("CMO") in the first quarter of 2008. Further declines in the performance of our CMO portfolio could result in additional impairments in future periods.

Other Revenue

Other revenue increased 41% to $13.6 million for the three months ended March 31, 2008 compared to the same period in 2007. The increase in other revenue was due to an increase in the cash surrender value of Bank-Owned Life Insurance (BOLI), an increase in fees earned in connection with distribution of shares during initial public offerings and software consulting fees from our Corporate Services business.

Expense Excluding Interest

The components of expense excluding interest and the resulting variances are as follows (dollars in thousands):

	Three Months Ended March 31,		Variance 2008 vs. 2007	
	2008	2007	Amount	%
Compensation and benefits	$128,777	$123,782	$ 4,995	4 %
Clearing and servicing	48,579	67,252	(18,673)	(28)%
Advertising and marketing development	60,472	45,592	14,880	33 %
Communications	27,439	26,156	1,283	5 %
Professional services	24,347	24,985	(638)	(3)%
Depreciation and amortization	22,071	19,383	2,688	14 %
Occupancy and equipment	22,003	23,579	(1,576)	(7)%
Amortization of other intangibles	10,910	10,268	642	6 %
Facility restructuring and other exit activities	10,492	733	9,759	*
Other	17,523	32,675	(15,152)	(46)%
Total expense excluding interest	$372,613	$374,405	$ (1,792)	(0)%

* Percentage not meaningful

Expense excluding interest declined slightly to $372.6 million for the three months ended March 31, 2008 compared to the same period in 2007.

Compensation and Benefits

Compensation and benefits increased 4% to $128.8 million for the three months ended March 31, 2008 compared to the same period in 2007. This increase resulted primarily from increased severance compensation of $12.0 million during the first quarter of 2008.

Clearing and Servicing

Clearing and servicing expense decreased 28% to $48.6 million for the three months ended March 31, 2008 compared to the same period in 2007. This decrease is related primarily to the exit of our institutional brokerage operations, which resulted in lower clearing expenses.

Advertising and Market Development

Advertising and market development expense increased 33% to $60.5 million for the three months ended March 31, 2008 compared to the same period in 2007. This planned increase was aimed at restoring customer confidence as well as expanded efforts to promote our products and services to retail investors.

Facility Restructuring and Other Exit Activities

Facility restructuring and other exit activities expense increased to $10.5 million for the three months ended March 31, 2008 compared to the same period in 2007. The increase is due primarily to the exit of our institutional brokerage operations during the three months ended March 31, 2008.

Other

Other expense decreased 46% to $17.5 million for the three months ended March 31, 2008 compared to the same period in 2007. The decrease is due primarily to the sale of our corporate aircraft related assets, which resulted in a $23.7 million gain on sale during the three months ended March 31, 2008. This decrease was slightly offset by an increase in our regulatory services and fees as well as an increase in bad debt and trade errors.

Other Income (Expense)

Other income (expense) increased from an expense of $8.2 million to an expense of $90.5 million for the three months ended March 31, 2008 compared to the same period in 2007, as shown in the following table (dollars in thousands):

	Three Months Ended March 31,		Variance 2008 vs. 2007	
	2008	2007	Amount	%
Other income (expense):				
Corporate interest income	$ 2,426	$ 1,705	$ 721	42 %
Corporate interest expense	(95,241)	(37,791)	(57,450)	152 %
Gain on sales of investments, net	502	19,756	(19,254)	(97)%
Loss on early extinguishment of debt	(2,851)	—	(2,851)	*
Equity in income of investments and venture funds	4,699	8,095	(3,396)	(42)%
Total other income (expense)	$(90,465)	$ (8,235)	$(82,230)	*

* Percentage not meaningful

Total other income (expense) for the three months ended March 31, 2008 primarily consisted of corporate interest expense resulting from our corporate debt, which includes the springing lien notes, senior notes and mandatory convertible notes. Corporate interest expense increased 152% to $95.2 million for the three months ended March 31, 2008, which was primarily due to the interest expense on the springing lien notes that were issued in the fourth quarter of 2007 and first quarter of 2008.

The loss on early extinguishment of debt of $2.9 million for the three months ended March 31, 2008 is primarily due to a loss of $10.8 million related to the early extinguishment of FHLB advances and a loss of $0.6 million on the prepayment of debt related to the sale of the corporate aircraft. These losses were partially offset by an $8.5 million gain recognized on the exchange of the $25.0 million of our senior notes for 4.5 million shares of our common stock.

Income Tax Expense (Benefit)

Income tax benefit from continuing operations was $55.6 million during the three months ended March 31, 2008 compared to an income tax expense of $92.9 million for the same period in 2007. The recording of a net tax benefit in the current period compared to a net tax expense for the same period in 2007 relates primarily to $146.8 million in loss before income taxes for the three months ended March 31, 2008 compared to $262.4 million in income before income taxes for the same period in 2007. Our effective tax rates for the three months ended March 31, 2008 and 2007 were (37.9)% and 35.4%, respectively.

The $55.6 million income tax benefit for the three months ended March 31, 2008 includes a $4.3 million tax benefit related to the favorable resolution and settlement of a Hong Kong tax examination. In addition, the net income tax benefit includes a $1.7 million tax expense recognized in establishing deferred taxes as a result of our determination that undistributed earnings from certain of our profitable foreign operations are no longer permanently reinvested outside the U.S.

We expect our 2008 tax expense to be based on a pro-forma tax rate in the range of 37% to 38% before taking into account the two items listed above and before consideration of $11.5 million of projected 2008 incremental tax expense, which is summarized in the following table (dollars in millions):

	Tax
Incremental tax benefits	
Tax exempt income	$14.0
Low income housing tax credits	2.4
Total tax benefits	16.4
Incremental tax expenses	
Non-deductible officer’s compensation	3.4
Tax rate differential of international operations	6.7
Non-deductible portion of interest expense on springing lien notes	17.8
Total tax expense	27.9
Projected incremental tax items	$11.5

A proportionate amount of these incremental tax items were included in the $55.6 million income tax benefit for the three months ended March 31, 2008.

During the three months ended March 31, 2008, we did not provide for additional valuation allowance against our federal deferred tax assets, including those related to our operating loss and credit carryforwards, since we continue to believe that it is not more likely than not that the net deferred federal tax assets will not be recognized. The ability to recognize these deferred tax assets is generally based on our ability to generate future profits and can be subject to other limitations in the event of a substantial change in ownership in the Company. Thus, while we currently believe it is more likely than not the deferred tax assets will be recognized, such recognition cannot be assured, nor can there be any assurance that our judgment regarding the need for a valuation allowance will not change at some point in the future.

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SEGMENT RESULTS REVIEW

Retail

The following table summarizes retail financial and key metrics for the periods ended March 31, 2008 and 2007 (dollars in thousands, except for key metrics):

	Three Months Ended March 31,		Variance 2008 vs. 2007	
	2008	2007	Amount	%
Retail segment income:				
Net operating interest income	$ 212,987	$ 227,481	$ (14,494)	(6)%
Commission	128,388	123,305	5,083	4 %
Fees and service charges	59,213	54,203	5,010	9 %
Gain on loans and securities, net	1,069	4,911	(3,842)	(78)%
Other revenue	9,683	9,751	(68)	(1)%
Net segment revenue	411,340	419,651	(8,311)	(2)%
Total segment expense	285,846	248,193	37,653	15 %
Total retail segment income	$ 125,494	$ 171,458	$ (45,964)	(27)%
Key Metrics:				
Retail customer assets (dollars in billions)	$ 168.4	$ 200.5	$ (32.1)	(16)%
Customer cash and deposits (dollars in billions)	$ 34.9	$ 36.0	$ (1.1)	(3)%
U.S. DARTs	155,706	141,238	14,468	10 %
International DARTs	35,018	28,798	6,220	22 %
DARTs	190,724	170,036	20,688	12 %
Average commission per trade	$ 11.04	$ 11.89	$ (0.85)	(7)%
Average margin debt (dollars in billions)	$ 7.0	$ 6.9	$ 0.1	1 %
End of period total accounts	4,778,238	4,546,544	231,694	5 %

Our retail segment generates revenue from trading, investing and banking relationships with retail customers. These relationships essentially drive five sources of revenue: net operating interest income; commission; fees and service charges; gain on loans and securities, net; and other revenue. Other revenue includes results from our stock plan administration products and services, as we ultimately service retail customers through these corporate relationships.

During the fourth quarter of 2007, we experienced a disruption in our customer base which caused a decline in the core drivers of our retail segment, including: net new accounts, customer cash and deposits, DARTs, margin debt and retail client assets. We believe this disruption was due to the uncertainty surrounding the Company in connection with the credit related losses in our institutional segment. While we continue to anticipate credit related losses, primarily in our home equity loan portfolio, we believe our retail customer base has stabilized. During the first quarter of 2008, our retail customer base showed positive growth trends, including adding over 60,000 net new customers and net growth in customer assets of approximately $300 million(1). We believe these are indications that our retail segment has not only stabilized but has returned to modest growth.

Retail segment income decreased 27% to $125.5 million for the three months ended March 31, 2008 compared to the same period in 2007. This was due primarily to a decrease in net operating interest income and an increase in total segment expense.

(1) Growth in customer assets as compared to December 31, 2007 and excludes the effects of market movements in the value of customer assets.

Retail net operating interest income decreased 6% to $213.0 million for the three months ended March 31, 2008 compared to the same period in 2007. This decrease was driven primarily by a decrease in customer cash and deposits during the comparable periods.

Retail commission revenue increased 4% to $128.4 million for the three months ended March 31, 2008 compared to the same period in 2007. The increase in commission revenue was primarily the result of increased trading volumes in the overall domestic equity market and in our international commissions where DARTs increased 22% from 28,798 to 35,018 for the three months ended March 31, 2008 compared to the same period in 2007.

Retail segment expense increased 15% to $285.8 million for three months ended March 31, 2008 compared to the same period in 2007. This increase related primarily to our planned growth in marketing spend as we expanded efforts to promote our products and services to retail investors.

As of March 31, 2008, we had approximately 3.6 million active trading and investing accounts and 1.1 million active deposit and lending accounts. For the three months ended March 31, 2008 and 2007, our retail trading and investing products contributed 71% and 70%, respectively, and our deposit products contributed 24% and 23%, respectively, of total retail net revenue. All other products contributed less than 10% of total retail net revenue for the three months ended March 31, 2008 and 2007.

Institutional

The following table summarizes institutional financial and key metrics for the periods ended March 31, 2008 and 2007 (dollars in thousands, except for key metrics):

	Three Months Ended March 31,		Variance 2008 vs. 2007	
	2008	2007	Amount	%
Institutional segment income (loss):				
Net operating interest income	$ 119,784	$163,105	$ (43,321)	(27)%
Provision for loan losses	(233,871)	(21,186)	(212,685)	1004 %
Net operating interest income (expense) after provision for loan losses	(114,087)	141,919	(256,006)	(180)%
Commission	1,376	35,688	(34,312)	(96)%
Fees and service charges	5,324	7,475	(2,151)	(29)%
Principal transactions	20,495	30,082	(9,587)	(32)%
Gain (loss) on loans and securities, net	(10,214)	12,464	(22,678)	(182)%
Other revenue	3,943	41	3,902	*
Net segment revenue	(93,163)	227,669	(320,832)	(141)%
Total segment expense	88,708	128,534	(39,826)	(31)%
Total institutional segment income (loss)	$(181,871)	$ 99,135	$(281,006)	(283)%
Key Metrics:				
Nonperforming loans receivable as a percentage of gross loans receivable	2.02 %	0.39 %	*	1.63 %
Allowance for loan losses (dollars in millions)	$ 565.9	$ 68.0	$ 497.9	732 %
Allowance for loan losses as a % of nonperforming loans	96.84 %	58.68 %	*	38.16 %
Average revenue capture per 1,000 equity shares	$ 0.566	$ 0.576	$ (0.010)	(2)%

* Percentage not meaningful

Our institutional segment generates revenue from balance sheet management and market-making activities. Balance sheet management activities include managing loans previously purchased from the retail segment as well as third parties, and leveraging these loans and retail customer cash and deposit relationships to generate additional net operating interest income.

As a result of our exposure to the credit crisis in the residential real estate and credit markets, our institutional segment incurred a loss of $181.9 million for the three months ended March 31, 2008. The loss was driven primarily by an increase in the provision for loan losses for our loan portfolio of $212.7 million for the three months ended March 31, 2008 compared to the same period in 2007. We believe the provision for loan losses will continue at historically high levels in future periods as the crisis in the residential real estate and credit markets continues to impact the performance of our loan portfolio.

Net operating interest income decreased 27% to $119.8 million for the three months ended March 31, 2008 compared to the same period in 2007. The decrease in net operating interest income was due primarily to the decrease in average interest-earning assets of 6% to $49.9 million for the quarter ended March 31, 2008 compared to the same period in 2007.

Provision for loan losses increased $212.7 million to $233.9 million for the three months ended March 31, 2008 compared to the same period in 2007. The increase in the provision for loan losses was related primarily to deterioration in the performance of our home equity loan portfolio, which began in the second half of 2007. During the first quarter of 2008, we also observed deterioration in the performance of our one- to four-family loan portfolio. We believe the deterioration in both of these portfolios was caused by several factors, including: home price depreciation in key markets; growing inventories of unsold homes; rising foreclosure rates; significant contraction in the availability of credit; and a general decline in economic growth. In addition, the combined impact of home price depreciation and the reduction of available credit made it increasingly difficult for borrowers to refinance existing loans. We believe these factors will cause the provision for loan losses to continue at historically high levels in future periods.

Institutional commission revenue decreased 96% to $1.4 million for three months ended March 31, 2008 compared to the same period in 2007. The decrease was a result of our exit of our institutional brokerage operations.

Fees and service charges revenue decreased 29% to $5.3 million for the three months ended March 31, 2008 compared to the same period in 2007. The decrease for the three months ended March 31, 2008, is primarily the result of a decrease in CDO management fees, which are no longer a revenue stream due to the sale of our collateral management agreements during the first quarter of 2008.

Gain (loss) on loans and securities, net decreased to a loss of $10.2 million for the three months ended March 31, 2008. This decline was due primarily to the $26.6 million impairment that was recorded on certain AAA-rated and AA-rated CMOs in the first quarter of 2008. This loss was partially offset by an increase in the gain on securities and other investments due to the sales of certain of our mortgage-backed securities.

Total institutional segment expense decreased 31% to $88.7 million for the three months ended March 31, 2008 compared to the same period in 2007 and was due primarily to a decline in our clearing expense related to the exit of our institutional brokerage operations, as well as a reduction in corporate overhead expenses, the majority of which are allocated to the institutional segment.

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BALANCE SHEET OVERVIEW

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

	March 31, 2008	December 31, 2007	Variance 2008 vs. 2007 Amount	%
Assets:				
Cash and equivalents[1]	$ 3,489,905	$ 2,113,075	$ 1,376,830	65 %
Trading securities	422,941	130,018	292,923	225 %
Available-for-sale mortgage-backed and investment securities	8,402,077	11,255,048	(2,852,971)	(25)%
Margin receivables	6,655,659	7,179,175	(523,516)	(7)%
Loans, net	28,444,165	30,139,382	(1,695,217)	(6)%
Investment in FHLB stock	241,392	338,585	(97,193)	(29)%
Other assets[2]	5,540,811	5,690,654	(149,843)	(3)%
Total assets	$53,196,950	$56,845,937	$ (3,648,987)	(6)%
Liabilities and shareholders' equity:				
Deposits	$27,467,227	$25,884,755	$ 1,582,472	6 %
Wholesale borrowings[3]	12,352,637	16,379,197	(4,026,560)	(25)%
Customer payables	5,413,283	5,514,675	(101,392)	(2)%
Corporate debt	3,156,699	3,022,698	134,001	4 %
Accounts payable, accrued and other liabilities	2,091,765	3,215,547	(1,123,782)	(35)%
Total liabilities	50,481,611	54,016,872	(3,535,261)	(7)%
Shareholders' equity	2,715,339	2,829,065	(113,726)	(4)%
Total liabilities and shareholders' equity	$53,196,950	$56,845,937	$ (3,648,987)	(6)%

(1) Includes balance sheet line items cash and equivalents and cash and investments required to be segregated under Federal or other regulations.
(2) Includes balance sheet line items property and equipment, net, goodwill, other intangibles, net and other assets.
(3) Includes balance sheet line items securities sold under agreements to repurchase and other borrowings.

The decrease in total assets was attributable primarily to a decrease of $2.9 billion in available-for-sale mortgage-backed and investment securities and a decrease of $1.7 billion in loans, net. The decrease in available-for-sale mortgage-backed and investment securities was primarily due to a $2.2 billion decrease in our mortgage-backed securities. The decrease in loans, net is due to our strategy of reducing balance sheet risk and halting our previous focus on growing the balance sheet. For the foreseeable future, we plan to allow our loans, particularly our home equity loans, to pay down, resulting in an overall decline in the balance of the loan portfolio. During this period, we plan to continue increasing our excess regulatory capital levels at E*TRADE Bank as we focus on strengthening our capital position.

The decrease in total liabilities was attributable primarily to the decrease in wholesale borrowings which was partially offset by an increase in deposits. The decrease in wholesale borrowings was a result of paying down our FHLB advances and securities sold under agreements to repurchase in the first quarter of 2008. The $1.6 billion increase in deposits was due primarily to the growth in money market and savings accounts.

Loans, Net

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

	March 31, 2008	December 31, 2007	Variance 2008 vs. 2007 Amount	%
Loans held-for-sale	$ 19,327	$ 100,539	$ (81,212)	(81)%
One- to four-family	14,639,145	15,506,529	(867,384)	(6)%
Home equity	11,385,998	11,901,324	(515,326)	(4)%
Consumer and other loans:				
Recreational vehicle	1,811,794	1,910,454	(98,660)	(5)%
Marine	497,693	526,580	(28,887)	(5)%
Commercial	264,909	272,156	(7,247)	(3)%
Credit card	85,547	90,764	(5,217)	(6)%
Other	15,925	23,334	(7,409)	(32)%
Unamortized premiums, net	289,735	315,866	(26,131)	(8)%
Allowance for loan losses	(565,908)	(508,164)	(57,744)	11 %
Total loans, net	$ 28,444,165	$ 30,139,382	$ (1,695,217)	(6)%

Loans, net decreased 6% to $28.4 billion at March 31, 2008 from $30.1 billion at December 31, 2007. This decline was due primarily to our strategy on reducing balance sheet risk and halting our previous focus on growing the balance sheet. We do not expect to grow our loan portfolio for the foreseeable future. In addition, we intend to allow our home equity and consumer loan portfolios to fully decline over time.

As a general matter, we do not originate or purchase sub-prime[(1)] loans to hold on our balance sheet; however, in the normal course of purchasing large pools of real estate loans in prior periods, we invariably ended up acquiring a de minimis amount of these loans. As of March 31, 2008, sub-prime real estate loans represented less than one-fifth of one percent of our total real estate loan portfolio.

We have a credit default swap ("CDS") on $4.0 billion of our first-lien residential real estate loan portfolio through a synthetic securitization structure. A CDS provides, for a fee, an assumption by a third party of a portion of the credit risk related to the underlying loans. The CDS we entered into provides protection for losses in excess of 10 basis points, but not to exceed approximately 75 basis points. In addition, our regulatory risk-weighted assets were reduced as a result of this transaction because we transferred a portion of our credit risk to an unaffiliated third party.

(1) Defined as borrowers with Fair Isaac Credit Organization ("FICO") scores less than 620 at time of origination.

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Available-for-Sale Mortgage-Backed and Investment Securities

Available-for-sale securities are summarized as follows (dollars in thousands):

	March 31, 2008	December 31, 2007	Variance 2008 vs. 2007 Amount	%
Mortgage-backed securities:				
Backed by U.S. government sponsored and Federal agencies	$ 7,314,317	$ 9,330,129	$ (2,015,812)	(22)%
CMOs and other	970,660	1,123,255	(152,595)	(14)%
Total mortgage-backed securities	8,284,977	10,453,384	(2,168,407)	(21)%
Investment securities:				
Municipal bonds	95,696	314,348	(218,652)	(70)%
Publicly traded equity securities:				
Preferred stock[(1)]	—	371,404	(371,404)	(100)%
Corporate investments	1,014	1,271	(257)	(20)%
Other	20,390	114,641	(94,251)	(82)%
Total investment securities	117,100	801,664	(684,564)	(85)%
Total available-for-sale securities	$ 8,402,077	$ 11,255,048	$ (2,852,971)	(25)%

(1) On January 1, 2008, the Company elected the fair value option for preferred stock in accordance with Statement of Financial Accounting Standards ("SFAS") No. 159, *The Fair Value Option for Financial Assets and Financial Liabilities-Including an Amendment of FASB Statement No. 115* ("SFAS No. 159"). As a result of this election, preferred stock is classified on the balance sheet as trading securities as of March 31, 2008.

Available-for-sale securities represented 16% and 20% of total assets at March 31, 2008 and December 31, 2007, respectively. Available-for-sale securities decreased 25% to $8.4 billion at March 31, 2008 compared to December 31, 2007, due primarily to the sale of certain mortgage-backed securities in the first quarter of 2008. Substantially all mortgage-backed securities backed by U.S. Government sponsored and Federal agencies are AAA-rated.

Margin Receivables

The margin receivables balance is a component of the margin debt balance, which is reported as a key retail metric of $6.7 billion and $7.3 billion at March 31, 2008 and December 31, 2007, respectively. The total margin debt balance is summarized as follows (dollars in thousands):

	March 31, 2008	December 31, 2007	Variance 2008 vs. 2007 Amount	%
Margin receivables	$ 6,655,659	$ 7,179,175	$ (523,516)	(7)%
Margin held by third parties and other	48,462	81,669	(33,207)	(41)%
Margin debt	$ 6,704,121	$ 7,260,844	$ (556,723)	(8)%

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Deposits

Deposits are summarized as follows (dollars in thousands):

	March 31, 2008	December 31, 2007	Variance 2008 vs. 2007 Amount	%
Money market and savings accounts	$ 11,978,286	$ 10,028,115	$ 1,950,171	19%
Sweep deposit accounts	10,001,293	10,112,123	(110,830)	(1)%
Certificates of deposit [(1)]	3,719,406	4,156,674	(437,268)	(11)%
Brokered certificates of deposit [(2)]	1,219,370	1,092,225	127,145	12 %
Checking accounts	548,872	495,618	53,254	11 %
Total deposits	$ 27,467,227	$ 25,884,755	$ 1,582,472	6 %

(1) Includes retail brokered certificates of deposit.
(2) Includes institutional brokered certificates of deposit.

Deposits represented 54% and 48% of total liabilities at March 31, 2008 and December 31, 2007, respectively. Deposits increased $1.6 billion to $27.5 billion at March 31, 2008 compared to December 31, 2007, driven by a $2.0 billion increase in money market and savings accounts. Deposits generally provide us the benefit of lower interest costs, compared with wholesale funding alternatives.

The deposits balance is a component of the total customer cash and deposits balance reported as a customer activity metric of $34.9 billion and $33.6 billion at March 31, 2008 and December 31, 2007, respectively. The total customer cash and deposits balance is summarized as follows (dollars in thousands):

	March 31, 2008	December 31, 2007	Variance 2008 vs. 2007 Amount	%
Deposits	$ 27,467,227	$ 25,884,755	$ 1,582,472	6 %
Less: brokered certificates of deposit	(1,219,370)	(1,092,225)	127,145	12 %
Deposits excluding brokered certificates of deposit	26,247,857	24,792,530	1,455,327	6 %
Customer payables	5,413,283	5,514,675	(101,392)	(2)%
Customer cash balances held by third parties and other	3,235,217	3,286,212	(50,995)	(2)%
Total customer cash and deposits	$ 34,896,357	$ 33,593,417	$ 1,302,940	4 %

Wholesale Borrowings

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

	March 31, 2008	December 31, 2007	Variance 2008 vs. 2007 Amount	%
Securities sold under agreements to repurchase	$ 7,109,716	$ 8,932,693	$ (1,822,977)	(20)%
FHLB advances	4,803,600	6,967,406	(2,163,806)	(31)%
Subordinated debentures	435,830	435,830	—	— %
Other	3,491	43,268	(39,777)	(92)%
Total other borrowings	5,242,921	7,446,504	(2,203,583)	(30)%
Total wholesale borrowings	$ 12,352,637	$ 16,379,197	$ (4,026,560)	(25)%

Wholesale borrowings represented 24% and 30% of total liabilities at March 31, 2008 and December 31, 2007, respectively. The decrease in other borrowings of $4.0 billion during for the three months ended March 31, 2008 was due primarily to a decrease in FHLB advances. Securities sold under agreements to repurchase coupled with FHLB advances are the primary wholesale funding sources of the Bank. As a result, we expect these balances to fluctuate over time as our deposits and our interest-earning assets fluctuate.

Corporate Debt

Corporate debt is summarized as follows (dollars in thousands):

	March 31, 2008	December 31, 2007	Variance 2008 vs. 2007 Amount	%
Senior notes	$ 1,251,814	$ 1,272,742	$ (20,928)	(2)%
Springing lien notes	1,461,094	1,304,391	156,703	12 %
Mandatory convertible notes	443,791	445,565	(1,774)	*
Total corporate debt	$ 3,156,699	$ 3,022,698	$ 134,001	4 %

* Percentage not meaningful.

Corporate debt increased to $3.2 billion at March 31, 2008 compared to $3.0 billion at December 31, 2007. The increase is related to the additional $150.0 million of 12 1/2% springing lien notes issued to Citadel in the first quarter of 2008, offset by a decline in senior notes of $25 million in principal related to a debt for equity exchange. We expect the outstanding principal of our senior notes to decline in future periods as the mandatory convertible notes are converted to equity and as we continue to pursue debt for equity exchanges.

LIQUIDITY AND CAPITAL RESOURCES

We have established liquidity and capital policies. The objectives of these policies are to support the successful execution of our business strategies while ensuring ongoing and sufficient liquidity through the business cycle and during periods of financial distress. During the fourth quarter of 2007, we experienced a disruption in our customer base, which caused a significant decline in customer deposits. We believe this disruption was due to the uncertainty surrounding the Company in connection with the credit related losses in our institutional segment. Deposits are the primary source of liquidity for E*TRADE Bank, so this sudden and rapid decline created a substantial amount of liquidity risk. We followed our existing liquidity policies and contingency plans and successfully met our liquidity needs during this extraordinary period. We believe that our ability to meet liquidity needs during this time validates the effectiveness of the liquidity policies and contingency plans. While the liquidity risk associated with our customer deposits remains at historically high levels, we believe the progress made to date on our turnaround plan has substantially reduced this risk when compared to the fourth quarter of 2007.

Capital is generated primarily through our business operations and our capital market activities. During the second half of 2007, our institutional segment incurred a significant amount of losses as a result of its exposure to the crisis in the residential real estate and credit markets. Consequently, this segment required a significant capital infusion during the fourth quarter. The Company raised $2.5 billion in cash from Citadel, the majority of which was used to provide capital to the institutional segment. While this segment continues to have exposure to the crisis in the residential real estate and credit markets, we believe that the proceeds from the Citadel Investment as well as capital generated in our retail segment will be sufficient to meet our capital needs for at least the next twelve months. In addition, we plan to raise additional capital in 2008 by issuing shares of common stock in exchange for existing corporate debt, primarily our senior notes. We completed one of these transactions in the first quarter of 2008, which resulted in a retirement of $25 million of existing corporate debt.

Changes in Cash and Equivalents

In the first quarter of 2008, the consolidated cash and equivalents balance increased to $3.1 billion for the period ended March 31, 2008. Cash and equivalents at E*TRADE Financial Corporation, on a standalone holding company basis, decreased $16.8 million to $234.9 million.

Corporate Debt

Our current senior debt ratings are Ba3 by Moody's Investor Service, B (watch neg) by Standard & Poor's and BB by Dominion Bond Rating Service ("DBRS"). The Company's long-term deposit ratings are Ba2 by Moody's Investor Service, BB- (watch neg) by Standard & Poor's and BB (high) by DBRS. A significant change in these ratings may impact the rate and availability of future borrowings.

Liquidity Available from Subsidiaries

Liquidity available to the Company from its subsidiaries, other than Converging Arrows, Inc. ("Converging Arrows") is limited by regulatory requirements. At March 31, 2008, Converging Arrows had $61.0 million of cash and investment securities available as a source of liquidity for the parent company. Converging Arrows is not restricted in its dealings with the parent company and may transfer funds to the parent company without regulatory approval. In addition to Converging Arrows, brokerage and banking subsidiaries may provide liquidity to the parent; however, they are restricted by regulatory guidelines.

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. At March 31, 2008, E*TRADE Bank had approximately $695.3 million of capital above the "well capitalized" level. In the current credit environment, we plan to increase the excess capital at E*TRADE Bank in order to increase our ability to absorb credit losses while still maintaining "well capitalized" status. Therefore, we do not expect to dividend this excess capital to the parent during the foreseeable future. E*TRADE Bank is also required by Office of Thrift Supervision ("OTS") regulations to maintain tangible capital of at least 1.50% of tangible assets. E*TRADE Bank satisfied this requirement at March 31, 2008 and December 31, 2007. However, events beyond management's control, such as a continued deterioration in residential real estate and credit markets, could adversely affect future earnings and E*TRADE Bank's ability to meet its future capital requirements.

Brokerage subsidiaries are required to maintain net capital equal to the greater of $250,000 or 2% of aggregate debit balances arising from customer transactions. At March 31, 2008 and December 31, 2007, all of our significant brokerage subsidiaries met their minimum net capital requirements. The Company's broker-dealer subsidiaries had excess net capital of $768.2 million at March 31, 2008, of which $565.8 million is available for dividend while still maintaining a capital level above regulatory "early warning" guidelines.

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.

Other Sources of Liquidity

In addition to the liquidity available from subsidiaries, the parent company held $234.9 million in cash available as a resource. We also maintain $451.0 million in uncommitted financing to meet margin lending needs. There were no outstanding balances, and the full $451.0 million was available at both March 31, 2008 and December 31, 2007.

We rely on borrowed funds, such as FHLB advances and securities sold under agreements to repurchase, to provide liquidity for the Bank. Our ability to borrow these funds is dependent upon the continued availability of funding in the wholesale borrowings market. At March 31, 2007, the Bank had approximately $10.7 billion in additional borrowing capacity with the FHLB.

We have the option to make the interest payments of approximately $605 million on our springing lien notes in the form of either cash or additional springing lien notes through May 2010.

RISK MANAGEMENT

As a financial services company, we are exposed to risks in every component of our business. The identification and management of existing and potential risks are the keys to effective risk management. Our risk management framework, principles and practices support decision-making, improve the success rate for new initiatives and strengthen the organization. Our goal is to balance risks and rewards through effective risk management. Risks cannot be completely eliminated; however, we do believe risks can be identified and managed within the Company's risk tolerance.

We manage risk through a governance structure involving the various boards, senior management and several risk committees. We use management level risk committees to help ensure that business decisions are executed within our desired risk profile.

The Corporate Risk Committee, consisting of senior management executives, monitors the risk process and significant risks throughout the Company. In addition to this committee, various enterprise risk committees and departments throughout the Company aid in the identification and management of risks. These departments include internal audit, compliance, finance, legal, treasury, credit and enterprise risk management.

Interest Rate Risk Management

Interest rate risk is the risk of loss from adverse changes in interest rates. Interest rate risks are monitored and managed by the E*TRADE Bank's Asset Liability Committee ("ALCO"). The ALCO reviews balance sheet trends, market interest rate and sensitivity analyses. The analysis of interest sensitivity to changes in market interest rates under various scenarios is reviewed by ALCO. The scenarios assume both parallel and non-parallel shifts in the yield curve. See Item 3. Quantitative and Qualitative Disclosures about Market Risk for additional information about our interest rate risks.

Credit Risk Management

Credit risk is the risk of loss resulting from adverse changes in a borrower's or counterparty's ability or willingness to meet its financial obligations under agreed-upon terms. Our primary sources of credit risk are our loan and securities portfolios, where it results from extending credit to customers and purchasing securities, respectively. The degree of credit risk associated with our loans and securities varies based on many factors including the size of the transaction, the credit characteristics of the borrower, features of the loan product or security, the contractual terms of the related documents and the availability and quality of collateral. Credit risk is one of the most common risks in financial services and is one of our most significant risks.

Credit risk is monitored by our Credit Risk Committee. The Credit Risk Committee's duties include monitoring asset quality trends, evaluating market conditions including those in residential real estate markets, determining the adequacy of our allowance for loan losses, establishing underwriting standards, approving large credit exposures, approving large portfolio purchases and delegating credit approval authority. The Credit Risk

Committee uses detailed tracking and analysis to measure credit performance and reviews and modifies credit policies as appropriate.

Housing Market Conditions

Conditions in the residential real estate and credit markets, which deteriorated sharply during 2007, continued to be extremely challenging in the first quarter of 2008. The significant and abrupt evaporation of secondary market liquidity for various types of mortgage loans, particularly home equity loans, has decreased the overall availability of housing credit. As a result, many borrowers, particularly those in markets with declining housing prices, have been unable to refinance existing loans. This combination of a decline in the availability of credit and a decline in housing prices creates significant credit risk in our loan portfolio, particularly in our home equity loan portfolio.

Loss Mitigation

Given the deterioration in the performance of our loan portfolio, particularly in our home equity loan portfolio, we formed a special credit management team to focus on the mitigation of potential losses in the home equity loan portfolio.

This team's primary focus is reducing our exposure to open home equity lines. As of December 31, 2007, we had $6.3 billion of unused lines of credit available under home equity lines of credit. 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 have reduced this amount to $5.6 billion as of March 31, 2008. We expect this exposure to continue to decline as we implement additional actions in future periods.

The team has several other initiatives either in progress or in development which are focused on mitigating losses in our home equity loan portfolio. Those initiatives include improving collection efforts and practices of our servicers as well as increasing our loss recovery efforts to minimize the level of loss on a loan that goes to charge-off.

In addition, we continue to review our purchased home equity loan portfolio in order to identify loans to be repurchased by the originator. More specifically, home equity loans that become 30 days delinquent are reviewed for early payment defaults, 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 first quarter of 2008, approximately $23.7 million of home equity repurchases were completed by the original sellers.

Underwriting Standards—Originated Loans

During the second half of 2007, we exited our wholesale mortgage origination channel and no longer originate loans through brokers. In April 2008, we decided to exit our retail mortgage origination business, which represented our last remaining loan origination channel. After we complete the exit of this business, we expect to partner with a third party company to provide access to real estate loans for our customers.

During the three months ended March 31, 2008, we originated approximately $116 million in one- to four-family loans through our retail mortgage origination business. These loans were predominately prime credit quality first-lien mortgage loans secured by a single-family residence.

We priced our loans primarily based on the risk elements inherent in the loan. We evaluated criteria such as, but not limited to: borrower credit score, loan-to-value ratio ("LTV"), documentation type, occupancy type and other risk elements. In the first quarter of 2008, we further adjusted our loan origination practices and pricing to significantly curtail originations of higher risk loans, particularly home equity loans with FICO scores below 700 or a combined loan-to-value ratio ("CLTV") greater than 80%.

Our underwriting guidelines were established with a focus on both the credit quality of the borrower as well as the adequacy of the collateral securing the loan. We designed our underwriting guidelines so that our one- to four-family loans were salable in the secondary market. These guidelines included limitations on loan amount, loan-to-value ratio, debt-to-income ratio, documentation type and occupancy type. We also required borrowers to obtain mortgage insurance on higher loan-to-value first lien mortgage loans. Our past underwriting standards for originating loans are more fully described in "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, 2007.

Underwriting Standards—Purchased Loans

In the second half of 2007, we altered our business strategy and halted the focus on growing the balance sheet. As a result, we did not purchase loans during the first quarter of 2008 and we do not anticipate purchasing a significant amount of loans for the foreseeable future. However, we have significantly tightened our underwriting policies for any future loan purchases that do occur. These criteria focus on limiting the acquisition of loans with a high risk of credit loss and require the exclusion of loans with the following attributes: second lien; home equity line of credit; combined loan-to-value ratio above 80%; FICO score below 700 at time of origination; and documentation type is not full documentation.

Loan Portfolio

We track and review many factors to predict and monitor credit risk in our loan portfolios, which are primarily made up of loans secured by residential real estate. These factors include, but are not limited to: borrowers' debt-to income ratio when loans are made, borrowers' credit scores when loans are made, loan-to-value ratios, housing prices, documentation type, occupancy type, and loan type. In economic conditions in which housing prices generally appreciate, we believe that loan type, loan-to-value ratios and credit scores are the key factors in determining future loan performance. In the current housing market with declining home prices and less credit available for refinance, we believe the loan-to-value ratio becomes a more important factor in predicting and monitoring credit risk.

We believe certain categories of loans inherently have a higher level of credit risk due to characteristics of the borrower and/or features of the loan. Two of these categories are sub-prime and option ARM loans. As a general matter, we did not originate or purchase these loans to hold on our balance sheet; however, in the normal course of purchasing large pools of real estate loans, we invariably ended up acquiring a de minimis amount of sub-prime loans. As of March 31, 2008, sub-prime real estate loans represented less than one-fifth of one percent of our total real estate loan portfolio and we held no option ARM loans.

As noted above, we believe loan type, loan-to-value ratios and borrowers' credit scores are key determinates of future loan performance. Our home equity loan portfolio is primarily second lien loans(1) on residential real estate properties, which have a higher level of credit risk than first lien mortgage loans. We believe home equity loans with a CLTV of 90% or higher or a FICO score below 700 are the loans with the highest levels of credit risk in our portfolios.

(1) Approximately 14% of the home equity portfolio is in the first lien position. For home equity loans that are in a second lien position, we also hold the first lien position on the same residential real estate property for less than 1% of the loans in this portfolio.

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The breakdowns by LTV/CLTV and FICO score of our two main loan portfolios, one-to four-family and home equity, are as follows (dollars in thousands):

LTV/CLTV at Origination	One- to Four-Family March 31, 2008	One- to Four-Family December 31, 2007	Home Equity March 31, 2008	Home Equity December 31, 2007
<=70%	$ 6,300,710	$ 6,666,212	$ 3,443,039	$ 3,628,619
70% - 80%	7,977,419	8,450,977	1,989,506	2,086,277
80% - 90%	181,370	202,133	3,778,084	3,871,249
>90%	179,646	187,207	2,175,369	2,315,179
Total	$14,639,145	$15,506,529	$11,385,998	$11,901,324
Average LTV/CLTV at loan origination(1)	70.0%		79.5%	
Average estimated current LTV/CLTV(1)	83.0%		87.9%	

FICO at Origination	One- to Four-Family March 31, 2008	One- to Four-Family December 31, 2007	Home Equity March 31, 2008	Home Equity December 31, 2007
>=720	$ 9,785,868	$ 10,373,807	$ 6,700,307	$ 6,992,793
719 - 700	1,973,535	2,089,014	1,828,691	1,898,924
699 - 680	1,508,166	1,585,613	1,597,468	1,668,427
679 - 660	884,149	943,538	717,894	757,016
659 - 620	476,958	503,573	527,494	566,030
<620	10,469	10,984	14,144	18,134
Total	$ 14,639,145	$ 15,506,529	$ 11,385,998	$ 11,901,324

In addition to the factors described above, we monitor credit trends in loans by acquisition channel and vintage, which are summarized below as of March 31, 2008 and December 31, 2007 (dollars in thousands):

Acquisition Channel	One- to Four-Family March 31, 2008	One- to Four-Family December 31, 2007	Home Equity March 31, 2008	Home Equity December 31, 2007
Purchased from a third party	$ 12,090,866	$ 12,904,759	$ 10,162,056	$ 10,638,021
Originated by the Company	2,548,279	2,601,770	1,223,942	1,263,303
Total real estate loans	$ 14,639,145	$ 15,506,529	$ 11,385,998	$ 11,901,324

Vintage Year	One- to Four-Family March 31, 2008	One- to Four-Family December 31, 2007	Home Equity March 31, 2008	Home Equity December 31, 2007
2003 and prior	$ 733,786	$ 844,670	$ 841,586	$ 901,240
2004	1,497,954	1,669,492	1,092,652	1,156,867
2005	2,954,011	3,084,336	2,665,662	2,790,423
2006	5,534,511	5,829,146	5,502,027	5,760,906
2007	3,887,761	4,078,885	1,276,399	1,291,888
2008	31,122	—	7,672	—
Total real estate loans	$ 14,639,145	$ 15,506,529	$ 11,385,998	$ 11,901,324

(1) Average LTV/CLTV at loan origination and average estimated current LTV/CLTV at December 31, 2007 is not shown as the data is not readily available.

Allowance for Loan Losses

The allowance for loan losses is management's estimate of credit losses inherent in our loan portfolio as of the balance sheet date. The estimate of the allowance for loan losses is based on a variety of factors, including the composition and quality of the portfolio; delinquency levels and trends; probable expected losses for the next twelve months; current and historical charge-off and loss experience; current industry charge-off and loss 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. 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. We believe our allowance for loan losses at March 31, 2008 is representative of probable losses inherent in the loan portfolio at the balance sheet date.

In determining the allowance for loan losses, we allocate a portion of the allowance to various loan products based on an analysis of individual loans and pools of loans. However, the entire allowance is available to absorb credit losses inherent in the total loan portfolio as of the balance sheet date.

The following table presents the allowance for loan losses by major loan category (dollars in thousands):

	One- to Four-Family		Home Equity		Consumer and Other		Total	
	Allowance	Allowance as a % of Loans Receivable(1)	Allowance	Allowance as a % of Loans Receivable(1)	Allowance	Allowance as a % of Loans Receivable(1)	Allowance	Allowance as a % of Loans Receivable(1)
March 31, 2008	$41,403	0.28%	$490,831	4.23%	$33,674	1.24%	$565,908	1.95%
December 31, 2007	$18,831	0.12%	$459,167	3.79%	$30,166	1.05%	$508,164	1.66%

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

During the three months ended March 31, 2008, the allowance for loan losses increased by $57.7 million from the level at December 31, 2007. This increase was driven primarily by the increase in the allowance allocated to the home equity loan portfolio, which began to deteriorate during the second half of 2007. During the first quarter of 2008, we also observed deterioration in the performance of our one- to four-family loan portfolio. We believe the deterioration in both of these portfolios was caused by several factors, including: home price depreciation in key markets; growing inventories of unsold homes; rising foreclosure rates; significant contraction in the availability of credit; and a general decline in economic growth. In addition, the combined impact of home price depreciation and the reduction of available credit made it increasingly difficult for borrowers to refinance existing loans. We believe these factors will cause the provision for loan losses to continue at historically high levels in future periods.

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The following table provides an analysis of the net charge-offs for the three months ended March 31, 2008 and 2007 (dollars in thousands):

	Charge-offs	Recoveries	Net Charge-offs	% of Average Loans (Annualized)
Three months ended March 31, 2008				
One- to four-family	$ (15,058)	$ 455	$ (14,603)	0.38 %
Home equity	(150,128)	762	(149,366)	5.02 %
Recreational vehicle	(11,470)	3,266	(8,204)	1.73 %
Marine	(3,085)	1,335	(1,750)	1.35 %
Credit card	(2,511)	195	(2,316)	10.58 %
Other	(160)	272	112	(0.16)%
Total	$(182,412)	$ 6,285	$(176,127)	2.36 %
Three months ended March 31, 2007				
One- to four-family	$ (674)	$ —	$ (674)	0.02 %
Home equity	(11,941)	422	(11,519)	0.37 %
Recreational vehicle	(7,487)	3,373	(4,114)	0.72 %
Marine	(2,612)	1,238	(1,374)	0.85 %
Credit card	(3,569)	194	(3,375)	11.21 %
Other	(355)	586	231	(0.31)%
Total	$ (26,638)	$ 5,813	$ (20,825)	0.30 %

Loan losses are recognized when it is probable that a loss will be incurred. Our policy is to charge-off closed-end consumer loans when the loan is 120 days delinquent or when we determine that collection is not probable. For credit cards, our policy is to charge-off loans when collection is not probable or the loan has been delinquent for 180 days. Our policy for one- to four-family loan charge-offs prior to January 1, 2008 was to recognize a charge-off when we foreclosed on the property. For home equity loans, our policy prior to January 1, 2008 was to charge-off loans when we foreclosed on the property or when the loan had been delinquent for 180 days. As of January 1, 2008, we adjusted our charge-off policy mainly for loans in the process of foreclosure. Our updated 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, 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 property value. As a result of this change, we recorded additional charge-offs of $8.3 million on one- to four-family loans and $21.7 million on home equity loans during the first quarter of 2008.

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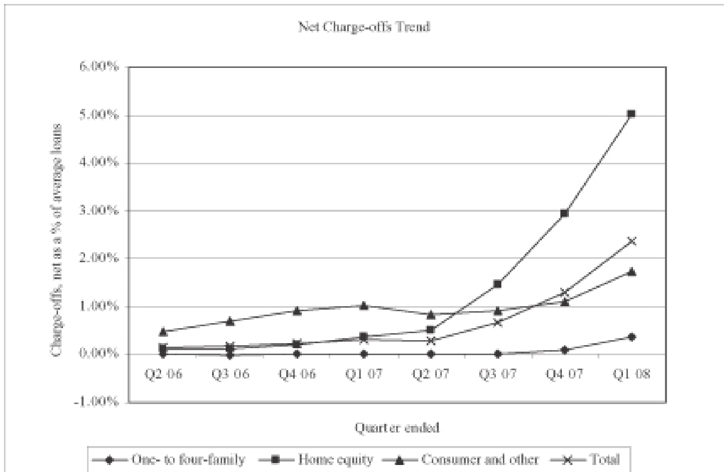
Net charge-offs for the three months ended March 31, 2008 compared to the same period in 2007 increased by $155.3 million. The overall increase was primarily due to higher net charge-offs on home equity loans, which was driven mainly by the same factors as described above. The continued pressure in the residential real estate market, specifically home price depreciation combined with tighter mortgage lending guidelines, will likely lead to a higher level of charge-offs in future periods. The following graph illustrates the net charge-offs by quarter:



Nonperforming Assets

We classify loans as nonperforming when they are 90 days past due. The following table shows the comparative data for nonperforming loans and assets (dollars in thousands):

	March 31, 2008	December 31, 2007
One- to four-family[(1)]	$292,165	$ 181,315
Home equity	285,074	229,523
Consumer and other loans	7,141	7,604
Total nonperforming loans	584,380	418,442
Real estate owned ("REO") and other repossessed assets, net	60,852	45,895
Total nonperforming assets, net	$694,232	$ 464,337
Nonperforming loans receivable as a percentage of gross loans receivable	2.02%	1.37%
One- to four-family allowance for loan losses as a percentage of one- to four-family nonperforming loans	14.17%	10.39%
Home equity allowance for loan losses as a percentage of home equity nonperforming loans	172.18%	200.05%
Consumer and other allowance for loan losses as a percentage of consumer and other nonperforming loans	471.56%	396.71%
Total allowance for loan losses as a percentage of total nonperforming loans	96.84%	121.44%

(1) One- to four-family excludes held-for-sale loans of $0.3 million and $0.1 million at March 31, 2008 and December 31, 2007, respectively. Loans held-for-sale are accounted for at lower of cost or market value with adjustments recorded in the gain (loss) on loans and securities, net line item and are not considered in the allowance for loan losses.

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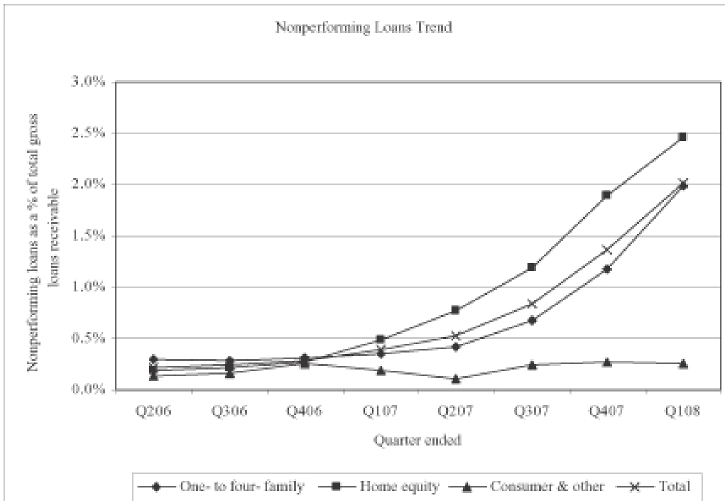
During the three months ended March 31, 2008, our nonperforming assets, net increased $229.9 million from $464.3 million at December 31, 2007. The increase was attributed primarily to an increase in nonperforming one- to four-family loans of $110.9 million and home equity loans of $55.6 million for the three months ended March 31, 2008 when compared to December 31, 2007. We expect nonperforming loan levels to increase over time due to the weak conditions in the residential real estate and credit markets.

The following graph illustrates the nonperforming loans by quarter:



The allowance as a percentage of total nonperforming loans receivable, net decreased from 121% at December 31, 2007 to 97% at March 31, 2008. This decrease was driven primarily by an increase in one- to four-family non-performing loans, which have a significantly lower level of expected loss when compared to home equity loans.

In addition to nonperforming assets in the table above, we monitor loans where a borrower's past credit history casts doubt on their ability to repay a loan ("Special Mention" loans). 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 (dollars in thousands):

	March 31, 2008	December 31, 2007
One- to four-family[(1)]	$363,389	$ 296,764
Home equity	276,790	291,675
Consumer and other loans	22,912	23,800
Total Special Mention loans	$663,091	$ 612,239
Special Mention loans receivable as a percentage of gross loans receivable	2.29%	2.00%

(1) One- to four-family excludes held-for-sale loans of $0.1 million and $0.4 million at March 31, 2008 and December 31, 2007, respectively. Loans held-for-sale are accounted for at lower of cost or market value with adjustments recorded in the gain (loss) on loans and securities, net line item and are not considered in the allowance for loan losses.

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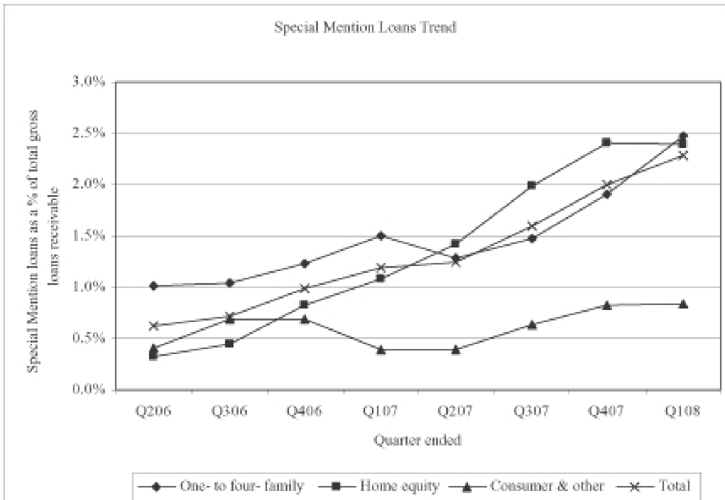
The trend in Special Mention loan balances are generally indicative of the expected trend for charge-offs in future periods, as these loans have a greater propensity to migrate into nonaccrual status and ultimately charge- off. One- to four-family loans are generally secured, in a first lien position, by real estate assets, reducing the potential loss when compared to an unsecured loan. Our 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.

While our total Special Mention loans increased during the period, our home equity Special Mention loans, which we believe represent our most significant exposure to future credit losses, declined by $14.9 million to $276.8 million.

The following graph illustrates the Special Mention loans by quarter:



Securities

We focus primarily on security type and credit rating to monitor credit risk in our securities portfolios. We believe our asset-backed securities portfolio, which we sold in the fourth quarter of 2007, represented our highest concentration of credit risk within the securities portfolio. Subsequent to the sale of that portfolio, we believe our highest concentration of remaining credit risk, while dramatically lower than the credit risk inherent in asset-backed securities, is our CMO portfolio. The table below details the amortized cost by average credit ratings and type of asset as of March 31, 2008 and December 31, 2007 (dollars in thousands):

March 31, 2008	AAA	AA	A	BBB	Below Investment Grade and Non-Rated	Total
Mortgage-backed securities backed by U.S. Government sponsored and Federal agencies	$ 7,553,314	$ —	$ —	$ —	$ —	$ 7,553,314
CMOs and other	1,003,619	126,188	413	—	—	1,130,220
Municipal bonds, corporate bonds, preferred stock and FHLB stock	311,232	396,977	14,311	—	—	722,520
Total	$ 8,868,165	$ 523,165	$ 14,724	$ —	$ —	$ 9,406,054

December 31, 2007	AAA	AA	A	BBB	Below Investment Grade and Non-Rated	Total
Mortgage-backed securities backed by U.S. Government sponsored and Federal agencies	$ 9,697,723	$ —	$ —	$ —	$ —	$ 9,697,723
CMOs and other	1,066,290	132,330	469	—	—	1,199,089
Asset-backed securities	—	—	—	—	122	122
Municipal bonds, corporate bonds, preferred stock and FHLB stock	675,058	596,047	8,342	—	—	1,279,447
Total	$ 11,439,071	$ 728,377	$ 8,811	$ —	$ 122	$ 12,176,381

While the vast majority of this portfolio is AAA-rated, we continue to monitor these securities for impairment. During the three months ended March 31, 2008, we identified approximately $183 million of CMOs that showed a possibility of future loss. As a result, $95 million of these securities were written down to their estimated fair market value by recording a $26.6 million impairment during the first quarter of 2008. Further declines in the performance of our CMO portfolio could result in additional impairments in future periods.

During the three months ended March 31, 2008, we sold certain of our mortgage-backed securities, which is the primary reason for the decline in our securities balance compared to the balance as of December 31, 2007.

SUMMARY OF CRITICAL ACCOUNTING POLICIES AND ESTIMATES

The preparation of our financial condition and results of operations requires us to make judgments and estimates that may have a significant impact upon the financial results of the Company. We believe that of our significant accounting policies, the following require estimates and assumptions that require complex, subjective judgments by management, which can materially impact reported results: allowance for loan losses and uncollectible margin loans; classification and valuation of certain investments; valuation and accounting for financial derivatives; estimates of effective tax rate; deferred taxes and valuation allowances; and valuation of goodwill and other intangibles. These are more fully described in “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, 2007.

Classification and Valuation of Certain Investments

Effective January 1, 2008, the Company adopted SFAS No. 157, *Fair Value Measurements* (“SFAS No. 157”), which defines fair value as the exchange price that would be received for an asset or paid to transfer a liability (an exit price) in the principal or most advantageous market for the asset or liability in an orderly transaction between market participants on the measurement date. The Company determines the fair values of its financial instruments and for nonfinancial assets and nonfinancial liabilities that are recognized or disclosed at fair value in the financial statements on a recurring basis in accordance with SFAS No. 157. The Company will not adopt this statement until January 1, 2009 for nonfinancial assets and nonfinancial liabilities that are not recognized or disclosed at fair value in the financial statements on a recurring basis. Examples of nonfinancial assets and nonfinancial liabilities for which the Company has not applied the provisions of SFAS No. 157 include reporting units, nonfinancial assets and nonfinancial liabilities and indefinite-lived intangible assets measured at fair value in impairment tests under SFAS No. 142, *Goodwill and Other Intangible Assets* (“SFAS No. 142”), nonfinancial long-lived assets measured at fair value for an impairment assessment under SFAS No. 144, *Accounting for the Impairment or Disposal of Long-Lived Assets* (“SFAS No. 144”) as well as nonfinancial liabilities for exit or disposal activities initially measured at fair value under SFAS No. 146, *Accounting for Costs Associated with Exit or Disposal Activities* (“SFAS No. 146”).

In determining fair value, the Company uses various valuation approaches, including market, income and/or cost approaches. The fair value hierarchy established in SFAS No. 157 requires an entity 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. As such, 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 standard describes three levels of inputs that may be used to measure fair value and are as follows:

- Level 1—Quoted prices in active markets for identical assets or liabilities. Examples of assets and liabilities utilizing Level 1 inputs include actively traded equity securities.
- Level 2—Quoted prices in markets that are not active or for which all significant inputs are observable, either directly or indirectly. Examples of assets and liabilities utilizing Level 2 inputs include mortgage-backed securities backed by U.S. Government sponsored and Federal agencies, certain CMOs, most investment securities and most over-the-counter ("OTC") derivatives.
- Level 3—Unobservable inputs that are significant to the fair value of the assets or liabilities. Level 3 assets and liabilities include financial instruments whose value is determined using pricing models, discounted cash flow methodologies, or similar techniques, as well as instruments for which the determination of fair value requires significant management judgment or estimation. Examples of assets and liabilities utilizing significant Level 3 inputs or those that require significant management judgment include most CMOs, servicing rights, retained interest in securitizations, certain other mortgage-backed securities, and certain OTC derivatives. In certain securities, including a portion of the CMO portfolio, where there has been limited activity or less transparency around inputs to the valuation, securities are classified as Level 3 even though the Company believes that Level 2 inputs could likely be obtainable in a more active market.

The availability of observable inputs can vary from instrument to instrument and in certain cases, the inputs used to measure fair value may fall into different levels of the fair value hierarchy. In such cases, an instrument's 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 the fair value measurement of an instrument requires judgment and consideration of factors specific to the instrument.

Fair Value Option

Effective January 1, 2008, the Company elected to carry investments in Federal National Mortgage Association ("FNMA") and Federal Home Loan Mortgage Corporation ("FHLMC") preferred stock at fair value through earnings under SFAS No. 159. The Company elected to carry the investment in preferred stock at fair value through earnings to allow the Company to economically hedge the portfolio without the burden of complying with SFAS No. 133, *Accounting for Derivative Instruments and Hedging Activities* ("SFAS No. 133"), as amended. The impact of this adoption was an after-tax decrease to opening retained earnings as of January 1, 2008 of approximately $86.9 million. As of December 31, 2007, the Company's investment in preferred stock was reported in the balance sheet line item available-for-sale mortgage-backed and investment securities. In accordance with SFAS No. 159, as a result of the fair value election the investment in preferred stock is reported in the balance sheet line item trading securities as of March 31, 2008. Realized and unrealized gains and losses on securities classified as trading are included in the gain (loss) on loans and securities, net line item. During the first quarter of 2008, the Company used equity put options and credit default swaps as economic hedges against potential declines in the value of the preferred stock. Derivatives used as economic hedges but not designated in a hedging relationship for accounting purposes are included in derivative assets or derivative liabilities. The mark on the net hedged position is recognized in gain (loss) on loans and securities, net.

Valuation Techniques

The fair value for certain financial instruments is derived using pricing models and other valuation techniques that in involve significant management judgment. The price transparency of financial instruments is a key determinant of the degree of judgment involved in determining the fair value of the Company's financial instruments. Financial instruments for which actively quoted prices or pricing parameters are available will generally have a higher degree of price transparency than financial instruments that are thinly traded or not quoted.

SFAS No. 157 states that the fair value measurement of a liability must reflect the nonperformance risk of the entity. The Company manages credit risk by following an established credit approval process, which includes monitoring credit limits based on counterparty credit rating, as well as by enforcing collateral requirements through credit support agreements which reduce risk by permitting the netting of transactions with the same counterparty upon occurrence of certain events. During the three months ended March 31, 2008, the consideration of credit risk did not result in a material adjustment to the valuation of OTC derivative contracts.

Mortgage-backed Securities Backed by U.S. Government Sponsored and Federal Agencies

Mortgage-backed securities backed by U.S. government sponsored and federal agencies include to be announced ("TBA") securities and mortgage pass-through certificates. The fair value of TBA securities is determined using quoted market prices. The fair value of mortgage pass-through certificates is determined using quoted market prices, price activity and spread data for similar instruments. Mortgage-backed securities backed by U.S. government sponsored and federal agencies are generally categorized in Level 2 of the fair value hierarchy.

Collateralized Mortgage Obligations

CMOs, generally non-agency mortgage-backed securities, are typically valued using external price activity and spread data for similar instruments. The valuations of CMOs reflect the Company's best estimate of what market participants would consider in pricing the financial instruments. The Company considers the price transparency for these financial instruments to be a key determinant of the degree of judgment involved in determining the fair value. Due to the limited activity and low level of transparency around inputs to the valuation, a portion of these securities are classified as Level 3 even though the Company believes that Level 2 inputs could likely be obtainable in a more active market.

Investment Securities

Investment securities includes preferred stock, municipal bonds and corporate bonds. The fair value of preferred stock is typically estimated using market price quotations and the investment is generally categorized in Level 2 of the fair value hierarchy. The fair value of municipal bonds is estimated using pricing information based on bond characteristics, such as credit quality, maturity, coupon as well as where bonds with similar characteristics have traded. Municipal bonds are generally categorized in Level 2 of the fair value hierarchy. The fair value of corporate bonds is estimated using market price quotes corroborated by recently executed transactions observable in the market. Corporate bonds are generally categorized in Level 2 of the fair value hierarchy.

Derivative Financial Instruments

Derivative financial instruments include OTC swaps and option contracts related to interest rates, credit standing of reference entities or equity prices. The majority of the Company's derivative financial instruments, interest rate swap and option contracts, are valued with pricing models commonly used by the financial services industry using market observable pricing inputs. The Company does not consider these models to involve significant judgment on the part of management. The majority of the Company's derivative financial instruments are categorized in Level 2 of the fair value hierarchy.

Securities Owned and Securities Sold, Not Yet Purchased

Proprietary securities transactions entered into by broker-dealer subsidiaries for trading or investment purposes are included in "Securities owned" and "Securities sold, not yet purchased" in the Company's SFAS

No. 157 disclosures. The fair value of securities owned and securities sold, not yet purchased is determined using observable market price quotes from recently executed transactions and are generally categorized in Level 1 or Level 2 of the fair value hierarchy.

Servicing Rights

On January 1, 2008, the Company elected to account for servicing rights under the fair value measurement method in accordance with SFAS No. 156, *Accounting for Servicing Financial Assets, an Amendment of SFAS No. 140* ("SFAS. No. 156"). The fair value of the servicing rights is determined using models that include observable inputs, if available. To the extent observable inputs are not available, the Company estimates fair value based on the present value of expected future cash flows using its best estimate of the key assumptions, including anticipated loan prepayments and discount rates. Servicing rights are categorized as Level 3 in the fair value hierarchy when unobservable inputs are significant to the fair value measurements.

Retained Interests in Securitization

The fair value of the retained interests in securitizations is determined using models that include observable inputs, if available. To the extent observable inputs are not available, the Company estimates fair value based on the present value of expected future cash flows using its best estimate of the key assumptions, including forecasted credit losses, prepayments rates and discount rates. Retained interests in securitizations are categorized as Level 3 in the fair value hierarchy when unobservable inputs are significant to the fair value measurements.

GLOSSARY OF TERMS

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

Adjusted total assets—Bank-only assets composed of total assets plus/(less) unrealized losses (gains) on available-for-sale securities, less deferred tax assets, goodwill and certain other intangible assets.

Average commission per trade—Total retail segment commission revenue divided by total number of retail trades.

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

Bank—ETB Holdings, Inc. ("ETBH"), the entity that is our bank holding company and parent to E*TRADE Bank.

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

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

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.

Compensation and benefits as a percentage of revenue—Total compensation and benefits expense divided by total net revenue.

Contract for difference ("CFDs")—A derivative based on an underlying stock or index that covers the difference between the nominal value at the opening of a trade and at the close of a trade. A CFD is researched and traded in the same manner as a stock.

Corporate investments—Primarily equity investments held at the parent company level that are not related to the ongoing business of the Company's operating subsidiaries.

Customer cash and deposits—Deposits (excluding brokered certificates of deposit), customer payables and money market balances, including those held by third parties.

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 forward contracts, options and swaps.

*E*TRADE Complete*—An integrated trading, investing and banking product that allows customers to manage their relationships with the Company through one account. E*TRADE Complete helps customers optimize cash and credit by utilizing tools designed to inform them of whether or not they are receiving the most appropriate rates for their cash and paying the most appropriate rates for credit.

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

Enterprise interest-earning assets—Consists of the primary interest-earning assets of the Company and includes: loans receivable, mortgage-backed and available-for-sale securities, margin receivables, stock borrow balances, and cash 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, stock conduit interest income and expense and interest earned on customer cash held by third parties.

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, stock conduit and cash held by third parties.

Exchange-traded funds—A fund that invests in a group of securities and trades like an individual stock on an exchange.

Fair value—The exchange price that would be received for an asset or paid to transfer a liability (an exit price) in the principal or most advantageous market for the asset or liability in an orderly transaction between market participants on the measurement date.

Fair value hedge—A financial 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.

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

Interest rate cap—An options 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 options 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.

Main Street Investor—The customer segment that includes those who execute less than 30 trades per quarter and hold less than $50,000 in assets in combined retail accounts.

Margin debt—The extension of credit to brokerage customers of the Company, on and off balance sheet, where the loan is secured with securities owned by the customer.

Mass Affluent—The customer segment that includes those who hold $50,000 or more in assets in combined retail accounts.

Net Present Value of Equity ("NPVE")—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. This calculation is performed for E*TRADE Bank.

Nonperforming assets—Assets that do not earn income, including those originally acquired to earn income (delinquent loans) and those not intended to earn income (REO). Loans are classified as nonperforming when full and timely collection of interest and principal becomes uncertain or when the loans are 90 days past due.

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

Operating expenses—Total expense excluding interest, as shown on the Company's consolidated statement of income (loss).

Operating margin—Income (loss) before other income (expense) and income taxes.

Operating margin (%)—Percentage of net revenue that goes to income (loss) before other income (expense) and income taxes. It is calculated by dividing our income (loss) before other income (expense) and income taxes, by our total net revenue.

Option adjustable-rate mortgage ("ARM") loan—An adjustable-rate mortgage loan that provides the borrower with the option to make a fully-amortizing, interest-only, or minimum payment each month. The minimum payment on an Option ARM loan is usually based on the interest rate charged during the introductory period. This introductory rate is usually significantly below the fully-indexed rate for loans with short duration introductory periods.

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.

Organic—Business related to new and existing customers as opposed to acquisitions.

Principal transactions—Transactions that primarily consist of revenue from market-making activities.

Real-estate owned repossessed assets ("REO")—Ownership of real property by the Company, generally acquired as a result of foreclosure.

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.

Retail customer assets—Market value of all customer assets held by the Company including security holdings, customer cash and deposits and vested unexercised options.

Retail deposits—Balances of retail customer cash held at the Bank; excludes brokered certificates of deposit.

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

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

Revenue growth—The difference between the current and prior comparable period total net revenue divided by the prior comparable period total net revenue.

Risk-weighted assets—Primarily computed by the assignment of specific risk-weightings assigned by the OTS to assets and off-balance sheet instruments for capital adequacy calculations. This calculation is for E*TRADE Bank only.

Stock conduit—The borrowing of shares from a Broker-Dealer and subsequently lending the same shares to another Broker-Dealer netting a fee.

Sweep deposit accounts—Accounts with the functionality to transfer brokerage cash balances to and from an FDIC-insured money market account at the Bank.

Taxable equivalent interest adjustment—The operating interest income earned on certain assets is completely or partially exempt from federal and/or state income tax. As such, 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 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 at E*TRADE Bank as required by the OTS. Tier 1 capital equals: total shareholder's equity at E*TRADE Bank, plus/(less) unrealized losses (gains) on available-for-sale securities and cash flow hedges, less deferred tax assets, goodwill and certain other intangible assets.

ITEM 3. QUANTITATIVE AND QUALITATIVE DISCLOSURES ABOUT MARKET RISK

The following discussion about our market risk disclosure 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 our Annual Report on Form 10-K for the year ended December 31, 2007 and as updated in this report. Market risk is our exposure to changes in interest rates, foreign exchange rates and equity and commodity prices. Our exposure to interest rate risk is related primarily to interest-earning assets and interest-bearing liabilities.

Interest Rate Risk

The management of interest rate risk is essential to profitability. Interest rate risk is our exposure to changes in interest rates. In general, we manage our interest rate risk by balancing variable-rate and fixed-rate assets and liabilities and we utilize derivatives in a way that reduces our overall exposure to changes in interest rates. In recent years, we have managed our interest rate risk to achieve a minimum to moderate risk profile with limited exposure to earnings volatility resulting from interest rate fluctuations. 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 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 premium and discounts amortize.

Exposure to market 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 March 31, 2008, 89% of our total assets were enterprise interest-earning assets.

At March 31, 2008, approximately 65% of our total assets were residential real estate loans and available-for-sale 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 are written off. Depending on the timing of the prepayment, the write-offs of unamortized premiums may result in lower than anticipated yields. The ALCO reviews estimates of the impact of changing market rates on loan production volumes and prepayments. This information is incorporated into our interest rate risk management strategy.

Our liability structure consists of transactional deposit relationships, such as money market and savings accounts; certificates of deposit; securities sold under agreements to repurchase; customer payables; other borrowings; and corporate debt. Our transactional deposit accounts and customer payables tend to be less rate-sensitive than wholesale borrowings. Agreements to repurchase securities re-price as interest rates change. Money market and savings accounts re-price at management’s discretion. Certificates of deposit re-price over time depending on maturities. FHLB advances and corporate debt generally have fixed rates.

Derivative Financial Instruments

We use derivative financial instruments to help manage our 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 Cap Options (“Caps”) and Floor Options (“Floors”), “Payor Swaptions” and “Receiver Swaptions.” Caps mitigate the market risk associated with increases in interest rates while Floors mitigate the risk associated with decreases in market interest rates. Similarly, Payor and Receiver Swaptions mitigate the market risk associated with the respective increases and decreases in interest rates. See derivative financial instruments discussion at Note 6—Accounting for Derivative Financial Instruments and Hedging Activities in Item 1. Consolidated Financial Statements.

Scenario Analysis

Scenario analysis is an advanced approach to estimating interest rate risk exposure. Under the Net Present Value of Equity (“NPVE”) approach, the present value of all existing assets, liabilities, derivatives and forward commitments are estimated and then combined to produce a NPVE figure. 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 and 200 basis points. The NPVE method is used at the E*TRADE Bank level and not for the Company.

E*TRADE Bank has 95% and 96% of our enterprise interest-earning assets at March 31, 2008 and December 31, 2007, respectively, and holds 96% and 96% of our enterprise interest-bearing liabilities at March 31, 2008 and December 31, 2007, respectively. The sensitivity of NPVE at March 31, 2008 and December 31, 2007 and the limits established by E*TRADE Bank’s Board of Directors are listed below (dollars in thousands):

	Change in NPVE				
	March 31, 2008		December 31, 2007		
Parallel Change in Interest Rates (basis points)	Amount	Percentage	Amount	Percentage	Board Limit
+300	$ (398,125)	(17)%	$ (434,303)	(17)%	(55)%
+200	$ (355,206)	(15)%	$ (323,193)	(12)%	(30)%
+100	$ (211,769)	(9)%	$ (174,280)	(7)%	(20)%
-100	$ 217,930	9%	$ 99,245	4%	(20)%
-200[(1)]	$ —	— %	$ (63,785)	(2)%	(30)%

(1) On March 31, 2008, the yield on the three-month Treasury bill was 1.38%. As a result, the OTS temporarily modified the requirements of the NPV Model, resulting in removal of the minus 200 basis points scenario for the quarter ended March 31, 2008.

Under criteria published by the OTS, E*TRADE Bank’s overall interest rate risk exposure at March 31, 2008 was characterized as “minimum.” We actively manage our interest rate risk positions. As interest rates change, we will re-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. The ALCO monitors E*TRADE Bank’s interest rate risk position.

Other Market Risk

Equity Security Risk

Equity securities risk is the risk of potential loss from investing in public and private equity securities including foreign currency exchange risk. We hold equity securities for corporate investment purposes and in trading securities for market-making purposes. The foreign currency exchange risk associated with these investments is not material to the Company. For corporate investment purposes, we currently hold publicly traded equity securities, in which we had an estimated fair value of $1.3 million as of March 31, 2008. See the corporate investments line item in the publicly traded equity securities discussion at Note 4—Available-for-Sale Mortgage-Backed and Investment Securities in Item 1. Consolidated Financial Statements.

PART I—FINANCIAL INFORMATION

ITEM 1. CONSOLIDATED FINANCIAL STATEMENTS (UNAUDITED)

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

	Three Months Ended March 31, 2008	Three Months Ended March 31, 2007
Revenue:		
Operating interest income	$ 710,737	$ 829,795
Operating interest expense	(377,966)	(439,209)
Net operating interest income	332,771	390,586
Provision for loan losses	(233,871)	(21,186)
Net operating interest income after provision for loan losses	98,900	369,400
Commission	129,764	158,993
Fees and service charges	62,612	59,498
Principal transactions	20,495	30,082
Gain (loss) on loans and securities, net	(9,145)	17,375
Other revenue	13,610	9,650
Total non-interest income	217,336	275,598
Total net revenue	316,236	644,998
Expense excluding interest:		
Compensation and benefits	128,777	123,782
Clearing and servicing	48,579	67,252
Advertising and market development	60,472	45,592
Communications	27,439	26,156
Professional services	24,347	24,985
Depreciation and amortization	22,071	19,383
Occupancy and equipment	22,003	23,579
Amortization of other intangibles	10,910	10,268
Facility restructuring and other exit activities	10,492	733
Other	17,523	32,675
Total expense excluding interest	372,613	374,405
Income (loss) before other income (expense) and income taxes	(56,377)	270,593
Other income (expense):		
Corporate interest income	2,426	1,705
Corporate interest expense	(95,241)	(37,791)
Gain on sales of investments, net	502	19,756
Loss on early extinguishment of debt	(2,851)	—
Equity in income of investments and venture funds	4,699	8,095
Total other income (expense)	(90,465)	(8,235)
Income (loss) before income taxes	(146,842)	262,358
Income tax expense (benefit)	(55,649)	92,948
Net income (loss)	$ (91,193)	$ 169,410
Basic earnings (loss) per share	$ (0.20)	$ 0.40
Diluted earnings (loss) per share	$ (0.20)	$ 0.39
Shares used in computation of per share data:		
Basic	460,857	423,786
Diluted	460,857	437,535

See accompanying notes to consolidated financial statements

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

	March 31, 2008	December 31, 2007
ASSETS		
Cash and equivalents	$ 3,061,987	$ 1,778,244
Cash and investments required to be segregated under Federal or other regulations	427,918	334,831
Trading securities	422,941	130,018
Available-for-sale mortgage-backed and investment securities (includes securities pledged to creditors with the right to sell or repledge of $8,032,306 at March 31, 2008 and $10,074,082 at December 31, 2007)	8,402,077	11,255,048
Margin receivables	6,655,659	7,179,175
Loans, net (net of allowance for loan losses of $565,908 at March 31, 2008 and $508,164 and December 31, 2007)	28,444,165	30,139,382
Investment in FHLB stock	241,392	338,585
Property and equipment, net	324,940	355,433
Goodwill	1,950,682	1,933,368
Other intangibles, net	419,105	430,007
Other assets	2,846,084	2,971,846
Total assets	$ 53,196,950	$ 56,845,937
LIABILITIES AND SHAREHOLDERS' EQUITY		
Liabilities:		
Deposits	$ 27,467,227	$ 25,884,755
Securities sold under agreements to repurchase	7,109,716	8,932,693
Customer payables	5,413,283	5,514,675
Other borrowings	5,242,921	7,446,504
Corporate debt	3,156,699	3,022,698
Accounts payable, accrued and other liabilities	2,091,765	3,215,547
Total liabilities	50,481,611	54,016,872
Shareholders' equity:		
Common stock, $0.01 par value, shares authorized: 600,000,000; shares issued and outstanding: 468,335,796 at March 31, 2008 and 460,897,875 at December 31, 2007	4,683	4,609
Additional paid-in capital ("APIC")	3,507,223	3,463,220
Accumulated deficit	(425,170)	(247,368)
Accumulated other comprehensive loss	(371,397)	(391,396)
Total shareholders' equity	2,715,339	2,829,065
Total liabilities and shareholders' equity	$ 53,196,950	$ 56,845,937

See accompanying notes to consolidated financial statements

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

	Three Months Ended March 31,	
	2008	2007
Net income (loss)	$ (91,193)	$169,410
Other comprehensive loss		
Available-for-sale securities:		
Unrealized gains, net	1,761	6,889
Reclassification into earnings, net	8,058	(11,168)
Net change from available-for-sale securities	9,819	(4,279)
Cash flow hedging instruments:		
Unrealized losses, net	(78,157)	(1,124)
Reclassification into earnings, net	2,393	188
Net change from cash flow hedging instruments	(75,764)	(936)
Foreign currency translation losses	(950)	(2,863)
Other comprehensive loss	(66,895)	(8,078)
Comprehensive income (loss)	$(158,088)	$161,332

See accompanying notes to consolidated financial statements

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

	Common Stock Shares	Common Stock Amount	Additional Paid-in Capital	Accumulated Deficit	Accumulated Other Comprehensive Loss	Total Shareholders' Equity
Balance, December 31, 2007	460,898	$4,609	$3,463,220	$ (247,368)	$ (391,396)	$2,829,065
Cumulative effect of adoption of SFAS No. 156	—	—	—	285	—	285
Cumulative effect of adoption of SFAS No. 159	—	—	—	(86,894)	86,894	—
Adjusted balance	460,898	4,609	3,463,220	(333,977)	(304,502)	2,829,350
Net loss	—	—	—	(91,193)	—	(91,193)
Other comprehensive loss	—	—	—	—	(66,895)	(66,895)
Exchange of debt for common stock	4,500	45	17,640	—	—	17,685
Exercise of stock options and purchase plans, including tax benefit	272	3	(1,306)	—	—	(1,303)
Issuance of restricted stock	8	—	—	—	—	—
Cancellation of restricted stock	(14)	—	—	—	—	—
Retirement of restricted stock to pay taxes	(77)	(1)	(415)	—	—	(416)
Amortization of deferred share-based compensation to APIC under SFAS No. 123(R)	—	—	13,989	—	—	13,989
Additional purchase consideration[(1)]	2,749	27	9,405	—	—	9,432
Other	—	—	4,690	—	—	4,690
Balance, March 31, 2008	468,336	$4,683	$3,507,223	$ (425,170)	$ (371,397)	$2,715,339

	Common Stock Shares	Common Stock Amount	Additional Paid-in Capital	Retained Earnings	Accumulated Other Comprehensive Loss	Total Shareholders' Equity
Balance, December 31, 2006	426,304	$4,263	$3,184,290	$1,209,289	$ (201,472)	$4,196,370
Cumulative effect of adoption of FIN 48	—	—	—	(14,903)	—	(14,903)
Adjusted balance	426,304	4,263	3,184,290	1,194,386	(201,472)	4,181,467
Net income	—	—	—	169,410	—	169,410
Other comprehensive loss	—	—	—	—	(8,078)	(8,078)
Exercise of stock options and purchase plans, including tax benefit	1,240	12	18,975	—	—	18,987
Repurchases of common stock	(1,030)	(10)	(23,012)	—	—	(23,022)
Issuance of restricted stock	615	6	(6)	—	—	—
Retirement of restricted stock to pay taxes	(64)	(1)	(1,518)	—	—	(1,519)
Amortization of deferred share-based compensation to APIC under SFAS No. 123(R)	—	—	11,567	—	—	11,567
Other	97	2	2,212	—	—	2,214
Balance, March 31, 2007	427,162	$4,272	$3,192,508	$1,363,796	$ (209,550)	$4,351,026

See accompanying notes to consolidated financial statements

(1) Amounts represent additional contingent consideration paid in connection with prior acquisitions.

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

	Three Months Ended March 31, 2008	Three Months Ended March 31, 2007
Cash flows from operating activities:		
Net income (loss)	$ (91,193)	$ 169,410
Adjustments to reconcile net income (loss) to net cash (used in) provided by operating activities:		
Provision for loan losses	233,871	21,186
Depreciation and amortization (including discount amortization and accretion)	77,649	70,018
(Gain) loss on loans and securities, net and (gain) loss on sales of investments, net	8,643	(37,131)
Equity in income of investments and venture funds	(4,699)	(8,095)
Gain on sale of corporate aircraft related assets	(23,715)	—
Loss on early extinguishment of debt	2,851	—
Non-cash facility restructuring costs and other exit activities	3,041	(850)
Share-based compensation	13,989	11,567
Tax benefit from tax deductions in excess of compensation expense	2,582	(8,432)
Other	(4,349)	674
Net effect of changes in assets and liabilities:		
Increase in cash and investments required to be segregated under Federal or other regulations	(101,419)	(128,944)
Decrease (increase) in margin receivables	534,831	(125,168)
(Decrease) increase in customer payables	(68,725)	130,480
Proceeds from sales, repayments and maturities of loans held-for-sale	165,529	451,037
Purchases and originations of loans held-for-sale	(85,754)	(368,552)
Proceeds from sales, repayments and maturities of trading securities	695,676	343,993
Purchases of trading securities	(621,058)	(306,961)
Decrease (increase) in other assets	199,526	(400,590)
Increase (decrease) in accounts payable, accrued and other liabilities	(1,234,456)	371,573
Facility restructuring liabilities	(3,894)	(2,943)
Net cash (used in) provided by operating activities	(301,074)	182,272
Cash flows from investing activities:		
Purchases of available-for-sale mortgage-backed and investment securities	(1,070,770)	(7,324,763)
Proceeds from sales, maturities of and principal payments on available-for-sale mortgage-backed and investment securities	3,994,007	4,823,918
Net decrease (increase) in loans receivable	1,029,897	(3,347,604)
Purchases of property and equipment	(25,226)	(43,427)
Proceeds from sale of corporate aircraft related assets	69,250	—
Cash used in business acquisitions, net	(7,883)	(2,688)
Net cash flow from derivatives hedging assets	(37,116)	4,473
Other	(14,348)	(25,778)
Net cash provided by (used in) investing activities	$ 3,937,811	$ (5,915,869)

See accompanying notes to consolidated financial statements

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

	Three Months Ended March 31, 2008	Three Months Ended March 31, 2007
Cash flows from financing activities:		
Net increase in deposits	$ 1,579,545	$ 2,183,771
Net increase (decrease) in securities sold under agreements to repurchase	(1,803,041)	2,332,036
Net increase (decrease) in other borrowed funds	(4,400)	39,627
Advances from other long-term borrowings	600,000	3,386,000
Payments on advances from other long-term borrowings	(2,810,694)	(2,229,934)
Proceeds from issuance of springing lien notes	150,000	—
Proceeds from issuance of subordinated debentures and trust preferred securities	—	40,000
Proceeds from issuance of common stock from employee stock transactions	1,279	10,555
Tax benefit from tax deductions in excess of compensation expense recognition	(2,582)	8,432
Repurchases of common stock	—	(23,022)
Net cash flow from derivatives hedging liabilities	(57,834)	(30,419)
Other	4,458	—
Net cash (used in) provided by financing activities	(2,343,269)	5,717,046
Effect of exchange rates on cash	(9,725)	(702)
Increase (decrease) in cash and equivalents	1,283,743	(17,253)
Cash and equivalents, beginning of period	1,778,244	1,212,234
Cash and equivalents, end of period	$ 3,061,987	$ 1,194,981
Supplemental disclosures:		
Cash paid for interest	$ 432,698	$ 569,847
Cash paid for income taxes	$ 9,574	$ 10,789
Non-cash investing and financing activities:		
Transfers from loans to other real estate owned and repossessed assets	$ 58,735	$ 22,095
Reclassification of loans held-for-sale to loans held-for-investment	$ 1,630	$ 8,973
Issuance of common stock to retire debentures	$ 17,685	$ —

See accompanying notes to 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 (together with its subsidiaries, "E*TRADE" or the "Company") is a global company offering a wide range of financial services to consumers under the brand "E*TRADE Financial." The Company offers trading, investing and banking products and services to its retail and institutional customers.

Basis of Presentation—The consolidated financial statements include the accounts of the Company and its majority-owned subsidiaries. Entities in which the Company holds at least a 20% ownership or in which there are other indicators of significant influence are generally accounted for by the equity method. Entities in which the Company holds less than 20% ownership and does not have the ability to exercise significant influence are generally carried at cost. Intercompany accounts and transactions are eliminated in consolidation. The Company evaluates investments including joint ventures, low income housing tax credit partnerships and other limited partnerships to determine if the Company is required to consolidate the entities under the guidance of Financial Accounting Standards Board ("FASB") Interpretation No. 46, *Consolidation of Variable Interest Entities-an interpretation of ARB No. 51* ("FIN 46R").

Certain prior period items in these consolidated financial statements 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, and should be read in conjunction with the consolidated financial statements of E*TRADE Financial Corporation included in the Company's Annual Report on Form 10-K for the year ended December 31, 2007.

The Company reports corporate interest income and expense separately from operating interest income and expense. 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. Operating interest income and expense is generated from the operations of the Company and is a broad indicator of the Company's success in its banking and balance sheet management business. Corporate debt, which is the primary source of the corporate interest expense has been issued primarily in connection with the Citadel Investment and acquisitions, such as Harris*direct* and BrownCo.

Similarly, the Company reports gain on sales of investments, net separately from gain (loss) on loans and securities, net. The Company believes reporting these two items separately provides a clearer picture of the financial performance of its operations than would a presentation that combined these two items. Gain (loss) on loans and securities, net are the result of activities in the Company's operations, namely its balance sheet management businesses, including impairment on our available-for-sale mortgage-backed and investment securities portfolio. Gain on sales of investments, net relates to historical equity investments of the Company at the corporate level and are not related to the ongoing business of the Company's operating subsidiaries.

Use of Estimates—The consolidated financial statements were prepared in accordance with GAAP, which require 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. Material estimates in which management believes near-term changes could reasonably occur include allowance for loan losses and uncollectible margin receivables; classification and valuation of certain investments; valuation of certain debt instruments; valuation and accounting for financial derivatives; estimates of effective tax rates; deferred taxes and valuation allowances; valuation of goodwill and other intangibles; and valuation and expensing of share-based payments.

Financial Statement Descriptions and Related Accounting Policies

Margin Receivables—At March 31, 2008, the fair value of securities that the Company received as collateral in connection with margin receivables and stock borrowing activities, where the Company is permitted to sell or re-pledge the securities, was approximately $8.8 billion. Of this amount, $2.2 billion had been pledged or sold at March 31, 2008 in connection with securities loans, bank borrowings and deposits with clearing organizations.

Loans Receivable, Net—Loans receivable, net consists of real estate and consumer loans that management has the intent and ability to hold for the foreseeable future or until maturity. These loans are carried at amortized cost adjusted for charge-offs, net, allowance for loan losses, deferred fees or costs on originated loans and unamortized premiums or discounts on purchased loans. Loan fees and certain direct loan origination costs are deferred and the net fee or cost is recognized in interest income using the interest method over the contractual life of the loans. Premiums and discounts on purchased loans are amortized or accreted into income using the interest method over the remaining period to contractual maturity and adjusted for actual prepayments. The Company classifies loans as nonperforming when full and timely collection of interest or principal becomes uncertain or when they are 90 days past due. Interest previously accrued, but not collected, is reversed against current income when a loan is placed on nonaccrual status and is considered nonperforming. Accretion of deferred fees is discontinued for nonperforming loans. Payments received on nonperforming loans are recognized as interest income when the loan is considered collectible and applied to principal when it is doubtful that full payment will be collected. One- to four-family and home equity loans are charged off to the extent that the carrying value of the loan exceeds the estimated value of the underlying collateral when the loan has been delinquent for 180 days, regardless of whether or not the property is in foreclosure. Credit cards are charged-off when the loan has been delinquent for 180 days. Consumer loans are charged-off when the loan has been delinquent for 120 days.

Fair Value—Effective January 1, 2008, the Company adopted SFAS No. 157, which defines fair value as the exchange price that would be received for an asset or paid to transfer a liability (an exit price) in the principal or most advantageous market for the asset or liability in an orderly transaction between market participants on the measurement date. The Company determines the fair values of its financial instruments and for nonfinancial assets and nonfinancial liabilities that are recognized or disclosed at fair value in the financial statements on a recurring basis in accordance with SFAS No. 157. The Company will not adopt this statement until January 1, 2009 for nonfinancial assets and nonfinancial liabilities that are not recognized or disclosed at fair value in the financial statements on a recurring basis. Examples of nonfinancial assets and nonfinancial liabilities for which the Company has not applied the provisions of SFAS No. 157 include reporting units, nonfinancial assets and nonfinancial liabilities and indefinite-lived intangible assets measured at fair value in impairment tests under SFAS No. 142, nonfinancial long-lived assets measured at fair value for an impairment assessment under SFAS No. 144 as well as nonfinancial liabilities for exit or disposal activities initially measured at fair value under SFAS No. 146.

In determining fair value, the Company uses various valuation approaches, including market, income and/or cost approaches. The fair value hierarchy established in SFAS No. 157 requires an entity 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. As such, 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 standard describes three levels of inputs that may be used to measure fair value and are as follows:

- Level 1—Quoted prices in active markets for identical assets or liabilities. Examples of assets and liabilities utilizing Level 1 inputs include actively traded equity securities.
- Level 2—Quoted prices in markets that are not active or for which all significant inputs are observable, either directly or indirectly. Examples of assets and liabilities utilizing Level 2 inputs include mortgage- backed securities backed by U.S. Government sponsored and Federal agencies, certain CMOs, most investment securities and most OTC derivatives.

- Level 3—Unobservable inputs that are significant to the fair value of the assets or liabilities. Level 3 assets and liabilities include financial instruments whose value is determined using pricing models, discounted cash flow methodologies, or similar techniques, as well as instruments for which the determination of fair value requires significant management judgment or estimation. Examples of assets and liabilities utilizing significant Level 3 inputs or those that require significant management judgment include most CMOs, servicing rights, retained interest in securitizations, certain other mortgage-backed securities and certain OTC derivatives. In certain securities, including a portion of the CMO portfolio, where there has been limited activity or less transparency around inputs to the valuation, securities are classified as Level 3 even though the Company believes that Level 2 inputs could likely be obtainable in a more active market.

The availability of observable inputs can vary from instrument to instrument and in certain cases, the inputs used to measure fair value may fall into different levels of the fair value hierarchy. In such cases, an instrument's 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 the fair value measurement of an instrument requires judgment and consideration of factors specific to the instrument.

Fair Value Option—Effective January 1, 2008, the Company elected to carry investments in FNMA and FHLMC preferred stock at fair value through earnings under SFAS No. 159. The Company elected to carry the investment in preferred stock at fair value through earnings to allow the Company to economically hedge the portfolio without the burden of complying with SFAS No. 133, as amended. The impact of this adoption was an after-tax decrease to opening retained earnings as of January 1, 2008 of approximately $86.9 million. As of December 31, 2007, the Company's investment in preferred stock was reported in the balance sheet line item available-for-sale mortgage-backed and investment securities. In accordance with SFAS No. 159, as a result of the fair value election the investment in preferred stock is reported in the balance sheet line item trading securities as of March 31, 2008. Realized and unrealized gains and losses on securities classified as trading are included in the gain (loss) on loans and securities, net line item.

For additional information regarding the adoption of SFAS No. 157 and SFAS No. 159, see Note 15—Fair Value Disclosures.

New Accounting Standards—Below are the new accounting pronouncements that relate to activities in which the Company is engaged.

SFAS No. 156—Accounting for Servicing Financial Assets, an Amendment of SFAS No. 140

In March 2006, the FASB issued SFAS No. 156. This statement establishes, among other things, the accounting for all separately recognized servicing assets and liabilities. The Company adopted this statement on January 1, 2007. As of January 1, 2008, the Company elected to account for servicing rights under the fair value measurement method. The transition adjustment to opening retained earnings as of January 1, 2008 related to the fair value measurement election was $0.3 million.

SFAS No. 157—Fair Value Measurements

In September 2006, the FASB issued SFAS No. 157, which establishes, among other things, a framework for measuring fair value and expands disclosure requirements as they relate to fair value measurements. The Company adopted this statement on January 1, 2008 for financial assets and financial liabilities and for nonfinancial assets and nonfinancial liabilities that are recognized or disclosed at fair value in the consolidated financial statements on a recurring basis, the effects of which were not material to the financial condition, results of operations or cash flows. The Company will not adopt this statement until January 1, 2009 for nonfinancial assets and nonfinancial liabilities that are not recognized or disclosed at fair value in the consolidated financial

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statements on a recurring basis, for which the Company does not expect the adoption of this statement to have a material impact on the Company's financial condition, results of operations or cash flows in future periods. For additional information regarding the adoption of SFAS No. 157 and SFAS No. 159, see Note 15—Fair Value Disclosures.

SFAS No. 159—The Fair Value Option for Financial Assets and Financial Liabilities

In February 2007, the FASB issued SFAS No. 159 which provides an option under which a company may irrevocably elect fair value as the initial and subsequent measurement attribute for certain financial assets and financial liabilities. This fair value option will be available on a contract-by-contract basis with changes in fair value recognized in earnings as those changes occur. The Company adopted this statement on January 1, 2008 and elected the fair value option for FNMA and FHLMC preferred stock. The impact of this adoption was an after-tax decrease to opening retained earnings as of January 1, 2008 of approximately $86.9 million. For additional information regarding the adoption of SFAS No. 157 and SFAS No. 159, see Note 15—Fair Value Disclosures.

SFAS No. 161—Disclosures About Derivative Instruments and Hedging Activities

In March 2008, the FASB issued SFAS No. 161, *Disclosures About Derivative Instruments and Hedging Activities*. This statement establishes, among other things, the disclosure requirements for derivative instruments and for hedging activities. This statement is effective at the beginning of an entities first interim period beginning after November 15, 2008 or January 1, 2009 for the Company. The Company is currently evaluating the impact this guidance will have on its financial condition, results of operations or cash flows.

Staff Accounting Bulletin ("SAB") No. 109—Written Loan Commitments Recorded at Fair Value Through Earnings

In November 2007, the SEC issued Staff Accounting Bulletin No. 109, *Written Loan Commitments Recorded at Fair Value Through Earnings* ("SAB No. 109"), which becomes effective for the Company January 1, 2008. SAB No. 109 supersedes SAB No. 105, *Application of Accounting Principles to Loan Commitments* ("SAB No. 105"), and states, consistent with the guidance in SFAS No. 156 and SFAS No. 159, that the expected net future cash flows related to the associated servicing of the loan should be included in the measurement of all written loan commitments that are accounted for at fair value through earnings. SAB No. 109 retains the view expressed in SAB No. 105 that internally developed intangible assets (such as customer relationship intangible assets) should not be recorded as part of the fair value of a derivative loan commitment and broadens its application to all written loan commitments that are accounted for at fair value through earnings. The Company adopted this statement on January 1, 2008 and the impact of adoption was not material to the Company's financial condition, results of operations or cash flows.

NOTE 2—FACILITY RESTRUCTURING AND OTHER EXIT ACTIVITIES

Restructuring liabilities are included in accounts payable, accrued and other liabilities in the consolidated balance sheet. The following table summarizes the expense recognized by the Company as facility restructuring and other exit activities for the periods presented (dollars in thousands):

	Three Months Ended March 31, 2008	2007
Restructuring of institutional brokerage operations	$ 9,991	$ —
Other exit activities	501	733
Total facility restructuring and other exit activities	$ 10,492	$ 733

Exit of Non-Core Operations

Institutional Brokerage Operations

Toward the end of the third quarter in 2007, the Company announced a plan to simplify and streamline the business by exiting and/or restructuring certain non-core operations. The Company has taken steps to restructure the institutional equity business to focus on areas that complement order flow generated by retail customers. In the first quarter of 2008, the Company announced the decision to exit the institutional trading operations that do not align with the core retail business. As a result of these exits, the Company incurred costs of $5.8 million for facilities consolidation and asset write-off costs, $2.9 million in severance costs and $1.3 million of other costs related to these exits for the three months ended March 31, 2008. The total charge for both of these exit activities is expected to be between $25.0 million and $30.0 million, all of which will be recorded to the institutional segment.

Other Exit Activities

In the first quarter of 2008, the Company has continued the consolidation and relocation of certain facilities. The Company incurred $0.5 million related to facilities consolidation and relocation primarily related to the exit of certain operating leases. In the first quarter of 2007, the Company incurred cost of $1.2 million to exit certain facilities in California and recognized $(0.5) million of adjustments to restructuring activities from prior periods.

NOTE 3—OPERATING INTEREST INCOME AND OPERATING INTEREST EXPENSE

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

	Three Months Ended March 31,	
	2008	2007
Operating interest income:		
Loans, net	$ 451,574	$ 451,399
Mortgage-backed and investment securities	109,276	210,507
Margin receivables	94,913	123,986
Other	54,974	43,903
Total operating interest income	710,737	829,795
Operating interest expense:		
Deposits	(186,704)	(182,988)
Repurchase agreements and other borrowings	(94,934)	(159,031)
FHLB advances	(70,802)	(62,852)
Other	(25,526)	(34,338)
Total operating interest expense	(377,966)	(439,209)
Net operating interest income	$ 332,771	$ 390,586

NOTE 4—AVAILABLE-FOR-SALE MORTGAGE-BACKED AND INVESTMENT SECURITIES

The amortized cost basis and estimated fair values of available-for-sale mortgage-backed and investment securities are shown in the following tables (dollars in thousands):

	Amortized Cost	Gross Unrealized Gains	Gross Unrealized Losses	Estimated Fair Values
March 31, 2008:				
Mortgage-backed securities:				
Backed by U.S. Government sponsored and Federal agencies	$ 7,526,011	$ 12,797	$ (224,491)	$ 7,314,317
CMOs and other	1,108,723	143	(138,206)	970,660
Total mortgage-backed securities	8,634,734	12,940	(362,697)	8,284,977
Investment securities:				
Debt securities:				
Municipal bonds	105,866	—	(10,170)	95,696
Corporate bonds	25,548	—	(6,908)	18,640
Total debt securities	131,414	—	(17,078)	114,336
Publicly traded equity securities:				
Corporate investments	1,256	—	(242)	1,014
Retained interests from securitizations	964	786	—	1,750
Total investment securities	133,634	786	(17,320)	117,100
Total available-for-sale securities	$ 8,768,368	$ 13,726	$ (380,017)	$ 8,402,077
December 31, 2007:				
Mortgage-backed securities:				
Backed by U.S. Government sponsored and Federal agencies	$ 9,638,676	$ 86	$ (308,633)	$ 9,330,129
CMOs and other	1,170,360	2	(47,107)	1,123,255
Total mortgage-backed securities	10,809,036	88	(355,740)	10,453,384
Investment securities:				
Debt securities:				
Municipal bonds	320,521	58	(6,231)	314,348
Corporate bonds	36,557	2,134	(3,412)	35,279
Other debt securities	78,836	1	(1,546)	77,291
Total debt securities	435,914	2,193	(11,189)	426,918
Publicly traded equity securities:				
Preferred stock	505,498	—	(134,094)	371,404
Corporate investments	1,460	—	(189)	1,271
Retained interests from securitizations	980	1,091	—	2,071
Total investment securities	943,852	3,284	(145,472)	801,664
Total available-for-sale securities	$11,752,888	$ 3,372	$ (501,212)	$11,255,048

Other-Than-Temporary Impairment of Investments

The following tables show the fair values and unrealized losses on investments, aggregated by investment category, and the length of time that individual securities have been in a continuous unrealized loss position (dollars in thousands):

	Less than 12 Months		12 Months or More		Total	
	Fair Values	Unrealized Losses	Fair Values	Unrealized Losses	Fair Values	Unrealized Losses
March 31, 2008:						
Mortgage-backed securities:						
Backed by U.S. Government sponsored and Federal agencies	$ 329,538	$ (4,147)	$ 5,803,092	$ (220,344)	$ 6,132,630	$ (224,491)
CMOs and other	317,808	(59,847)	578,593	(78,359)	896,401	(138,206)
Debt securities:						
Municipal bonds	71,824	(6,991)	23,872	(3,179)	95,696	(10,170)
Corporate bonds	—	—	18,439	(6,908)	18,439	(6,908)
Publicly traded equity securities:						
Corporate investments	—	—	120	(242)	120	(242)
Total temporarily impaired securities	$ 719,170	$ (70,985)	$ 6,424,116	$ (309,032)	$ 7,143,286	$ (380,017)
December 31, 2007:						
Mortgage-backed securities:						
Backed by U.S. Government sponsored and Federal agencies	$ 1,394,002	$ (6,802)	$ 7,849,331	$ (301,831)	$ 9,243,333	$ (308,633)
CMOs and other	537,522	(25,415)	585,629	(21,692)	1,123,151	(47,107)
Debt securities:						
Municipal bonds	272,698	(4,898)	29,052	(1,333)	301,750	(6,231)
Corporate bonds	—	—	21,935	(3,412)	21,935	(3,412)
Other debt securities	—	—	76,433	(1,546)	76,433	(1,546)
Publicly traded equity securities:						
Preferred stock	355,942	(134,094)	—	—	355,942	(134,094)
Corporate investments	—	—	173	(189)	173	(189)
Total temporarily impaired securities	$ 2,560,164	$ (171,209)	$ 8,562,553	$ (330,003)	$ 11,122,717	$ (501,212)

The Company does not believe that any individual unrealized loss as of March 31, 2008 represents an other-than-temporary impairment. The majority of the unrealized losses on mortgage-backed securities are attributable to changes in interest rates and a re-pricing of risk in the market. Substantially all mortgage-backed securities backed by U.S. Government sponsored and Federal agencies are AAA-rated. The Company has the intent and ability to hold the securities in an unrealized loss position at March 31, 2008 until the market value recovers or the securities mature. Municipal bonds and corporate bonds are evaluated by reviewing the credit-worthiness of the issuer and general market conditions.

Within the securities portfolio, the asset-backed securities portfolio, which was sold in the fourth quarter of 2007, represented the highest concentration of credit risk. Subsequent to the sale of that portfolio, the highest concentration of remaining credit risk, while dramatically lower than the credit risk inherent in asset-backed securities, is the CMO portfolio. While the vast majority of this portfolio is AAA-rated, the Company identified approximately $183 million of CMO securities with a possibility of future loss. As a result, $95 million of these securities were written down to their estimated fair market value by recording a $26.6 million impairment during the first quarter of 2008. The Company recorded other-than-temporary impairment charges of $0.2 million for asset-backed securities in the first quarter of 2007.

The Company elected the fair value option for its preferred stock under SFAS No. 159 as of January 1, 2008. Subsequent to the adoption, preferred stock was classified as trading securities.

The detailed components of the gain (loss) on loans and securities, net and gain on sales of investments, net line items on the consolidated statement of income (loss) are shown below.

Gain (Loss) on Loans and Securities, Net

Gain (loss) on loans and securities, net are as follows (dollars in thousands):

	Three Months Ended March 31,	
	2008	2007
Gain on sales of originated loans	$ 730	$ 1,915
Loss on sales of loans held-for-sale, net	(157)	(1,662)
Gain (loss) on securities, net		
Gain on securities and other investments	13,263	8,517
Loss on impairment	(26,602)	(249)
Gain on trading securities	3,621	8,854
Gain (loss) on securities, net	(9,718)	17,122
Gain (loss) on loans and securities, net	$ (9,145)	$17,375

Gain on Sales of Investments, Net

Gain on sales of investments, net are as follows (dollars in thousands):

	Three Months Ended March 31,	
	2008	2007
Realized gains on sales of publicly traded equity securities	$ 254	$19,717
Other	248	39
Gain on sales of investments, net	$ 502	$19,756

NOTE 5—LOANS, NET

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

	March 31, 2008	December 31, 2007
Loans held-for-sale	$ 19,327	$ 100,539
Loans receivable, net:		
One- to four-family	14,639,145	15,506,529
Home equity	11,385,998	11,901,324
Consumer and other loans:		
Recreational vehicle	1,811,794	1,910,454
Marine	497,693	526,580
Commercial	264,909	272,156
Credit card	85,547	90,764
Other	15,925	23,334
Total consumer and other loans	2,675,868	2,823,288
Total loans receivable	28,701,011	30,231,141
Unamortized premiums, net	289,735	315,866
Allowance for loan losses	(565,908)	(508,164)
Total loans receivable, net	28,424,838	30,038,843
Total loans, net	$28,444,165	$30,139,382

The following table provides an analysis of the allowance for loan losses for the three months ended March 31, 2008 and 2007 (dollars in thousands):

	Three Months Ended March 31,	
	2008	2007
Allowance for loan losses, beginning of period	$ 508,164	$ 67,628
Provision for loan losses	233,871	21,186
Charge-offs	(182,412)	(26,444)
Recoveries	6,285	5,619
Net charge-offs	(176,127)	(20,825)
Allowance for loan losses, end of period	$ 565,908	$ 67,989

The Company has a CDS on $4.0 billion of its first-lien residential real estate loan portfolio through a synthetic securitization structure. A CDS provides, for a fee, an assumption by a third party of a portion of the credit risk related to the underlying loans. The CDS the Company entered into provides protection for losses in excess of 10 basis points, but not to exceed approximately 75 basis points. In addition, the Company's regulatory risk-weighted assets were reduced as a result of this transaction because it transferred a portion of the Company's credit risk to an unaffiliated third party.

NOTE 6—ACCOUNTING FOR DERIVATIVE FINANCIAL INSTRUMENTS AND HEDGING ACTIVITIES

The Company enters into derivative transactions to protect against the risk of market price or interest rate movements on the value of certain assets, liabilities and future cash flows. The Company is also required to recognize certain contracts and commitments as derivatives when the characteristics of those contracts and commitments meet the definition of a derivative as promulgated by SFAS No. 133, as amended.

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Fair Value Hedges

Overview of Fair Value Hedges

The Company uses a combination of interest rate swaps, forward-starting swaps and purchased options on swaps to offset its exposure to changes in value of certain fixed-rate assets and liabilities. Changes in the fair value of the derivatives are recognized currently in earnings. 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 other expense excluding interest in the consolidated statement of income (loss).

The following table summarizes information related to financial derivatives in fair value hedge relationships (dollars in thousands):

	Notional Amount of Derivatives	Fair Value of Derivatives			Weighted-Average			
		Asset	Liability	Net	Pay Rate	Receive Rate	Strike Rate	Remaining Life (Years)
March 31, 2008:								
Receive-fixed interest rate swaps:								
Corporate debt	$1,139,000	$56,269	$ —	$ 56,269	4.02%	7.73%	N/A	5.05
Brokered certificates of deposit	72,961	260	(166)	94	3.32%	5.47%	N/A	12.65
Total fair value hedges	$1,211,961	$56,529	$ (166)	$ 56,363	3.98%	7.60%	N/A	5.50
December 31, 2007:								
Pay-fixed interest rate swaps:								
Mortgage-backed securities	$ 527,000	$ —	$(21,318)	$(21,318)	5.11%	5.16%	N/A	7.00
Receive-fixed interest rate swaps:								
Corporate debt	1,214,000	57,760	—	57,760	7.04%	7.71%	N/A	5.32
Brokered certificates of deposit	110,948	—	(1,343)	(1,343)	4.97%	5.33%	N/A	11.46
FHLB advances	100,000	—	(194)	(194)	5.03%	3.64%	N/A	1.79
Purchased interest rate options(1):								
Swaptions(2)	905,000	17,881	—	17,881	N/A	N/A	5.40%	10.20
Total fair value hedges	$2,856,948	$75,641	$(22,855)	$ 52,786	6.30%	6.68%	5.40%	7.29

(1) Purchased interest rate options were used to hedge mortgage loans and mortgage-backed securities.
(2) Swaptions are options to enter swaps starting on a given day.

De-designated Fair Value Hedges

During the three months ended March 31, 2008 and 2007, certain fair value hedges were de-designated; therefore, hedge accounting was discontinued during those periods. The net gain or loss on the underlying transactions being hedged is amortized to operating interest expense or operating interest income over the original forecasted period at the time of de-designation. Changes in the fair value of these derivative instruments after de-designation of fair value hedge accounting were recorded in the gain (loss) on loans and securities, net line item in the consolidated statement of income (loss).

Cash Flow Hedges

Overview of Cash Flow Hedges

The Company uses a combination of interest rate swaps, forward-starting swaps and purchased options on caps and floors to hedge the variability of future cash flows associated with existing variable-rate liabilities and assets and forecasted issuances of liabilities. These cash flow hedge relationships are treated as effective hedges as long as the future issuances of liabilities remain probable and the hedges continue to meet the requirements of SFAS No. 133, as amended. The Company also enters into interest rate swaps to hedge changes in the future variability of cash flows of certain investment securities resulting from changes in a benchmark interest rate. Additionally, the Company enters into forward purchase and sale agreements, which are considered cash flow hedges, when the terms of the commitments exactly match the terms of the securities purchased or sold.

Changes in the fair value of derivatives that hedge cash flows associated with repurchase agreements, FHLB advances and home equity lines of credit are reported in accumulated other comprehensive loss as unrealized gains or losses, for both active and terminated hedges. If the derivatives are determined to be effective hedges, the amounts in accumulated other comprehensive loss are included in operating interest expense or operating interest income as a yield adjustment during the same periods in which the related interest on the funding affects earnings. If the derivatives are determined not to be effective hedges, the amount recorded in other comprehensive income would be reclassified into earnings. During the upcoming twelve months, the Company expects to include a pre-tax amount of approximately $21.4 million of net unrealized gains that are currently reflected in accumulated other comprehensive loss in operating interest expense as a yield adjustment in the same periods in which the related items affect earnings.

The following table summarizes information related to the Company's financial derivatives in cash flow hedge relationships, hedging variable-rate assets and liabilities and the forecasted issuances of liabilities (dollars in thousands):

	Notional Amount of Derivatives	Fair Value of Derivatives			Weighted-Average			
		Asset	Liability	Net	Pay Rate	Receive Rate	Strike Rate	Remaining Life (Years)
March 31, 2008:								
Pay-fixed interest rate swaps:								
Repurchase agreements	$ 1,840,000	$ —	$ (180,201)	$ (180,201)	5.26%	3.06%	N/A	10.96
FHLB advances	650,000	—	(63,413)	(63,413)	5.27%	3.64%	N/A	9.50
Purchased interest rate options[1]:								
Caps	4,410,000	16,374	—	16,374	N/A	N/A	5.06%	2.37
Floors	1,400,000	59,938	—	59,938	N/A	N/A	6.86%	2.36
Total cash flow hedges	$ 8,300,000	$ 76,312	$ (243,614)	$ (167,302)	5.26%	3.21%	5.50%	4.83
December 31, 2007:								
Pay-fixed interest rate swaps:								
Repurchase agreements	$ 2,105,000	$ —	$ (136,867)	$ (136,867)	5.47%	5.13%	N/A	11.38
FHLB advances	800,000	—	(37,748)	(37,748)	5.25%	5.15%	N/A	9.65
Purchased interest rate options[1]:								
Caps	4,410,000	26,260	—	26,260	N/A	N/A	5.06%	2.62
Floors	1,400,000	31,205	—	31,205	N/A	N/A	6.86%	2.61
Total cash flow hedges	$ 8,715,000	$ 57,465	$ (174,615)	$ (117,150)	5.41%	5.14%	5.50%	5.38

(1) Caps are used to hedge repurchase agreements and FHLB advances. Floors are used to hedge home equity lines of credit.

Under SFAS No. 133, as amended, the Company is required to record the fair value of gains and losses on derivatives designated as cash flow hedges in accumulated other comprehensive loss in the consolidated balance sheet. In addition, during the normal course of business, the Company terminates certain interest rate swaps and options.

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The following tables show: 1) amounts recorded in accumulated other comprehensive loss related to derivative instruments accounted for as cash flow hedges; 2) the notional amounts and fair values of derivatives terminated for the periods presented; and 3) the amortization of terminated interest rate swaps included in operating interest expense and operating interest income (dollars in thousands):

	Three Months Ended March 31, 2008	Three Months Ended March 31, 2007
Impact on accumulated other comprehensive loss (net of taxes):		
Beginning balance	$ (132,223)	$ (27,844)
Unrealized losses, net	(78,157)	(1,124)
Reclassifications into earnings, net	2,393	188
Ending balance	$ (207,987)	$ (28,780)
Derivatives terminated during the period:		
Notional	$1,590,000	$690,000
Fair value of net losses recognized in accumulated other comprehensive loss	$ (76,034)	$ (2,377)
Amortization of terminated interest rate swaps and options included in operating interest expense and operating interest income	$ (688)	$ 308

The gains (losses) accumulated in other comprehensive loss on the derivative instruments terminated shown in the preceding table will be included in operating interest expense and operating interest income over the periods the variable rate liabilities and hedged forecasted issuance of liabilities will affect earnings, ranging from 25 days to more than 14 years.

The following table shows the balance in accumulated other comprehensive loss attributable to open cash flow hedges and discontinued cash flow hedges (dollars in thousands):

	Three Months Ended March 31, 2008	Three Months Ended March 31, 2007
Accumulated other comprehensive loss balance (net of taxes) related to:		
Open cash flow hedges	$(171,979)	$(49,820)
Discontinued cash flow hedges	(36,008)	21,040
Total cash flow hedges	$(207,987)	$(28,780)

Hedge Ineffectiveness

In accordance with SFAS No. 133, as amended, the Company recognizes hedge ineffectiveness on both fair value and cash flow hedge relationships. The amount of ineffectiveness recorded in earnings for cash flow hedges 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. These amounts are reflected in the other expense excluding interest line item in the consolidated statement of income (loss). Cash flow and fair value ineffectiveness is re-measured on a quarterly basis. The following table summarizes income (expense) recognized by the Company as fair value and cash flow hedge ineffectiveness (dollars in thousands):

	Three Months Ended March 31, 2008	Three Months Ended March 31, 2007
Fair value hedges	$1,733	$(1,082)
Cash flow hedges	(84)	40
Total hedge ineffectiveness	$1,649	$(1,042)

Economic Hedges

During the first quarter of 2008, the Company used equity put options and credit default swaps as economic hedges against potential changes in the value of the preferred stock. Derivatives used as economic hedges but not designated in a hedging relationship for accounting purposes are included in derivative assets or derivative liabilities. The mark on the net hedged position is recognized in gain (loss) on loans and securities, net.

NOTE 7—DEPOSITS

Deposits are summarized as follows (dollars in thousands):

	Weighted-Average Rate		Amount		Percentage to Total	
	March 31, 2008	December 31, 2007	March 31, 2008	December 31, 2007	March 31, 2008	December 31, 2007
Money market and savings accounts	3.27%	4.55%	$11,978,286	$10,028,115	43.6%	38.7%
Sweep deposit accounts[1]	0.51%	0.87%	10,001,293	10,112,123	36.5	39.1
Certificates of deposit[2]	4.55%	4.93%	3,719,406	4,156,674	13.5	16.1
Brokered certificates of deposit[3]	4.51%	4.51%	1,219,370	1,092,225	4.4	4.2
Checking accounts	1.73%	1.79%	548,872	495,618	2.0	1.9
Total deposits	2.47%	3.12%	$27,467,227	$25,884,755	100.0%	100.0%

(1) A sweep product that transfers brokerage customer balances to the Bank, who holds these funds as customer deposits in FDIC-insured demand deposits and money market deposit accounts.
(2) Includes retail brokered certificates of deposit.
(3) Includes institutional brokered certificates of deposit.

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

The maturities of borrowings at March 31, 2008 and total borrowings at December 31, 2007 are shown below (dollars in thousands):

	Repurchase Agreements	Other Borrowings: FHLB Advances	Other Borrowings: Other	Total	Weighted Average Interest Rate
Years Ending December 31,					
2008	$5,183,803	$1,550,000	$ 9,042	$ 6,742,845	3.11%
2009	620,499	1,200,000	1,662	1,822,161	3.73%
2010	—	150,000	1,197	151,197	4.56%
2011	—	—	—	—	—
2012	100,367	350,000	—	450,367	4.78%
Thereafter	1,205,047	1,553,600	427,420	3,186,067	4.53%
Total borrowings at March 31, 2008	$7,109,716	$4,803,600	$439,321	$12,352,637	3.65%
Total borrowings at December 31, 2007	$8,932,693	$6,967,406	$479,098	$16,379,197	4.98%

NOTE 9—CORPORATE DEBT

The Company's corporate debt by type is shown below (dollars in thousands):

March 31, 2008	Face Value	Premium / (Discount)	Fair Value Adjustment(1)	Net
Senior notes:				
8% Notes, due 2011	$ 453,815	$ (2,354)	$ 20,145	$ 471,606
7 3/8% Notes, due 2013	487,160	(5,871)	32,130	513,419
7 7/8% Notes, due 2015	248,177	(2,342)	20,954	266,789
Total senior notes	1,189,152	(10,567)	73,229	1,251,814
Springing lien notes 12 1/2%, due 2017	1,936,000	(474,906)	—	1,461,094
Mandatory convertible notes 6 1/8%, due 2018	450,000	(6,209)	—	443,791
Total corporate debt	$3,575,152	$(491,682)	$ 73,229	$3,156,699

December 31, 2007	Face Value	Premium / (Discount)	Fair Value Adjustment(1)	Net
Senior notes:				
8% Notes, due 2011	$ 453,815	$ 1,884	$ 15,422	$ 471,121
7 3/8% Notes, due 2013	512,160	(1,555)	31,001	541,606
7 7/8% Notes, due 2015	248,177	—	11,838	260,015
Total senior notes	1,214,152	329	58,261	1,272,742
Springing lien notes 12 1/2%, due 2017	1,786,000	(481,609)	—	1,304,391
Mandatory convertible notes 6 1/8%, due 2018	450,000	(4,435)	—	445,565
Total corporate debt	$3,450,152	$(485,715)	$ 58,261	$3,022,698

(1) The fair value adjustment is related to changes in fair value of the debt while in a fair value hedge relationship in accordance with SFAS No. 133, as amended.

Senior Notes

7 3/8% Senior Notes due September 2013

In March 2008, the Company began exchanging debt into common stock to extinguish a portion of its outstanding senior notes. The Company exchanged $25.0 million of its 7 3/8% Senior Notes for 4.5 million shares of common stock. This exchange resulted in the Company recording an $8.5 million pre-tax gain on extinguishment.

Springing Lien Notes

12 1/2 % Springing Lien Notes Due November 2017

In January 2008, the Company issued an additional $150.0 million of springing lien notes due November 2017 ("12 1/2% Notes"), in accordance with the terms of the agreement with Citadel. Interest is payable semi-annually and the notes are non-callable for five years and may then be called by the Company at a premium, which declines over time. This is the final issuance under this agreement and brings the total springing lien notes to $1.9 billion. In connection with this issuance, the Company received $150.0 million in cash.

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NOTE 10—SHAREHOLDERS' EQUITY

Issuance of Common Stock

In the first quarter of 2008, the Company exchanged $25.0 million of outstanding senior notes for 4.5 million shares of common stock.

Additionally the Company received all necessary regulatory approvals for the remaining 46.7 million shares of common stock to be issued in conjunction with the Citadel Investment; however, as of March 31, 2008, the shares had not yet been issued.

NOTE 11—EARNINGS (LOSS) PER SHARE

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

	Three Months Ended March 31,	
	2008	2007
Basic:		
Numerator:		
Net income (loss)	$ (91,193)	$ 169,410
Denominator:		
Basic weighted-average shares outstanding	460,857	423,786
Diluted:		
Numerator:		
Net income (loss)	$ (91,193)	$ 169,410
Denominator:		
Basic weighted-average shares outstanding	460,857	423,786
Effect of dilutive securities:		
Weighted-average options and restricted stock issued to employees	—	12,121
Weighted-average warrants and contingent shares outstanding	—	248
Weighted-average mandatory convertible notes	—	1,380
Diluted weighted-average shares outstanding	460,857	437,535
Per share:		
Basic earnings (loss) per share	$ (0.20)	$ 0.40
Diluted earnings (loss) per share	$ (0.20)	$ 0.39

For the three months ended March 31, 2008, the Company excluded from the calculations of diluted earnings per share 85.0 million shares of stock options, restricted stock awards and units, and contingent shares that would have been anti-dilutive. Of the excluded shares, 48.1 million shares were anti-dilutive because of the Company's net loss for the period, including 46.7 million shares that had not been issued in connection with the Citadel Investment. The Company excluded from the calculations of diluted earnings per share 8.1 million shares of stock options that would have been anti-dilutive for the three months ended March 31, 2007.

NOTE 12—EMPLOYEE SHARE-BASED PAYMENTS

Employee Stock Option Plans

The Company recognized $8.2 million and $8.3 million in compensation expense for stock options for the three months ended March 31, 2008 and 2007, respectively. The Company recognized a tax benefit of $2.2 million and $3.0 million related to the stock options for the three months ended March 31, 2008 and 2007, respectively.

The fair value of each option award is estimated on the date of grant using a Black-Scholes-Merton option pricing model based on the assumptions noted in the table below. Expected volatility is based on a combination of historical volatility of the Company's stock and implied volatility of publicly traded options on the Company's stock. The expected term represents the period of time that options granted are expected to be outstanding. The expected term is estimated using employees' actual historical behavior and projected future behavior based on expected exercise patterns. The risk-free interest rate is based on the U.S. Treasury zero-coupon bond where the remaining term equals the expected term. Dividend yield is zero as the Company has not, nor does it currently plan to, issue dividends to its shareholders.

	Three Months Ended March 31, 2008	Three Months Ended March 31, 2007
Expected volatility	47%	32%
Expected term (years)	4.6	4.5
Risk-free interest rate	3%	5%
Dividend yield	—	—

The weighted-average fair values of options granted were $2.04 and $8.07 for the three months ended March 31, 2008 and 2007, respectively. Intrinsic value of options exercised were $0.03 million and $18.8 million for the three months ended March 31, 2008 and 2007, respectively.

A summary of options activity is presented below:

	Shares (in thousands)	Weighted-Average Exercise Price	Weighted-Average Remaining Contractual Life	Aggregate Intrinsic Value (in thousands)
Outstanding at December 31, 2007	32,756	$ 14.02	4.43	$ 18
Granted	8,861	$ 4.75		
Exercised	(23)	$ 3.43		
Canceled	(5,176)	$ 10.45		
Outstanding at March 31, 2008	36,418	$ 12.09	5.22	$ 28
Vested and expected to vest at March 31, 2008	33,889	$ 12.05	5.13	$ 26
Exercisable at March 31, 2008	20,423	$ 12.26	4.26	$ 21

As of March 31, 2008, there was $50.1 million of total unrecognized compensation cost related to non-vested stock options. This cost is expected to be recognized over a weighted-average period of 2.0 years.

Restricted Stock Awards and Restricted Stock Units

The Company issues restricted stock awards and restricted stock units to its employees. Each restricted stock unit can be converted into one share of the Company's common stock upon vesting. These awards are issued at the fair market value on the date of grant and generally vest ratably over the period, generally two to four years. The fair value is calculated as the market price upon issuance.

In connection with the Company's contract to hire the Chief Executive Officer ("CEO") (attached as Exhibit 10.1), the Company's Board of Directors (the "Board") made grants of restricted stock and stock options, as disclosed on Form 4 filed on March 4, 2008. The grants vest through October 2009, 62.5% of which time vests through January 1, 2009 and the balance of which time-vest through October 2009. In making these awards, the Board exercised its discretion to amend the 2005 Equity Incentive Plan and issue grants in excess of the stated maximum to any individual in any single year but did not increase the aggregate number of shares that may be issued under the 2005 Equity Incentive Plan; however, as previously disclosed, the Board will not issue any further equity, cash bonus or non-equity incentive plan payments to the CEO through at least the end of 2009. None of the restricted stock awards and no more than 37.5% of the stock option awards are expected to be deductible for federal income tax purposes.

The Company recorded $5.8 million and $3.3 million for the three months ended March 31, 2008 and 2007, respectively, in compensation expense related to restricted stock awards and restricted stock units. The Company recognized a tax benefit of $1.4 million and $1.2 million related to restricted stock awards and restricted stock units for the three months ended March 31, 2008 and 2007, respectively.

A summary of non-vested restricted stock award activity is presented below:

	Shares (in thousands)	Weighted-Average Grant Date Fair Value
Non-vested at December 31, 2007:	1,884	$ 15.54
Issued	—	$ —
Released (vested)	(187)	$ 21.54
Canceled	(20)	$ 24.40
Non-vested at March 31, 2008:	1,677	$ 13.50

A summary of non-vested restricted stock unit activity is presented below:

	Units (in thousands)	Weighted-Average Remaining Contractual Life	Aggregate Intrinsic Value (in thousands)
Outstanding at December 31, 2007	113	1.56	$ 390
Issued	3,945		
Released (vested)	(6)		
Canceled	(71)		
Outstanding at March 31, 2008	3,981	1.32	$ 15,129
Vested and expected to vest at March 31, 2008	3,593	1.13	$ 13,655
Exercisable at March 31, 2008	—	—	$ —

As of March 31, 2008, there was $29.5 million of total unrecognized compensation cost related to non-vested awards and units. This cost is expected to be recognized over a weighted-average period of 1.6 years. The total fair value of restricted shares and restricted stock units vested was $1.0 million and $4.3 million for the three months ended March 31, 2008 and 2007, respectively.

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 international broker-dealer subsidiaries, located in Canada, Europe and Asia, are subject to capital requirements determined by their respective regulators.

As of March 31, 2008, all of the Company's significant broker-dealer subsidiaries met minimum regulatory capital requirements. Total required net capital was $0.2 billion at March 31, 2008. In addition, the Company's broker-dealer subsidiaries had excess net capital of $0.8 billion at March 31, 2008.

Banking

E*TRADE Bank is subject to various regulatory capital requirements administered by Federal banking agencies. 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 Bank's financial statements. Under capital adequacy guidelines and the regulatory framework for prompt corrective action, E*TRADE Bank must meet specific capital guidelines that involve quantitative measures of E*TRADE Bank's assets, liabilities and certain off-balance sheet items as calculated under regulatory accounting practices. 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 Bank to maintain minimum amounts and ratios of Total and Tier I Capital to risk-weighted assets and Tier I Capital to adjusted total assets. As shown in the table below, at March 31, 2008, the OTS categorized E*TRADE Bank as "well capitalized" under the regulatory framework for prompt corrective action. E*TRADE Bank is also required by OTS regulations to maintain tangible capital of at least 1.50% of tangible assets. E*TRADE Bank satisfied this requirement at March 31, 2008 and December 31, 2007. However, events beyond management's control, such as a continued deterioration in residential real estate and credit markets, could adversely affect future earnings and E*TRADE Bank's ability to meet its future capital requirements.

E*TRADE Bank's required actual capital amounts and ratios are presented in the table below (dollars in thousands):

	Actual		Minimum Required to Qualify as Adequately Capitalized		Minimum Required to be Well Capitalized Under Prompt Corrective Action Provisions	
	Amount	Ratio	Amount	Ratio	Amount	Ratio
March 31, 2008:						
Total Capital to risk-weighted assets	$3,647,275	12.36%	>$2,361,577	>8.0%	>$ 2,951,972	>10.0%
Tier I Capital to risk-weighted assets	$3,275,848	11.10%	>$1,180,789	>4.0%	>$ 1,771,183	> 6.0%
Tier I Capital to adjusted total assets	$3,275,848	6.78%	>$1,932,751	>4.0%	>$ 2,415,938	> 5.0%
December 31, 2007:						
Total Capital to risk-weighted assets	$3,618,454	11.37%	>$2,546,669	>8.0%	>$ 3,183,336	>10.0%
Tier I Capital to risk-weighted assets	$3,219,176	10.11%	>$1,273,335	>4.0%	>$ 1,910,002	> 6.0%
Tier I Capital to adjusted total assets	$3,219,176	6.22%	>$2,070,287	>4.0%	>$ 2,587,858	> 5.0%

NOTE 14—COMMITMENTS, CONTINGENCIES AND OTHER REGULATORY MATTERS

Legal Matters

Litigation Matters

On October 27, 2000, a complaint was filed in the Superior Court for the State of California, County of Santa Clara, entitled, "Ajaxo, Inc., a Delaware corporation, Plaintiff, versus E*TRADE GROUP, INC., a Delaware corporation; and Everypath, Inc., a California corporation; and Does 1 through 50, inclusively, Defendants." Through this complaint, 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 offered to the Company by Ajaxo as well as damages and other relief against both the Company and defendant Everypath, Inc., 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 $1.3 million dollars for breach of the Ajaxo non-disclosure agreement. Although the jury also found in favor of Ajaxo on its misappropriation of trade secrets claim against the Company and defendant Everypath, the trial court subsequently denied Ajaxo's requests for additional damages and relief on these claims. Thereafter, all parties appealed, and 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 misappropriation of trade secrets claim against the Company and defendant Everypath. Following the foregoing ruling by the Court of Appeal, defendant Everypath ceased operations and made an assignment for the benefit of its creditors in January, 2006. As a result, defendant Everypath is no longer defending the case. Although the Company paid Ajaxo the full amount due on the judgment against it above, the case, consistent with the rulings issued by the Court of Appeal, has now been remanded back to the trial court solely on the issue of what, if any, additional damages Ajaxo may be entitled to receive on its misappropriation of trade secrets claim. The re-trial of this case commenced on April 28, 2008 and the Company estimates that it will conclude on or about May 16, 2008. At trial, Ajaxo will now seek alleged damages of $65,000,000 to $365,000,000 plus unspecified punitive damages. The Company denies that Ajaxo is entitled to any further damages or relief of any kind and will vigorously defend itself against Ajaxo's renewed damage claims.

On October 2, 2007, a class action complaint alleging violations of the federal securities laws was filed in the United States District Court for the Southern District of New York against the Company and its Chief Executive Officer and Chief Financial Officer entitled, "Larry Freudenberg, Individually and on Behalf of All Others Similarly Situated, Plaintiff, versus E*TRADE Financial Corporation, Mitchell H. Caplan and Robert J. Simmons, Defendants." Plaintiff contends, among other things, that between December 14, 2006, and September 25, 2007 (the "class period") defendants issued materially false and misleading statements and failed to disclose that the Company was experiencing a rise in delinquency rates in its mortgage and home equity portfolios; failed to timely record an impairment on its mortgage and home equity portfolios; materially overvalued its securities portfolio, which includes assets backed by mortgages; and based on the foregoing, lacked a reasonable basis for the positive statements it made about the Company's earnings and prospects. Plaintiff seeks to recover damages in an amount to be proven at trial, including interest and attorneys' fees and costs. Four additional class action complaints alleging similar violations of the federal securities laws and alleging either the same or somewhat longer class periods were filed in the same court between October 12, 2007 and November 21, 2007 by named plaintiffs William Boston, Robert D. Thulman, Wendy M. Davidson, and Joshua Ferenc – who subsequently dismissed his complaint on May 2, 2008. On January 23, 2008, the trial court heard motions from various plaintiffs seeking to be appointed lead plaintiff in these actions but has yet to issue its decision. Once the court rules on the lead plaintiff motions, the cases are to be consolidated. A consolidated amended complaint is expected to be filed within 60 days of the court's ruling. The Company intends to vigorously defend itself against these claims.

Based upon the same facts and circumstances alleged in the Freudenberg class action complaint above, a verified shareholder derivative complaint was filed in United States District Court for the Southern District of New York on October 4, 2007, against the Company's Chief Executive Officer, President/Chief Operating Officer, Chief Financial Officer and individual members of its board of directors entitled, "Catherine Rubery, Derivatively on behalf of E*TRADE Financial Corporation, Plaintiff, versus Mitchell H. Caplan, R. Jarrett Lilien, Robert J. Simmons, George A. Hayter, Daryl Brewster, Ronald D. Fisher, Michael K. Parks, C. Catherine Raffaeli, Lewis E. Randall, Donna L. Weaver, and Stephen H. Willard, Defendants, -and- E*TRADE Financial Corporation, a Delaware corporation, Nominal Defendant." Plaintiff alleges, among other things, causes of action for breach of fiduciary duty, waste of corporate assets, unjust enrichment, and violation of the Securities Exchange Act of 1934 and Rule 10b-5 promulgated thereunder. The above shareholder derivative complaint has been consolidated with another shareholder derivative complaint brought in the same court and against the same named defendants entitled, "Marilyn Clark, Derivatively On Behalf of E*TRADE Financial Corporation, Plaintiff, versus Mitchell H. Caplan, et al., Defendants" (collectively, with the Rubery case, the "federal derivative actions"). Three similar derivative actions, based on the same facts and circumstances as the federal derivative actions but alleging exclusively state causes of action, have been filed in the Supreme Court of the State of New York, New York County. These three cases have been ordered consolidated in that court under the caption "In re: E*Trade Financial Corporation Derivative Litigation, Lead Index No. 07-603736" (the "state derivative actions"). The Company intends to vigorously defend itself against the claims raised in the federal derivative actions and state derivative actions.

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 which could have a material adverse effect on its financial position, results of operations or cash flows. 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 cannot predict with certainty the loss or range of loss related to such matters, how such matters will be resolved, when they will ultimately be resolved, or what any eventual settlement, fine, penalty or other relief might be. Subject to the foregoing, the Company believes that the outcome of any such pending matter will not have a material adverse effect on the consolidated financial condition of the Company, although the outcome could be material to the Company's or a business segment's operating results in the future, depending, among other things, upon the Company's or business segment's income for such period.

An unfavorable outcome in any matter that is not covered by insurance 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 results of operation.

Regulatory Matters

The securities 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, FINRA, OTS or FDIC 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.

The SEC, in conjunction with various regional securities exchanges, is conducting an inquiry into the trading activities of certain specialist firms, including the Company's subsidiary E*TRADE Capital Markets, LLC ("ETCM"), on various regional exchanges in order to determine whether such firms executed proprietary orders in a given security prior to a customer order in the same security (a practice commonly known as "trading ahead") during the period 1999 - 2005. ETCM was a specialist on the Chicago Stock Exchange during the period under review. The SEC has indicated that it will seek disgorgement, prejudgment interest, and penalties from any firm found to have engaged in trading ahead activity to the detriment of its customers during that time period. It is possible that such sanctions, if imposed against ETCM, could have a material impact on the financial results of the Company during the period in which such sanctions are imposed. The Company and ETCM are cooperating with the investigation.

On October 17, 2007, the SEC initiated an informal inquiry into matters related to the Company's loan and securities portfolios. That inquiry is continuing. The Company is cooperating fully with the SEC in this matter.

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.

Reserves

For all legal matters, reserves are established in accordance with SFAS No. 5. Once established, reserves are adjusted based on available information when an event occurs requiring an adjustment.

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 influence the impact that these commitments and contingencies have on the Company in the future.

Loans

The Company had the following mortgage loan commitments (dollars in thousands):

	March 31, 2008(1)		
	Fixed Rate	Variable Rate	Total
Originate loans	$205,860	$ 73,163	$279,023
Sell loans	$ 6,276	$ 3,918	$ 10,194

(1) The Company had no commitments to purchase loans at March 31, 2008.

Securities, Unused Lines of Credit and Certificates of Deposit

At March 31, 2008, the Company had commitments to purchase $0.04 billion and sell $0.6 billion in securities. In addition, the Company had approximately $4.2 billion of certificates of deposit scheduled to mature in less than one year and $6.1 billion of unfunded commitments to extend credit.

Guarantees

The Company provides guarantees to investors purchasing mortgage loans, which are considered standard representations and warranties within the mortgage industry. The primary guarantees are as follows:

- 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. 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. 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.
- Should any eligible mortgage loan delivered pay off prior to the receipt of the first payment, the loan purchase and servicing release premiums shall be fully refunded.
- Should any eligible mortgage loan delivered to an investor pay off between the receipt of the first payment and a contractually designated period of time (typically 60-120 days from the date of purchase), the servicing release premiums shall be fully refunded.

Management has determined that quantifying the potential liability exposure is not meaningful due to the nature of the standard representations and warranties, which rarely result in loan repurchases. The current carrying amount of the liability recorded at March 31, 2008 is $0.2 million, which we consider adequate based upon analysis of historical trends and current economic conditions for these guarantees.

ETBH raises capital through the formation of trusts, which sell trust preferred stock in the capital markets. The capital securities are mandatorily redeemable in whole at the due date, which is generally 30 years after issuance. Each trust issues Floating Rate Cumulative Preferred Securities at par, with a liquidation amount of $1,000 per capital security. The proceeds from the sale of issuances are invested in ETBH's Floating Rate Junior Subordinated Debentures.

During the 30-year period prior to the redemption of the Floating Rate Cumulative 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, terminating or dissolving the trusts (all of which would otherwise be payable by the trusts). At March 31, 2008, management estimated that the maximum potential liability under this arrangement is equal to approximately $439.2 million or the total face value of these securities plus dividends, which may be unpaid at the termination of the trust arrangement.

NOTE 15—FAIR VALUE DISCLOSURES

Effective January 1, 2008, the Company adopted SFAS No. 157, which defines fair value as the exchange price that would be received for an asset or paid to transfer a liability (an exit price) in the principal or most advantageous market for the asset or liability in an orderly transaction between market participants on the measurement date. The Company determines the fair values of its financial instruments and for nonfinancial assets and nonfinancial liabilities that are recognized or disclosed at fair value in the financial statements on a recurring basis in accordance with SFAS No. 157. The Company will not adopt this statement until January 1, 2009 for nonfinancial assets and nonfinancial liabilities that are not recognized or disclosed at fair value in the financial statements on a recurring basis. Examples of nonfinancial assets and nonfinancial liabilities for which the Company has not applied the provisions of SFAS No. 157 include reporting units, nonfinancial assets and nonfinancial liabilities and indefinite-lived intangible assets measured at fair value in impairment tests under SFAS No. 142, nonfinancial long-lived assets measured at fair value for an impairment assessment under SFAS No. 144 as well as nonfinancial liabilities for exit or disposal activities initially measured at fair value under SFAS No. 146.

In determining fair value, the Company uses various valuation approaches, including market, income and/or cost approaches. The fair value hierarchy established in SFAS No. 157 requires an entity 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. As such, 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 standard describes three levels of inputs that may be used to measure fair value and are as follows:

- Level 1—Quoted prices in active markets for identical assets or liabilities. Examples of assets and liabilities utilizing Level 1 inputs include actively traded equity securities.
- Level 2—Quoted prices in markets that are not active or for which all significant inputs are observable, either directly or indirectly. Examples of assets and liabilities utilizing Level 2 inputs include mortgage-backed securities backed by U.S. Government sponsored and Federal agencies, certain CMOs, most investment securities and most OTC derivatives.
- Level 3—Unobservable inputs that are significant to the fair value of the assets or liabilities. Level 3 assets and liabilities include financial instruments whose value is determined using pricing models, discounted cash flow methodologies, or similar techniques, as well as instruments for which the determination of fair value requires significant management judgment or estimation. Examples of assets and liabilities utilizing Level 3 inputs or those that require significant management judgment include most CMOs, servicing rights, retained interest in securitizations, certain other mortgage-backed securities and certain OTC derivatives. In certain securities, including a portion of the CMO portfolio, where there has been limited activity or less transparency around inputs to the valuation, securities are classified as Level 3 even though the Company believes that Level 2 inputs could likely be obtainable in a more active market.

The availability of observable inputs can vary from instrument to instrument and in certain cases, the inputs used to measure fair value may fall into different levels of the fair value hierarchy. In such cases, an instrument's 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 the fair value measurement of an instrument requires judgment and consideration of factors specific to the instrument.

Fair Value Option

Effective January 1, 2008, the Company elected to carry investments in FNMA and FHLMC preferred stock at fair value through earnings under SFAS No. 159. The Company elected to carry the investment in preferred stock at fair value through earnings to allow the Company to economically hedge the portfolio without the burden of complying with SFAS No. 133, as amended. The impact of this adoption was an after-tax decrease to opening retained earnings as of January 1, 2008 of approximately $86.9 million. As of December 31, 2007, the Company's investment in preferred stock was reported in the balance sheet line item available-for-sale mortgage-backed and investment securities. In accordance with SFAS No. 159, as a result of the fair value election the investment in preferred stock is reported in the balance sheet line item trading securities as of March 31, 2008. Realized and unrealized gains and losses on securities classified as trading are included in the gain (loss) on loans and securities, net line item.

Valuation Techniques

The fair value for certain financial instruments is derived using pricing models and other valuation techniques that involve significant management judgment. The price transparency of financial instruments is a key determinant of the degree of judgment involved in determining the fair value of the Company's financial instruments. Financial instruments for which actively quoted prices or pricing parameters are available will generally have a higher degree of price transparency than financial instruments that are thinly traded or not quoted.

SFAS No. 157 states that the fair value measurement of a liability must reflect the nonperformance risk of the entity. The Company manages credit risk by following an established credit approval process, which includes monitoring credit limits based on counterparty credit rating, as well as by enforcing collateral requirements through credit support agreements which reduce risk by permitting the netting of transactions with the same counterparty upon occurrence of certain events. During the three months ended March 31, 2008, the consideration of credit risk did not result in a material adjustment to the valuation of OTC derivative contracts.

Mortgage-backed Securities Backed by U.S. Government Sponsored and Federal Agencies

Mortgage-backed securities backed by U.S. government sponsored and federal agencies include TBA securities and mortgage pass-through certificates. The fair value of TBA securities is determined using quoted market prices. The fair value of mortgage pass-through certificates is determined using quoted market prices, price activity and spread data for similar instruments. Mortgage-backed securities backed by U.S. government sponsored and federal agencies are generally categorized in Level 2 of the fair value hierarchy.

Collateralized Mortgage Obligations

CMOs, generally non-agency mortgage-backed securities, are typically valued using external price activity and spread data for similar instruments. The valuations of CMOs reflect the Company's best estimate of what market participants would consider in pricing the financial instruments. The Company considers the price transparency for these financial instruments to be a key determinant of the degree of judgment involved in determining the fair value. Due to the limited activity and low level of transparency around inputs to the valuation, a portion of these securities are classified as Level 3 even though the Company believes that Level 2 inputs could likely be obtainable in a more active market.

Investment Securities

Investment securities includes preferred stock, municipal bonds and corporate bonds. The fair value of preferred stock is typically estimated using market price quotations and the investment is generally categorized in Level 2 of the fair value hierarchy. The fair value of municipal bonds is estimated using pricing information based on bond characteristics, such as credit quality, maturity, coupon as well as where bonds with similar characteristics have traded. Municipal bonds are generally categorized in Level 2 of the fair value hierarchy. The fair value of corporate bonds is estimated using market price quotes corroborated by recently executed transactions observable in the market. Corporate bonds are generally categorized in Level 2 of the fair value hierarchy.

Derivative Financial Instruments

Derivative financial instruments include OTC swaps and option contracts related to interest rates, credit standing of reference entities or equity prices. The majority of the Company's derivative financial instruments, interest rate swap and option contracts, are valued with pricing models commonly used by the financial services industry using market observable pricing inputs. The Company does not consider these models to involve significant judgment on the part of management. The majority of the Company's derivative financial instruments are categorized in Level 2 of the fair value hierarchy.

Securities Owned and Securities Sold, Not Yet Purchased

Proprietary securities transactions entered into by broker-dealer subsidiaries for trading or investment purposes are included in "Securities owned" and "Securities sold, not yet purchased" in the Company's SFAS No. 157 disclosures. The fair value of securities owned and securities sold, not yet purchased is determined using observable market price quotes from recently executed transactions and are generally categorized in Level 1 or Level 2 of the fair value hierarchy.

Servicing Rights

On January 1, 2008, the Company elected to account for servicing rights under the fair value measurement method in accordance with SFAS No. 156. The fair value of the servicing rights is determined using models that include observable inputs, if available. To the extent observable inputs are not available, the Company estimates fair value based on the present value of expected future cash flows using its best estimate of the key assumptions, including anticipated loan prepayments and discount rates. Servicing rights are categorized as Level 3 in the fair value hierarchy when unobservable inputs are significant to the fair value measurements.

Retained Interests in Securitization

The fair value of the retained interests in securitizations is determined using models that include observable inputs, if available. To the extent observable inputs are not available, the Company estimates fair value based on the present value of expected future cash flows using its best estimate of the key assumptions, including forecasted credit losses, prepayments rates and discount rates. Retained interests in securitizations are categorized as Level 3 in the fair value hierarchy when unobservable inputs are significant to the fair value measurements.

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Assets and liabilities measured at fair value on a recurring basis are summarized below (dollars in thousands):

	March 31, 2008			
	Level 1	Level 2	Level 3	Fair Value
Assets				
Trading securities	$ 3,578	$ 390,649	$ 28,714	$ 422,941
Available-for-sale securities:				
Mortgage-backed securities	—	7,647,115	637,862	8,284,977
Investment securities	—	115,164	1,936	117,100
Total available-for-sale securities	—	7,762,279	639,798	8,402,077
Other assets:				
Derivative assets	—	162,648	35	162,683
Servicing rights	—	—	8,576	8,576
Total other assets measured at fair value on a recurring basis	—	162,648	8,611	171,259
Total assets measured at fair value on a recurring basis	$ 3,578	$ 8,315,576	$ 677,123	$ 8,996,277
Liabilities				
Derivative liabilities	$ —	$ 263,566	$ 166	$ 263,732
Securities sold, not yet purchased	3,096	7,241	—	10,337
Total liabilities measured at fair value on a recurring basis	$ 3,096	$ 270,807	$ 166	$ 274,069

Both observable and unobservable inputs may be used to determine the fair value of positions that the Company has classified within the Level 3 category. As a result, the realized and unrealized gains and losses for assets and liabilities within the Level 3 category presented in the tables below may include changes in fair value that were attributable to both observable and unobservable inputs. The following table presents additional information about Level 3 assets and liabilities measured at fair value on a recurring basis (dollars in thousands):

		Realized and Unrealized Gains (Losses)				
	January 1, 2008	Included in Earnings(1)	Included in Other Comprehensive Loss	Total (2)	Purchases, Sales, Other Settlements and Issuances Net	March 31, 2008
Trading securities	$ 37,795	$ (1,134)	$ —	$ (1,134)	$ (7,947)	$ 28,714
Available-for-sale securities:						
Mortgage-backed securities	$768,815	$ (26,602)	$ (81,068)	$(107,670)	$ (23,283)	$637,862
Investment securities	$ 2,117	$ —	$ 796	$ 796	$ (977)	$ 1,936
Servicing rights	$ 8,282	$ (36)	$ —	$ (36)	$ 330	$ 8,576
Derivative instruments, net(3)	$ (3,644)	$ 3,513	$ —	$ 3,513	$ —	$ (131)

(1) The majority of realized and unrealized gains (losses) included in earnings are reported in the gain (loss) on loans and securities, net line item.
(2) The majority of total realized and unrealized gains (losses) were related to assets and liabilities held at March 31, 2008.
(3) Represents Derivative assets net of Derivative liabilities.

Level 3 Valuation Techniques

Assets and liabilities are considered level 3 instruments when their value is determined using pricing models, discounted cash flow methodologies or similar techniques and at least one significant model assumption or input is unobservable. Level 3 instruments also include those for which the determination of fair value requires significant management judgment or estimation.

- Trading securities and available-for-sale securities—The fair value of trading securities and available-for-sale securities include observable inputs, if available. The valuation of Level 3 trading securities and available-for-sale securities required significant management judgment or estimation. CMOs, generally non-agency mortgage-backed securities, are typically valued using external price activity and spread data for similar instruments. The Company considers the price transparency for these financial instruments to be a key determinant of the degree of judgment involved in determining the fair value; however, the valuations of CMOs reflect the Company's best estimate of what market participants would consider in pricing the financial instruments. The fair value of the retained interests in securitizations is determined using models that include observable inputs, if available. To the extent observable inputs are not available, the Company estimates fair value based on the present value of expected future cash flows using its best estimate of the key assumptions, including forecasted credit losses, prepayments rates and discount rates.
- Derivative instruments, net—The fair value of derivative instruments is determined using models that include observable and unobservable inputs. Level 3 derivatives have characteristics that relate to unobservable pricing parameters.
- Servicing rights—The fair value of servicing rights is determined using models that include observable inputs, if available. To the extent observable inputs are not available, the Company estimates fair value based on the present value of expected future cash flows using its best estimate of the key assumptions, including anticipated loan prepayments and discount rates.

NOTE 16—SEGMENT INFORMATION

The segments presented below reflect the manner in which the Company's chief operating decision maker assesses the Company's performance. The Company has two segments: retail and institutional.

Retail includes:

- trading, investing and banking products and services to individuals; and
- stock plan administration products and services.

Institutional includes:

- balance sheet management activities including generation of institutional net interest spread, gain on loans and securities, net and management income; and
- market-making.

The retail segment originates loans through lending activities[1]. Retail segment loan originations that are not sold directly to outside parties are sold at arm's length prices to the institutional segment which manages the Company's balance sheet. The Company evaluates the performance of its segments based on segment contribution (net revenue less expense excluding operating interest). All corporate overhead, administrative and technology charges are allocated to segments either in proportion to their respective direct costs or based upon specific operating criteria.

(1) In April 2008 the Company announced that it will exit its retail mortgage origination business, which represents the last remaining loan origination channel. After the exit of this business is completed, the Company expects to partner with a third party company to provide access to real estate loans for its customers.

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Financial information for the Company's reportable segments is presented in the following tables (dollars in thousands):

	Three Months Ended March 31, 2008			
	Retail	Institutional	Eliminations[(1)]	Total
Revenue:				
Operating interest income	$ 427,323	$ 590,856	$ (307,442)	$ 710,737
Operating interest expense	(214,336)	(471,072)	307,442	(377,966)
Net operating interest income	212,987	119,784	—	332,771
Provision for loan losses	—	(233,871)	—	(233,871)
Net operating interest income (expense) after provision for loan losses	212,987	(114,087)	—	98,900
Commission	128,388	1,376	—	129,764
Fees and service charges	59,213	5,324	(1,925)	62,612
Principal transactions	—	20,495	—	20,495
Gain (loss) on loans and securities, net	1,069	(10,214)	—	(9,145)
Other revenue	9,683	3,943	(16)	13,610
Total non-interest income	198,353	20,924	(1,941)	217,336
Total net revenue	411,340	(93,163)	(1,941)	316,236
Expense excluding interest:				
Compensation and benefits	88,865	39,912	—	128,777
Clearing and servicing	20,149	30,371	(1,941)	48,579
Advertising and market development	60,445	27	—	60,472
Communications	25,201	2,238	—	27,439
Professional services	15,398	8,949	—	24,347
Depreciation and amortization	17,222	4,849	—	22,071
Occupancy and equipment	20,713	1,290	—	22,003
Amortization of other intangibles	8,777	2,133	—	10,910
Facility restructuring and other exit activities	108	10,384	—	10,492
Other	28,968	(11,445)	—	17,523
Total expense excluding interest	285,846	88,708	(1,941)	372,613
Segment income (loss)	$ 125,494	$(181,871)	$ —	$ (56,377)

(1) Reflects elimination of transactions between retail and institutional segments, which includes deposit and customer payable transfer pricing and order flow rebates.

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	Three Months Ended March 31, 2007			
	Retail	Institutional	Eliminations[1]	Total
Revenue:				
Operating interest income	$ 457,764	$ 671,243	$ (299,212)	$ 829,795
Operating interest expense	(230,283)	(508,138)	299,212	(439,209)
Net operating interest income	227,481	163,105	—	390,586
Provision for loan losses	—	(21,186)	—	(21,186)
Net operating interest income after provision for loan losses	227,481	141,919	—	369,400
Commission	123,305	35,688	—	158,993
Fees and service charges	54,203	7,475	(2,180)	59,498
Principal transactions	—	30,082	—	30,082
Gain on loans and securities, net	4,911	12,464	—	17,375
Other revenue	9,751	41	(142)	9,650
Total non-interest income	192,170	85,750	(2,322)	275,598
Total net revenue	419,651	227,669	(2,322)	644,998
Expense excluding interest:				
Compensation and benefits	80,296	43,486	—	123,782
Clearing and servicing	20,761	48,813	(2,322)	67,252
Advertising and market development	43,924	1,668	—	45,592
Communications	22,795	3,361	—	26,156
Professional services	15,099	9,886	—	24,985
Depreciation and amortization	14,809	4,574	—	19,383
Occupancy and equipment	20,572	3,007	—	23,579
Amortization of other intangibles	9,619	649	—	10,268
Facility restructuring and other exit activities	1,017	(284)	—	733
Other	19,301	13,374	—	32,675
Total expense excluding interest	248,193	128,534	(2,322)	374,405
Segment income	$ 171,458	$ 99,135	$ —	$ 270,593

(1) Reflects elimination of transactions between retail and institutional segments, which includes deposit and customer payable transfer pricing and order flow rebates.

Segment Assets

	Retail	Institutional	Eliminations	Total
As of March 31, 2008	$11,267,590	$41,929,360	$ —	$53,196,950
As of December 31, 2007	$13,446,832	$43,399,105	$ —	$56,845,937

No single customer accounted for more than 10% of total net revenue for the three months ended March 31, 2008 and 2007.

NOTE 17—SUBSEQUENT EVENTS

In April 2008, the Company announced that it will exit its retail mortgage origination business, which represents the last remaining loan origination channel. After the exit of this business is completed, the Company expects to partner with a third party company to provide access to real estate loans for its customers.

The Company closed on the sale of Retirement Advisors of America ("RAA") to PHH Investments, Ltd on April 11, 2008. The proceeds from the sale were approximately $25 million.

ITEM 4. CONTROLS AND PROCEDURES

(a) Our Chief Executive Officer and our Acting Chief Financial Officer, after evaluating the effectiveness of the Company's "disclosure controls and procedures" (as defined in the Securities Exchange Act of 1934 ("Exchange Act") Rules 13a-15(e) and 15d-15(e)) as of the end of the period covered by this quarterly report, have concluded that our disclosure controls and procedures are effective based on their evaluation of these controls and procedures required by paragraph (b) of Exchange Act Rules 13a-15 or 15d-15.

(b) Our Chief Executive Officer and our Acting Chief Financial Officer have evaluated the changes to the Company's internal control over financial reporting that occurred during our last fiscal quarter ended March 31, 2008, as required by paragraph (d) of Exchange Act Rules 13a-15 and 15d-15, and have concluded that there were no such changes that 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

On October 27, 2000, a complaint was filed in the Superior Court for the State of California, County of Santa Clara, entitled, "Ajaxo, Inc., a Delaware corporation, Plaintiff, versus E*TRADE GROUP, INC., a Delaware corporation; and Everypath, Inc., a California corporation; and Does 1 through 50, inclusively, Defendants." Through this complaint, 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 offered to the Company by Ajaxo as well as damages and other relief against both the Company and defendant Everypath, Inc., 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 $1.3 million dollars for breach of the Ajaxo non-disclosure agreement. Although the jury also found in favor of Ajaxo on its misappropriation of trade secrets claim against the Company and defendant Everypath, the trial court subsequently denied Ajaxo's requests for additional damages and relief on these claims. Thereafter, all parties appealed, and 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 misappropriation of trade secrets claim against the Company and defendant Everypath. Following the foregoing ruling by the Court of Appeal, defendant Everypath ceased operations and made an assignment for the benefit of its creditors in January, 2006. As a result, defendant Everypath is no longer defending the case. Although the Company paid Ajaxo the full amount due on the judgment against it above, the case, consistent with the rulings issued by the Court of Appeal, has now been remanded back to the trial court solely on the issue of what, if any, additional damages Ajaxo may be entitled to receive on its misappropriation of trade secrets claim. The re-trial of this case commenced on April 28, 2008 and the Company estimates that it will conclude on or about May 16, 2008. At trial, Ajaxo will now seek alleged damages of $65,000,000 to $365,000,000 plus unspecified punitive damages. The Company denies that Ajaxo is entitled to any further damages or relief of any kind and will vigorously defend itself against Ajaxo's renewed damage claims.

On October 2, 2007, a class action complaint alleging violations of the federal securities laws was filed in the United States District Court for the Southern District of New York against the Company and its Chief Executive Officer and Chief Financial Officer entitled, "Larry Freudenberg, Individually and on Behalf of All Others Similarly Situated, Plaintiff, versus E*TRADE Financial Corporation, Mitchell H. Caplan and Robert J. Simmons, Defendants." Plaintiff contends, among other things, that between December 14, 2006, and September 25, 2007 (the "class period") defendants issued materially false and misleading statements and failed to disclose that the Company was experiencing a rise in delinquency rates in its mortgage and home equity portfolios; failed to timely record an impairment on its mortgage and home equity portfolios; materially overvalued its securities portfolio, which includes assets backed by mortgages; and based on the foregoing, lacked a reasonable basis for the positive statements it made about the Company's earnings and prospects. Plaintiff seeks to recover damages in an amount to be proven at trial, including interest and attorneys' fees and costs. Four additional class action complaints alleging similar violations of the federal securities laws and alleging either the same or somewhat longer class periods were filed in the same court between October 12, 2007 and November 21, 2007 by named plaintiffs William Boston, Robert D. Thulman, Wendy M. Davidson, and Joshua Ferenc – who subsequently dismissed his complaint on May 2, 2008. On January 23, 2008, the trial court heard motions from various plaintiffs seeking to be appointed lead plaintiff in these actions but has yet to issue its decision. Once the court rules on the lead plaintiff motions, the cases are to be consolidated. A consolidated amended complaint is expected to be filed within 60 days of the court's ruling. The Company intends to vigorously defend itself against these claims.

Based upon the same facts and circumstances alleged in the Freudenberg class action complaint above, a verified shareholder derivative complaint was filed in United States District Court for the Southern District of New York on October 4, 2007, against the Company's Chief Executive Officer, President/Chief Operating Officer, Chief Financial Officer and individual members of its board of directors entitled, "Catherine Rubery, Derivatively on behalf of E*TRADE Financial Corporation, Plaintiff, versus Mitchell H. Caplan, R. Jarrett Lilien, Robert J. Simmons, George A. Hayter, Daryl Brewster, Ronald D. Fisher, Michael K. Parks, C. Catherine Raffaeli, Lewis E. Randall, Donna L. Weaver, and Stephen H. Willard, Defendants, -and- E*TRADE Financial Corporation, a Delaware corporation, Nominal Defendant." Plaintiff alleges, among other things, causes of action for breach of fiduciary duty, waste of corporate assets, unjust enrichment, and violation of the Securities Exchange Act of 1934 and Rule 10b-5 promulgated thereunder. The above shareholder derivative complaint has been consolidated with another shareholder derivative complaint brought in the same court and against the same named defendants entitled, "Marilyn Clark, Derivatively On Behalf of E*TRADE Financial Corporation, Plaintiff, versus Mitchell H. Caplan, et al., Defendants" (collectively, with the Rubery case, the "federal derivative actions"). Three similar derivative actions, based on the same facts and circumstances as the federal derivative actions but alleging exclusively state causes of action, have been filed in the Supreme Court of the State of New York, New York County. These three cases have been ordered consolidated in that court under the caption "In re: E*Trade Financial Corporation Derivative Litigation, Lead Index No. 07-603736" (the "state derivative actions"). The Company intends to vigorously defend itself against the claims raised in the federal derivative actions and state derivative actions.

The SEC, in conjunction with various regional securities exchanges, is conducting an inquiry into the trading activities of certain specialist firms, including the Company's subsidiary E*TRADE Capital Markets, LLC ("ETCM"), on various regional exchanges in order to determine whether such firms executed proprietary orders in a given security prior to a customer order in the same security (a practice commonly known as "trading ahead") during the period 1999-2005. ETCM was a specialist on the Chicago Stock Exchange during the period under review. The SEC has indicated that it will seek disgorgement, prejudgment interest, and penalties from any firm found to have engaged in trading ahead activity to the detriment of its customers during that time period. It is possible that such sanctions, if imposed against ETCM, could have a material impact on the financial results of the Company during the period in which such sanctions are imposed. The Company and ETCM are cooperating with the investigation.

On October 17, 2007, the SEC initiated an informal inquiry into matters related to the Company's loan and securities portfolios. That inquiry is continuing. The Company is cooperating fully with the SEC in this matter.

An unfavorable outcome in any matter that is not covered by insurance could have a material adverse effect on our business, financial condition, results of operations or cash flows. In addition, even if the ultimate outcomes are resolved in our 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 our results of operations. 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 which could have a material adverse effect on our financial position, results of operations or cash flows.

We maintain insurance coverage that we believe is reasonable and prudent. The principal insurance coverage we maintain 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. We believe that such insurance coverage is adequate for the purpose of our business. Our ability to maintain this level of insurance coverage in the future, however, is subject to the availability of affordable insurance in the marketplace.

ITEM 1A. RISK FACTORS

There have been no material changes in our risk factors from those disclosed in our 2007 Annual Report on Form 10-K.

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

In March 2008, the Company issued 4,500,000 shares of common stock to retire $25.0 million of the Company's 7 3/8% senior notes. The issuances were exempt from registration pursuant to Section 3(a)(9) of the Securities Act of 1933. The Company did not engage in a general solicitation or advertising with regard to the issuances of common stock and has not offered securities to the public in connection with the issuances.

ITEM 3. DEFAULTS UPON SENIOR SECURITIES

None.

ITEM 4. SUBMISSION OF MATTERS TO A VOTE OF SECURITY HOLDERS

None.

ITEM 5. OTHER INFORMATION

None.

ITEM 6. EXHIBITS

*10.1	Employment Agreement dated March 2, 2008 by and between the Company and Donald H. Layton.
*10.2	Separation Agreement dated April 22, 2008 by and between the Company and Arlen W. Gelbard.
*10.3	Separation Agreement dated April 22, 2008 by and between the Company and R. Jarrett Lilien.
*10.4	Separation Agreement dated April 25, 2008 by and between the Company and Robert J. Simmons.
*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

* Filed herein.

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SIGNATURES

Pursuant to the requirements of Section 13 or 15(d) of the Securities Exchange Act of 1934, the Registrant has duly caused this report to be signed on its behalf by the undersigned, thereunto duly authorized.

Dated: May 9, 2008

E*TRADE Financial Corporation
(Registrant)

By /s/ DONALD H. LAYTON
Donald H. Layton
Chief Executive Officer

By /s/ MATTHEW J. AUDETTE
Matthew J. Audette
Acting Chief Financial Officer
(Principal Financial and Accounting Officer)

EMPLOYMENT AGREEMENT

This Employment Agreement (this "**Agreement**") is made and entered into by and between E*TRADE Financial Corporation (the "**Company**") and Donald H. Layton ("**Executive**") as of the Effective Date.

1. *Position and Duties*: Effective March 2, 2008 (the "**Effective Date**"), Executive was appointed as the Company's Chief Executive Officer ("**CEO**"), reporting directly and exclusively to the Company's Board of Directors (the "**Board**"). In addition, Executive shall continue in his previous role as Chairman of the Board. Executive agrees to devote all necessary time, energy and skill to his duties at the Company. The Company acknowledges and agrees that Executive's continued involvement in charitable, industry and civic activities, and as a director of Assured Guaranty Limited, will not create a business or competitive conflict with the activities of the Company and are consistent with Executive's effective service as Chairman and CEO of the Company.

During his service as CEO, Executive shall not receive further compensation as Chairman and member of the Board, but his equity awards granted prior to the Effective Date shall continue on their existing terms. The Company shall provide Executive with the same indemnification agreement, if applicable, 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 under any indemnification agreement and the D&O insurance coverage with respect to all matters, events or transactions occurring or effected during the Executive's period of employment or service as a director with the Company shall survive the termination of Executive's employment.

2. *Term of Agreement*: This Agreement shall remain in effect through December 31, 2009 (the "**Term**"), unless Executive's employment as CEO is terminated earlier by either party, subject to payments under Section 5 hereof to the extent applicable. If the Board requests that Executive continue his service as Chairman and CEO beyond December 31, 2009, the parties shall negotiate in good faith to extend Executive's employment agreement with annual target compensation substantially similar to that set forth in this Agreement, and such other terms consistent with those of a chief executive officer as may be agreed at that time. Subject to payment of any amounts or provision of any benefits that may become due under Section 5 on termination of employment, Executive's employment with the Company shall be "at-will".

3. *Compensation*: During the Term, Executive shall be compensated by the Company for his services as CEO 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.

(b) *Performance Bonus*: Executive shall not have the opportunity to earn an annual cash performance bonus.

(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 Grants*: In connection with his appointment as CEO on the Effective Date, Executive has been granted (i) a stock option to purchase 4,054,161 shares of the Company's common stock at an exercise price of $4.27 per share (the "**New Options**"), and (ii) a stock-based award with respect to 1,800,351 shares of the Company's common stock (together with the New Options, the "**New Equity Grants**"). Each agreement evidencing the New Equity Grants shall include each of the additional provisions set forth in this Section 4 and in Section 5 below. To the extent the New Options are vested upon any termination of Executive's employment as CEO, the options shall remain exercisable by Executive (or his estate, as applicable) until two years following the later of (x) the date on which Executive ceases to be employed as CEO and (y) the date on which Executive ceases to be a member of the Board, but in no event beyond the maximum seven-year expiration date set forth in the option agreement.

(a) *Vesting Schedule*. Subject to the remainder of this Section 4, the New Equity Grants shall vest according to the following schedule:

Cumulative Percentage Vested	Date
25.0%	April 1, 2008
37.5%	July 1, 2008
50.0%	October 1, 2008
62.5%	January 1, 2009
75.0%	April 1, 2009
87.5%	July 1, 2009
100.0%	October 1, 2009

Notwithstanding the foregoing vesting schedule, 12.5% of the New Options were immediately vested on the grant date.

(b) *Acceleration of New Equity Grant Vesting Upon Change in Control*. In the event of a Change in Control, each New Equity Grant held by Executive, to the extent then outstanding, shall become fully vested and, if applicable, exercisable (and any forfeiture provision shall lapse) immediately prior to but conditioned upon the consummation of the Change in Control.

(c) *Acceleration of New Equity Grant Vesting Upon Death or Permanent Disability*. If Executive's employment as CEO terminates due to Executive's death or Permanent Disability, then each New Equity Grant held by Executive, to the extent then outstanding, shall become fully vested and, if applicable, exercisable (and any forfeiture provision shall lapse) in full as of the date of Executive's death or the date of termination of employment due to Permanent Disability, as applicable.

5. *Effect of Termination of Employment During the Term.*

(a) *Involuntary Termination*: If Executive's employment with the Company is terminated as a result of an Involuntary Termination (other than in the circumstance set forth in Section 5(b) below), then subject to Executive signing and not revoking the Release, Executive shall receive the following benefits, in addition to any compensation and benefits earned under Section 3 through the date of Executive's termination of employment:

(i) a lump sum cash severance payment equal to $5 million, which shall be paid within 30 days following the effectiveness of the Release (so long as such Release is signed in a period such that the payment may be made no later than 2 and 1/2 months following the end of the year in such termination of employment occurs); and

(ii) accelerated vesting of all New Equity Grants.

(b) *Appointment of New CEO*. In the event that during Executive's employment, the Board elects a CEO to succeed Executive on or prior to December 31, 2009, then Executive shall be entitled to receive his Base Salary accrued through the date when he no longer serves as CEO, 50% of the then unvested portion of each New Equity Grant shall immediately vest, and the remaining 50% of the then unvested New Equity Grants shall be forfeited. It is expected that at such time Executive will remain (non-executive) Chairman, on terms to be negotiated by the parties in good faith at that time.

(c) *Other Termination*. In the event of a termination of Executive's employment as CEO not specified under Section 4(c), Section 5(a) or Section 5(b) 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 under Section 3 through the date of his 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 his termination or as otherwise provided in the applicable award agreement.

6. *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 of the Code.

(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*: If the payments and benefits provided to Executive under this Agreement, either alone or together with other payments and benefits provided to him 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 at Executive's exclusive option 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.

7. *Certain Definitions*: For the purposes of this Agreement, the following capitalized terms shall have the meanings set forth below:

(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 willful violation of any law, rule, or regulation (other than traffic violations or similar offenses) or final cease-and-desist order or commission of an act that involves moral turpitude;

(iii) Executive's intentional failure to perform stated duties;

(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, 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 mean the occurrence of any of the following events:

(i) (X) any “person” (as such term is used in Sections 13(d) and 14(d) of the Securities Exchange Act of 1934, as amended) becomes the “beneficial owner” (as defined in Rule 13d-3 under said Act), directly or indirectly, of securities of the Company representing more than fifty percent (50%) of the total combined voting power represented by the Company’s then outstanding voting securities other than the acquisition of the Company’s common stock by a Company-sponsored employee benefit plan or through the issuance of shares sold directly by the Company to a single acquiror; or (Y) any “person” (as such term is used in Sections 13(d) and 14(d) of the Securities Exchange Act of 1934, as amended) becomes the “beneficial owner” (as defined in Rule 13d-3 under said Act), directly or indirectly, of securities of the Company representing less than fifty percent (50%) of the total combined voting power represented by the Company’s then outstanding voting securities, but in connection with the person’s acquisition of securities the person acquires the right to terminate the employment of all or a portion of the Company’s management team;

(ii) the Company is party to a merger or consolidation which results in the holders of the voting securities of the Company outstanding immediately prior thereto failing to retain immediately after such merger or consolidation direct or indirect beneficial ownership of more than fifty percent (50%) of the total combined voting power of the securities entitled to vote generally in the election of directors of the Company or the surviving entity outstanding immediately after such merger or consolidation;

(iii) a change in the composition of the Board occurring within a period of twenty-four (24) consecutive months, as a result of which fewer than a majority of the directors are Incumbent Directors;

(iv) effectiveness of an agreement for the sale, lease or disposition by the Company of all or substantially all of the Company’s assets; or

(v) a liquidation or dissolution of the Company.

The Incumbent Directors shall have the right to determine whether multiple sales or exchanges of the voting stock of the Company, which, in the aggregate, would result in a Change of Control, are related, and its determination shall be final, binding and conclusive.

(c) “**Code**” means the Internal Revenue Code of 1986, as amended.

(d) “**Change in Control Period**” shall mean the period commencing on the earlier of: (i) sixty (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.

(e) “**Change in Control Period Good Reason**” shall mean any of the following conditions:

(i) a decrease in Executive’s Base Salary or employee benefits other than as part of any across-the-board reduction applying to all senior executives and not resulting in those senior executives receiving lesser benefits than similarly situated 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, in addition to any other change in title, authority, responsibilities or duties, the following changes shall constitute an event of “Good Reason”: (X) an individual who held a position in an independent, publicly held company prior to the Change in Control holds a position in a subsidiary company following the Change in Control; and (Y) an individual who reported directly to the board of directors of a publicly held company prior to the Change in Control reports to an entity that is not the board of directors of a publicly held company;

(iii) the relocation of Executive’s principle workplace to a location greater than fifty (50) miles from the prior workplace;

(iv) 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;

(v) any failure of the Company to obtain the assumption of this Agreement by any successor or assign of the Company; or

(vi) 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.

For the purposes of any determination regarding the existence of Good Reason hereunder, any claim by Executive that Good Reason exists shall be presumed to be correct unless the Company establishes to the Board that Good Reason does not exist, and the Board, acting in good faith, affirms such determination by a vote of not less than two-thirds of its entire membership.

(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 (6) 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 (6) 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 20%;

(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. 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.

For the purposes of any determination regarding the existence of Non Change in Control Period Good Reason hereunder, Executive shall bear the burden of demonstrating that an event of Non Change in Control Period Good Reason has occurred. Only the Board, acting as a majority, may determine that an event of Non Change in Control Period Good Reason has not occurred; the Board must act within five business days of notification from Executive, or the Executive's claim shall be deemed valid.

(i) "**Permanent Disability**" shall mean Executive's permanent and total disability within the meaning of Section 22(e)(3) of the Code.

(j) "**Release**" shall mean a general release of all known and unknown claims against the Company and its affiliates and their stockholders, directors, officers, employees, agents, successors and assigns substantially in a form reasonably acceptable to the Company, which has been executed by Executive and not revoked within the applicable revocation period.

8. *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.

9. *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 he 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.

10. *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.

11. *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 him or any rights which he may have pursuant to the terms and provisions of this Agreement.

(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 his address by written notice to the other in accordance with this Paragraph:

Mailed notices to Executive shall be addressed as follows:

To the last known address provided by Executive to the Company,

with a copy to:

Shearman & Sterling
599 Lexington Avenue
New York, New York 10022
Attention: Doreen E. Lilienfeld

Mailed notices to the Company shall be addressed as follows:

E*TRADE Financial Corporation
671 North Glebe Road
Arlington, VA 22203
Attention: General Counsel

(d) *Entire Agreement*: This Agreement constitutes the entire employment agreement between Executive and the Company regarding the terms and conditions of his 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 letter agreement dated December 7, 2007 between Executive and the Company.

(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.

Date: March 2, 2008	E*TRADE Financial Corporation
	By: /s/ Ronald D. Fisher Name: Ronald D. Fisher Title: Board Member
Date: March 2, 2008	/s/ Donald H. Layton Donald H. Layton

Exhibit 10.2

SEPARATION AGREEMENT

AND GENERAL RELEASE OF CLAIMS

This Agreement dated April 22, 2008 is between Arlen W. Gelbard ("**Employee**") and E*TRADE Financial Corporation (the "**Company**") (the "**Parties**"). The parties hereby agree that Employee's employment with the Company will terminate on April 22, 2008 (the "**Separation Date**").

1. **Consideration:** In consideration for and subject to Employee signing on or within 21 days after the Separation Date, the release of claims set forth on Exhibit A hereto (the "**Release**"), the Company agrees to pay or provide Employee with the following payments and benefits:

   a. A lump sum payment of $1,785,588, to be paid on or promptly following the Separation Date (but no later than 5 business days following the Separation Date), reflecting the sum of (i) one times Employee's base salary, (ii) one times Employee's target bonus for fiscal 2007 and (iii) a prorated target bonus for 2008.

   b. The following Company equity awards which would have become vested on or before June 3, 2008 if Employee had remained employed by the Company through that date shall become vested on the Separation Date, and to the extent such equity awards are restricted stock awards, the applicable shares of Company common stock will be delivered to Employee as soon as practicable after the Separation Date, but in any event on or before May 15, 2008[1]: (i) Employee's restricted stock award granted June 3, 2003 with respect to 187,500 shares of the Company's common stock which would have become vested on June 3, 2008; (ii) Employee's restricted stock award granted May 25, 2004 with respect to 12,320 shares of the Company's common stock which would have become vested on May 25, 2008; and (iii) Employee's stock option granted May 25, 2004 with respect to 80,528 shares which would have become vested on May 25, 2008.

[1] With approval of the board, this provision was expanded to clarify inclusion of grants that would have vested on May 3, 2008.

c. Reimbursement, on a monthly basis, for the cost of medical insurance coverage at a level equivalent to that provided by the Company to Employee and his dependents immediately prior to the Separation Date and elected by Employee through COBRA (or, if Employee is no longer eligible for COBRA continuation coverage, through a lump sum payment in an amount necessary to permit Employee to obtain medical insurance coverage at a level equivalent to that provided by the Company immediately prior to the Separation Date, which lump sum payment shall be made to the Employee promptly after Employee provides the Company with the necessary documentation but in any event no later than five business days after the first anniversary date of the Separation Date) and for the cost of life and disability insurance coverage at a level equivalent to that provided by the Company to Employee, for a period from the Separation Date through the earlier of (i) the one-year anniversary of the Separation Date or (ii) the time Employee begins alternative employment. Receipt of the benefits pursuant to this clause (c) shall be subject to Employee not revoking the ADEA Release (as defined in the Release).

d. Outplacement services for up to 12 months following the Separation Date on a basis consistent with the Company's practices, provided the aggregate amount of such services shall not exceed $12,000.

e. Payment for the reasonable attorney's fees and expenses incurred by Employee in connection with the review and negotiation of this Agreement, in an amount not to exceed $10,000, such payment to be made within 30 days following the Separation Date.

2. **Resignations:** As of the Separation Date, Employee hereby resigns (and the Company hereby accepts such resignations) from any and all director, manager, officer or employee positions he may hold with the Company, its subsidiaries and any of its affiliates. Until the Separation Date,

Employee shall continue to serve in his current capacity and receive his base salary and employee benefits and be reimbursed for reasonable business expenses in accordance with the Company's practices and procedures.

3. **Transition Consulting.** Employee agrees to be available to provide consulting services to the Company as an independent contractor from the Separation Date until May 16, 2008 (the "**Consulting Period**") and, during normal business hours, to render such advice and services to the Company as may be reasonably required by the Company in its Arlington, Virginia and New York, New York offices in order to facilitate an orderly transition. In return, Employee will receive a weekly consulting fee of $19,952, which shall be paid in arrears no less often than bi-weekly. As a consultant, Employee shall not be an employee of the Company and shall not be entitled to participate in any employee benefit plans or other benefits or conditions of employment (including any bonus plans) available to the employees of the Company. Employee shall have no authority to act as an agent of the Company, except on authority specifically so delegated, and Employee shall not represent the contrary to any person. Employee shall not direct the work of any employee of the Company, or make any management decisions, or undertake to commit the Company to any course of action in relation to third persons. The Company will reimburse Employee for reasonable business expenses incurred during the Consulting Period in accordance with the Company's policies, but in any event on or before June 30, 2008.

4. **Reimbursements:** Employee will be reimbursed for outstanding reasonable business expenses incurred in connection with his duties to the Company prior to the Separation Date ("**Covered Business Expenses**") in accordance with the Company's standard procedures. Employee will have 10 business days from the Separation Date to submit all outstanding Covered Business Expenses, if any, with appropriate documentation for reimbursement by the Company. Failure to submit documented Covered Business Expenses for reimbursement within this time period will be considered a representation by Employee that he has been reimbursed for all business expenses.

5. **Vested and Accrued Benefits:** Employee understands and acknowledges that he shall be entitled to no benefits from the Company other than those expressly set forth herein and any vested and accrued benefits earned under employee benefit plans through the Separation Date, including any earned but unpaid vacation and base salary through the Separation Date, which shall be paid or provided by the Company to Employee in accordance with the terms and conditions of such plans. With respect to any vested stock options (i) granted under the Company's 1996 Stock Option Plan or under the Company's 2005 Equity Incentive Plan for which Employee would have a shorter period of time to exercise such options, Employee will have 180 days following the Separation Date (but in no event beyond the maximum term set forth in the applicable stock option agreement) to exercise such vested stock options, and (ii) granted under the Company's 2005 Equity Incentive Plan in 2006 or later, Employee will have, as provided by such award agreements, 12 months following the Separation Date to exercise such vested stock options. In the event that Employee fails to exercise any vested stock options in the required time, those options will expire. All other provisions of the stock option agreements applicable to any stock option grant shall remain in full force and effect. Except as expressly set forth in Section 1, all unvested stock options and unvested restricted stock awards shall terminate as of the Separation Date. Employee understands that he will receive no bonus payment for the 2007 or 2008 fiscal year except as expressly set forth in Section 1.

6. **Tax Matters:** All amounts referenced in Section 1 and elsewhere in this Agreement shall be subject to any required tax withholding by the Company. Notwithstanding any other provision in this Agreement to the contrary, all expenses eligible for reimbursement hereunder shall be paid to Employee promptly in accordance with the Company's customary practices (if any) applicable to the reimbursement of expenses of such type, but in any event by no later than March 15 of the calendar

year following the calendar year in which such expenses were incurred. The expenses incurred by Employee in any calendar year that are eligible for reimbursement under this Agreement shall not affect the expenses incurred by Employee in any other calendar year that are eligible for reimbursement hereunder. Employee's right to receive any reimbursement hereunder shall not be subject to liquidation or exchange for any other benefit. The parties acknowledge that they believe in good faith that Employee's termination of employment is an "involuntary separation from service" for purposes of Section 409A of the Internal Revenue Code of 1986, as amended, and the regulations promulgated thereunder.

7. **No Admission:** This Agreement constitutes a mutually acceptable vehicle for effecting Employee's departure from the Company and shall not be used or treated or deemed to be an admission of liability or responsibility on the part of any released person or entity.

8. **Continuing Agreements:** Employee acknowledges and agrees that he shall continue to be bound by and comply with the Company's Employee Inventions and Proprietary Rights Assignment Agreement. Without limiting the foregoing, Employee agrees that for a period of one year after the Separation Date, he shall not, either directly or indirectly, solicit the services, or attempt to solicit the services, of any employee of the Company to any other person or entity. Anything to the contrary notwithstanding, the Company agrees that the following shall not be deemed a violation of this Section 8: (i) Employee's responding to an unsolicited request for an employment reference regarding any former employee of the Company from such former employee, or from a third party, by providing a reference setting forth his personal views about such former employee, or (ii) if an entity with which Employee is associated solicits, hires or engages any employee of the Company or any of its subsidiaries, if Employee was not, directly or indirectly, involved in identifying such person as a potential recruit or assisting in the recruitment of such employee. For purposes hereof, Employee shall only be deemed to have been involved "indirectly" in soliciting or identifying an employee if Employee (x) directs a third party to solicit the employee, (y) identifies an employee to a third party as a potential recruit or (z) aids, assists or participates with a third party in soliciting an employee.

9. **Agreement Not to Compete; Return of Company Property:** Employee agrees that he shall not compete with the Company in any unfair manner, including, without limitation, using any confidential or proprietary information of the Company to compete with the Company in any way. The parties agree that Employee's employment by any other person or entity shall not, by itself, violate the preceding sentence. Employee agrees that for a period of one year following the Separation Date he will not accept employment, or perform services as a consultant or independent contractor, for any of the following entities or their successors: Ameritrade, Charles Schwab & Co., Fidelity Investments, Scottrade, Inc. or TD Waterhouse Group, Inc. Employee represents that he has returned or will promptly return to the Company all documents, property, and other records of the Company or any affiliate of the Company, and all copies thereof, within Employee's possession, custody or control. Anything to the contrary notwithstanding, Employee shall be entitled to retain (i) papers and other materials of a personal nature, including, but not limited to, photographs, correspondence, personal diaries, calendars and rolodexes, personal files and phone books, (ii) information showing his compensation or relating to reimbursement of expenses, (iii) information that he reasonably believes may be needed for tax purposes, (iv) copies of plans, programs and agreements relating to his employment, or termination thereof, with the Company, (v) copies of minutes, presentation materials and personal notes from any meeting of the Board of Directors of the Company or any of its subsidiaries, or any committee thereof, while he was a member of any such Board of Directors or committee thereof, and (vi) Employee's laptop computer and blackberry, provided that all confidential and/or proprietary information of the Company, its subsidiaries and its affiliated entities shall be removed from such items to the reasonable satisfaction of the Company.

10. **<u>Non-Disparagement; Disclosure of Agreement</u>:** Employee agrees that he shall not disparage the Company or any of its former, current or future officers, directors, employees, products or services, and the Company agrees that it will not (and will cause each of its subsidiaries not to and will use reasonable efforts to cause its directors and officers not to) disparage Employee in the course of any authorized internal or external communication. Notwithstanding the foregoing, nothing contained in this Agreement shall prohibit Employee or the Company from (x) responding publicly to incorrect, disparaging or derogatory public statements to the extent reasonably necessary to correct or refute such public statement or (y) making any truthful statement to the extent (i) necessary with respect to any litigation, arbitration or mediation involving this Agreement, including, but not limited to, the enforcement of this Agreement or (ii) required by law or by any court, arbitrator, mediator or administrative or legislative body (including any committee thereof) with apparent jurisdiction over Employee or the Company. Employee and the Company acknowledge that the Company will be required to disclose this Agreement and its terms in its public filings with the SEC.

11. **<u>Cooperation Clause:</u>** Employee agrees that, as requested by the Company or its counsel, he will fully cooperate with the Company and its counsel in any formal or informal inquiry, investigation, disciplinary or other proceeding initiated by any government, regulatory or law enforcement agency (including without limitation the Securities and Exchange Commission, FINRA, formerly the National Association of Securities, Inc., or the Office of Thrift Supervision). Employee further agrees to fully cooperate with the Company and its counsel in both the pursuit or prosecution of any claim or right the Company may hold against others for damages or relief and in defending the Company against any pending or future claims, complaints or actions brought against the Company, including but not limited regulatory actions, administrative proceedings, arbitration claims, lawsuits or independent investigations by the Board in conjunction with a stockholder demand. In this regard, Employee agrees that he will

promptly provide all information or documents he may possess relevant to the subject matter of any inquiry, and that he will testify truthfully and with complete candor in connection with any such regulatory, administrative or legal action or proceeding. To the extent possible, the Company will try to limit Employee's participation to regular business hours. Any request for cooperation by the Company hereunder will take into account, to the extent practicable, Employee's personal and professional schedule. The Company agrees to provide Employee reasonable notice, to the extent practicable, in the event his assistance is required. The Company will reimburse Employee for reasonable travel expenses (including lodging and meals) incurred by him in connection with providing such assistance and for legal fees to the extent Employee reasonably believes that separate representation is warranted, in either case within 30 days of the submission of the appropriate documentation to the Company. Employee's entitlement to such reimbursement, including legal fees, pursuant to this Section 11, shall in no way affect Employee's rights to be indemnified and/or advanced expenses in accordance with the Company's or any of its subsidiaries' corporate or other organizational documents, or any applicable insurance policy.

12. **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), Employee and the Company agree that all such disputes shall be fully and finally resolved by binding arbitration conducted through the American Arbitration Association in Arlington, Virginia in accordance with its National Employment Dispute Resolution rules. The Parties acknowledge that by accepting this arbitration provision that they are 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 born in a court proceeding.

13. **Prevailing Party:** The prevailing party shall be entitled to recover from the losing party its attorneys' fees and costs incurred in any action or proceeding brought to enforce any right arising out of this Agreement.

14. **Entire Agreement:** This Agreement, any confidentiality, proprietary rights and dispute resolution agreement between Employee and the Company, and any agreement concerning any stock options and other equity awards issued to Employee, constitute the entire agreement between the parties with respect to the subject matter hereof and thereof and supersede all prior negotiations and agreements, whether written or oral, including without limitation the Employment Agreement between Employee and the Company dated as of September 1, 2004 (as amended, the "**Employment Agreement**"). This Agreement may not be altered or amended except by a written document signed by Employee and an authorized representative of the Company. This Agreement shall be governed by the internal laws of the State of New York.

15. **Acknowledgment:** Employee understands and acknowledges that he has been advised to consult an attorney before accepting this Agreement. Employee further understands and acknowledges that he has up to 21 days from the Separation Date to Employee to sign the Release and return it to the Company, although it may be signed and returned at any time within such period. Furthermore, in the event Employee does not sign the Release, Employee will not be eligible and will be required to return all consideration received under this Agreement.

16. **Indemnification:** Nothing herein or in the Release shall affect or otherwise limit any indemnification of Employee provided by the Company's (or its subsidiaries') bylaws, charter, other corporate or organizational documents or other agreement concerning indemnification (including the Company's insurance policies). The indemnification provisions for officers under the Company's (or its subsidiaries') bylaws shall (to the maximum extent permitted by law) be extended to the Employee following the Separation Date with respect to all matters, events or transactions occurring or effected during the Employee's period of employment with the Company.

EMPLOYEE UNDERSTANDS THAT HE IS ENTITLED TO CONSULT WITH, AND HAS CONSULTED WITH, AN ATTORNEY PRIOR TO SIGNING THIS AGREEMENT. EMPLOYEE IS SIGNING THIS AGREEMENT KNOWINGLY, WILLINGLY AND VOLUNTARILY IN EXCHANGE FOR THE BENEFITS DESCRIBED IN SECTION 1.

Dated: April 22, 2008	Employee
	/s/ Arlen W. Gelbard Arlen W. Gelbard
Dated: April 22, 2008	E*TRADE Financial Corporation
	By: /s/ Donald H. Layton Donald H. Layton Chief Executive Officer and Chairman of the Board of Directors

EXHIBIT A – Release of Claims

1. **Full Release:** In exchange for the benefits described in the Separation Agreement dated April 22, 2008 (the "**Separation Agreement**") between Arlen W. Gelbard ("**Employee**") and E*TRADE Financial Corporation (the "**Company**") (the "**Parties**"), Employee and his successors and assigns release and absolutely discharge the Company and its subsidiaries and other affiliated entities, and each of their respective shareholders, directors, employees, agents, attorneys, legal successors and assigns of and from any and all claims, actions and causes of action, whether now known or unknown, which Employee now has, or at any other time had, or shall or may have, against those released parties arising out of or relating to any matter, cause, fact, thing, act or omission whatsoever occurring or existing at any time to and including the date of execution of this Release by Employee, including, but not limited to:

   (a) claims relating to any letter offering Employee employment with the Company, the Employment Agreement between Employee and the Company dated as of September 1, 2004, the parties' employment relationship, the termination of that relationship, the Employee's purchase or right to purchase shares of the Company's stock, and any claims for breach of contract, infliction of emotional distress, fraud, defamation, personal injury, wrongful discharge or age, sex, race, national origin, industrial injury, physical or mental disability, medical condition, sexual orientation or other discrimination, harassment or retaliation, claims under the federal Americans with Disabilities Act, Title VII of the federal Civil Rights Act of 1964, as amended, 42 U.S.C. Section 1981, the federal Fair Labor Standards Act, the federal Employee Retirement Income Security Act, the federal Worker Adjustment and Retraining Notification Act, the federal Family and Medical Leave Act, the National Labor Relations Act, the Virginians with Disabilities Act and the Virginia Human Rights Act, which prevent employment discrimination, Virginia Code sections 40.1-29, et seq.,

(b) the Age Discrimination in Employment Act (subject to Section 3 below); or

(c) any other federal, state or local law, all as they have been or may be amended, and all claims for attorneys fees and/or costs, to the full extent that such claims may be released.

This Release does not apply to (i) claims which cannot be released as a matter of law, including claims for indemnification under applicable state law, (ii) any right Employee may have to enforce the Separation Agreement, (iii) any right or claim that arises after the date of this Release, (iv) Employee's eligibility for indemnification and advancement of expenses in accordance with applicable laws or the certificate of incorporation and by-laws of Company and/or its subsidiaries, or any applicable insurance policy or (v) any right Employee may have to obtain contribution as permitted by law in the event of entry of judgment against Employee as a result of any act or failure to act for which Employee, on the one hand, and Company or any other releasee hereunder, on the other hand, are jointly liable.

2. **All Claims Waived:** Employee understands that he is releasing claims that he may not know about. That is Employee's knowing and voluntary intent even though he recognizes that someday he may regret having signed the Separation Agreement and this Release. Nevertheless, by signing the Separation Agreement and this Release, Employee agrees that he is assuming that risk, and he agrees that the Separation Agreement and this Release shall remain effective in all respects in any such case. Employee expressly waives all rights he may have under any law that is intended to protect him from waiving unknown claims.

3. **<u>Older Workers Benefit Protection Act:</u>** In accordance with the Older Workers Benefit Protection Act, Employee understands and acknowledges that he has been advised to consult an attorney before accepting the Separation Agreement and signing this Release. Employee further understands and acknowledges that he has up to 21 days from the Separation Date to sign this Release by dating and signing a copy of this Release and returning it to the Company, although it may be accepted at any time within such period. Employee further understands that, once having signed this Release, Employee will have an additional seven (7) days within which to revoke the release of claims solely under the Age Discrimination in Employment Act (the "**ADEA Release**"), by delivering written notice of revocation of the ADEA Release to Christine Wolf, Managing Director, Human Resources. If Employee revokes such ADEA Release during such seven-day period, Employee will not be eligible for the consideration under Section 1(c) of the Separation Agreement. Employee's revocation of the ADEA Release shall not impact the Release in any other way, and the Release is otherwise irrevocable on the date signed.

EMPLOYEE UNDERSTANDS THAT HE IS ENTITLED TO CONSULT WITH, AND HAS CONSULTED WITH, AN ATTORNEY PRIOR TO SIGNING THE SEPARATION AGREEMENT AND THIS RELEASE AND THAT HE IS GIVING UP ANY LEGAL CLAIMS HE HAS AGAINST THE PARTIES RELEASED ABOVE BY SIGNING THIS RELEASE. EMPLOYEE IS SIGNING THIS AGREEMENT KNOWINGLY, WILLINGLY AND VOLUNTARILY IN EXCHANGE FOR THE BENEFITS DESCRIBED IN SECTION 1 OF THE SEPARATION AGREEMENT.

Dated:	Employee
	Arlen W. Gelbard
Dated:	E*TRADE Financial Corporation
	By:

Exhibit 10.3

SEPARATION AGREEMENT

AND GENERAL RELEASE OF CLAIMS

This Agreement dated April 22, 2008 is between R. Jarrett Lilien ("**Employee**") and E*TRADE Financial Corporation (the "**Company**") (the "**Parties**"). The parties hereby agree that Employee's employment with the Company will terminate on April 22, 2008 (the "**Separation Date**").

1. **Consideration:** In consideration for and subject to Employee signing on or within 21 days after the Separation Date the release of claims set forth on Exhibit A hereto (the "**Release**"), the Company agrees to pay or provide Employee with the following payments and benefits (in addition to Employee's accrued and unpaid wages as of the Separation Date):

   a. A lump sum payment of $5.7 million, to be paid on or promptly following the Separation Date (but no later than 5 business days following the Separation Date), reflecting the sum of (i) two times Employee's base salary, (ii) two times Employee's target bonus for fiscal 2007 and (iii) a partial bonus for 2008 of $1.4 million.

   b. The following Company equity awards which would have become vested on or before June 3, 2008 if Employee had remained employed by the Company shall become vested on the Separation Date[1]: (i) Employee's restricted stock award granted June 3, 2003 with respect to 312,500 shares of the Company's common stock; (ii) Employee's restricted stock award granted May 25, 2004 with respect to 22,401 shares of the Company's common stock which would have become vested on May 25, 2008; and (iii) Employee's stock option granted May 25, 2004 with respect to 146,414 shares which would have become vested on May 25, 2008.

[1] With approval of the board, this provision was expanded to clarify inclusion of grants that would have vested on May 3, 2008.

c. Reimbursement for the cost of medical insurance coverage at a level equivalent to that provided by the Company to Employee and his dependents immediately prior to the Separation Date and elected by Employee through COBRA (or, if Employee is no longer eligible for COBRA continuation coverage, through a lump sum payment in an amount necessary to permit Employee to obtain medical insurance coverage at a level equivalent to that provided by the Company immediately prior to the Separation Date, which lump sum payment shall be made to the Employee within five business days after the second anniversary date of the Separation Date) and for the cost of life and disability insurance coverage at a level equivalent to that provided by the Company to Employee, for a period from the Separation Date through the earlier of (i) the two-year anniversary of the Separation Date or (ii) the time Employee begins alternative employment. Receipt of the benefits pursuant to this clause (c) shall be subject to Employee not revoking the ADEA Release (as defined in the Release).

d. Payment for the reasonable attorney's fees and expenses incurred by Employee in connection with the review and negotiation of this Agreement, in an amount not to exceed $10,000, such payment to be made within 30 days following the Separation Date.

2. **Resignations:** As of the Separation Date, Employee hereby resigns (and the Company hereby accepts such resignations) from any and all director, manager, officer or employee positions he may hold with the Company, its subsidiaries and any of its affiliates; *provided* that Employee's resignation from the Company's Board of Directors shall be effective on May 16, 2008 (but Employee shall not receive non-employee director compensation during such period). Until the Separation Date, Employee shall continue to serve in his current capacity and receive his base salary and employee benefits and be reimbursed for reasonable business expenses in accordance with the Company's practices and procedures.

3. **<u>Transition Consulting:</u>** Employee agrees to provide consulting services to the Company from the Separation Date until May 16, 2008 (the "**Consulting Period")** and to render such advice and services to the Company as may be reasonably required by the Company in order to facilitate an orderly transition. As a consultant, Employee shall not be an employee of the Company and shall not be entitled to participate in any employee benefit plans or other benefits or conditions of employment (including any bonus plans) available to the employees of the Company. Employee shall have no authority to act as an agent of the Company, except on authority specifically so delegated, and Employee shall not represent the contrary to any person. Employee shall not direct the work of any employee of the Company, or make any management decisions, or undertake to commit the Company to any course of action in relation to third persons. Employee's weekly consulting fee shall be the same as Employee's currently weekly prorated base salary, assuming Employee provides services for at least four days per week, but the Company shall only be required to pay Employee for services actually rendered during the consulting period. The Company will reimburse Employee for reasonable business expenses incurred during the Consulting Period in accordance with the Company's policies.

4. **<u>Reimbursements:</u>** Employee will be reimbursed for outstanding reasonable business expenses incurred in connection with his duties to the Company prior to the Separation Date ("**Covered Business Expenses**") in accordance with the Company's standard procedures. Employee will have 10 business days from the Separation Date to submit all outstanding Covered Business Expenses, if any, with appropriate documentation for reimbursement by the Company. Failure to submit documented Covered Business Expenses for reimbursement within this time period will be considered a representation by Employee that he has been reimbursed for all business expenses.

5. **<u>Vested and Accrued Benefits:</u>** Employee understands and acknowledges that he shall be entitled to no benefits from the Company other than those expressly set forth in Section 1 and any

vested and accrued benefits earned under employee benefit plans through the Separation Date, which shall be paid or provided by the Company to Employee in accordance with the terms and conditions of such plans. With respect to any vested stock options (i) granted under the Company's 1996 Stock Option Plan or under the Company's 2005 Equity Incentive Plan for which Employee would have a shorter period of time to exercise such options, Employee will have 180 days following the Separation Date (but in no event beyond the maximum term set forth in the applicable stock option agreement) to exercise such vested stock options, and (ii) granted under the Company's 2005 Equity Incentive Plan in 2006 or later, Employee will have, as provided by such award agreements, 12 months following the Separation Date to exercise such vested stock options. In the event that Employee fails to exercise any vested stock options in the required time, those options will expire. All other provisions of the stock option agreements applicable to any stock option grant shall remain in full force and effect. Except as expressly set forth in Section 1, all unvested stock options and unvested restricted stock awards shall terminate as of the Separation Date. Employee understands that he will receive no bonus payment for the 2007 or 2008 fiscal year except as expressly set forth in Section 1.

6. **Tax Matters:** All amounts referenced in Section 1 and elsewhere in this Agreement shall be subject to any required tax withholding by the Company. Notwithstanding any other provision in this Agreement to the contrary, all expenses eligible for reimbursement hereunder shall be paid to Employee promptly in accordance with the Company's customary practices (if any) applicable to the reimbursement of expenses of such type, but in any event by no later than March 15 of the calendar year following the calendar year in which such expenses were incurred.

7. **No Admission:** This Agreement constitutes a mutually acceptable vehicle for effecting Employee's departure from the Company and shall not be used or treated or deemed to be an admission of liability or responsibility on the part of any released person or entity.

8. **Continuing Agreements:** Employee acknowledges and agrees that he shall continue to be bound by and comply with the Company's Employee Inventions and Proprietary Rights Assignment Agreement. Without limiting the foregoing, Employee agrees that for a period of one year after the Separation Date, he shall not, either directly or indirectly, solicit the services, or attempt to solicit the services, of any employee of the Company to any other person or entity. Anything to the contrary notwithstanding, the Company agrees that the following shall not be deemed a violation of this Section 7: (i) Employee's responding to an unsolicited request for an employment reference regarding any former employee of the Company from such former employee, or from a third party, by providing a reference setting forth his personal views about such former employee, or (ii) if an entity with which Employee is associated hires or engages any employee of the Company or any of its subsidiaries, if Employee was not, directly or indirectly, involved in hiring or identifying such person as a potential recruit or assisting in the recruitment of such employee. For purposes hereof, Employee shall only be deemed to have been involved "indirectly" in soliciting, hiring or identifying an employee if Employee (x) directs a third party to solicit or hire the employee, (y) identifies an employee to a third party as a potential recruit or (z) aids, assists or participates with a third party in soliciting or hiring an employee.

9. **Agreement Not to Compete; Return of Company Property:** Employee agrees that he shall not compete with the Company in any unfair manner, including, without limitation, using any confidential or proprietary information of the Company to compete with the Company in any way. The parties agree that Employee's employment by any other person or entity shall not, by itself, violate the preceding sentence. Employee agrees that for a period of one year following the Separation Date he will not accept employment, or perform services as a consultant or independent contractor, for any of the following entities or their successors: Ameritrade, Charles Schwab & Co., Fidelity Investments, Scottrade, Inc. or TD Waterhouse Group, Inc. Employee represents that he has returned to the Company all documents, property, and other records of the

Company or any affiliate of the Company, and all copies thereof, within Employee's possession, custody or control. Anything to the contrary notwithstanding, Employee shall be entitled to retain (i) papers and other materials of a personal nature, including, but not limited to, photographs, correspondence, personal diaries, calendars and rolodexes, personal files and phone books, (ii) information showing his compensation or relating to reimbursement of expenses, (iii) information that he reasonably believes may be needed for tax purposes, (iv) copies of plans, programs and agreements relating to his employment, or termination thereof, with the Company and (v) copies of minutes, presentation materials and personal notes from any meeting of the Board of Directors of the Company or any of its subsidiaries, or any committee thereof, while he was a member of any such Board of Directors or committee thereof.

10. **Non-Disparagement; Disclosure of Agreement:** Employee agrees that he shall not disparage the Company or any of its former, current or future officers, directors, employees, products or services, and the Company agrees that it will not (and will cause each of its subsidiaries not to and will use reasonable efforts to cause its directors and officers not to) disparage Employee in the course of any authorized internal or external communication. Notwithstanding the foregoing, nothing contained in this Agreement shall prohibit Employee or the Company from (x) responding publicly to incorrect, disparaging or derogatory public statements to the extent reasonably necessary to correct or refute such public statement or (y) making any truthful statement to the extent (i) necessary with respect to any litigation, arbitration or mediation involving this Agreement, including, but not limited to, the enforcement of this Agreement or (ii) required by law or by any court, arbitrator, mediator or administrative or legislative body (including any committee thereof) with apparent jurisdiction over Employee or the Company. Employee and the Company acknowledge that the Company will be required to disclose this Agreement and its terms in its public filings with the SEC.

11. **Cooperation Clause:** Employee agrees that, as requested by the Company or its counsel, he will fully cooperate with the Company and its counsel in any formal or informal inquiry, investigation, disciplinary or other proceeding initiated by any government, regulatory or law enforcement agency (including without limitation the Securities and Exchange Commission, FINRA, formerly the National Association of Securities, Inc., or the Office of Thrift Supervision). Employee further agrees to fully cooperate with the Company and its counsel in both the pursuit or prosecution of any claim or right the Company may hold against others for damages or relief and in defending the Company against any pending or future claims, complaints or actions brought against the Company, including but not limited regulatory actions, administrative proceedings, arbitration claims, lawsuits or independent investigations by the Board in conjunction with a stockholder demand. In this regard, Employee agrees that he will promptly provide all information or documents he may possess relevant to the subject matter of any inquiry, and that he will testify truthfully and with complete candor in connection with any such regulatory, administrative or legal action or proceeding. To the extent possible, the Company will try to limit Employee's participation to regular business hours. Any request for cooperation by the Company hereunder will take into account, to the extent practicable, Employee's personal and professional schedule. The Company agrees to provide Employee reasonable notice, to the extent practicable, in the event his assistance is required. The Company will reimburse Employee for reasonable travel expenses (including lodging and meals) incurred by him in connection with providing such assistance and for legal fees to the extent Employee reasonably believes that separate representation is warranted, in either case within 30 days of the submission of the appropriate documentation to the Company. Employee's entitlement to such reimbursement, including legal fees, pursuant to this Section 10, shall in no way affect Employee's rights to be indemnified and/or advanced expenses in accordance with the Company's or any of its subsidiaries' corporate or other organizational documents, or any applicable insurance policy.

12. **<u>Dispute Resolution:</u>** 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), Employee and the Company agree that all such disputes shall be fully and finally resolved by binding arbitration conducted through the American Arbitration Association in New York, New York in accordance with its National Employment Dispute Resolution rules. The Parties acknowledge that by accepting this arbitration provision that they are 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 born in a court proceeding.

13. **<u>Prevailing Party:</u>** The prevailing party shall be entitled to recover from the losing party its attorneys' fees and costs incurred in any action or proceeding brought to enforce any right arising out of this Agreement.

14. **<u>Entire Agreement:</u>** This Agreement, any confidentiality, proprietary rights and dispute resolution agreement between Employee and the Company, and any agreement concerning any stock options and other equity awards issued to Employee, constitute the entire agreement between the parties with respect to the subject matter hereof and thereof and supersede all prior negotiations and agreements, whether written or oral, including without limitation the Employment Agreement between Employee and the Company dated as of September 1, 2004 (as amended, the "**Employment Agreement**"). This Agreement may not be altered or amended except by a written document signed by Employee and an authorized representative of the Company. This Agreement shall be governed by the internal laws of the State of New York.

15. **<u>Older Workers Benefit Protection Act:</u>** In accordance with the Older Workers Benefit Protection Act, Employee understands and acknowledges that he has been advised to consult an attorney before accepting this Agreement. Employee further understands and acknowledges that he has up to 21 days from the Separation Date to Employee to sign the Release and return it to the

Company, although it may be signed and returned at any time within such period. Furthermore, in the event Employee does not sign the Release, Employee will not be eligible and will be required to return all consideration received under this Agreement.

16. **Indemnification:** Nothing herein or in the Release shall affect or otherwise limit any indemnification of Employee provided by the Company's (or its subsidiaries') bylaws, charter, other corporate or organizational documents or other agreement concerning indemnification (including the Company's insurance policies). The indemnification provisions for officers and directors under the Company's (or its subsidiaries') bylaws shall (to the maximum extent permitted by law) be extended to the Employee following the Separation Date with respect to all matters, events or transactions occurring or effected during the Employee's period of employment with the Company.

EMPLOYEE UNDERSTANDS THAT HE IS ENTITLED TO CONSULT WITH, AND HAS CONSULTED WITH, AN ATTORNEY PRIOR TO SIGNING THIS AGREEMENT. EMPLOYEE IS SIGNING THIS AGREEMENT KNOWINGLY, WILLINGLY AND VOLUNTARILY IN EXCHANGE FOR THE BENEFITS DESCRIBED IN SECTION 1.

Dated: April 22, 2008

Employee

/s/ R. Jarrett Lilien

R. Jarrett Lilien

Dated: April 22, 2008

E*TRADE Financial Corporation

/s/ Donald H. Layton

By: Donald H. Layton

Chief Executive Officer and Chairman of the Board of Directors

EXHIBIT A – Release of Claims

1. **Full Release:** In exchange for the benefits described in the Separation Agreement dated April 22, 2008 (the "**Separation Agreement**") between R. Jarrett Lilien ("**Employee**") and E*TRADE Financial Corporation (the "**Company**") (the "**Parties**"), Employee and his successors and assigns release and absolutely discharge the Company and its subsidiaries and other affiliated entities, and each of their respective shareholders, directors, employees, agents, attorneys, legal successors and assigns of and from any and all claims, actions and causes of action, whether now known or unknown, which Employee now has, or at any other time had, or shall or may have, against those released parties arising out of or relating to any matter, cause, fact, thing, act or omission whatsoever occurring or existing at any time to and including the date of execution of this Separation Agreement by Employee, including, but not limited to:

   (a) claims relating to any letter offering Employee employment with the Company, the Employment Agreement between Employee and the Company dated as of September 1, 2004, the parties' employment relationship, the termination of that relationship, the Employee's purchase or right to purchase shares of the Company's stock, and any claims for breach of contract, infliction of emotional distress, fraud, defamation, personal injury, wrongful discharge or age, sex, race, national origin, industrial injury, physical or mental disability, medical condition, sexual orientation or other discrimination, harassment or retaliation, claims under the federal Americans with Disabilities Act, Title VII of the federal Civil Rights Act of 1964, as amended, 42 U.S.C. Section 1981, the federal Fair Labor Standards Act, the federal Employee Retirement Income Security Act, the federal Worker Adjustment and Retraining Notification Act, the federal Family and Medical Leave Act, the National Labor Relations Act, the Virginians with Disabilities Act and the Virginia Human Rights Act, which prevent employment discrimination, Virginia Code sections 40.1-29, et seq.,

(b) the Age Discrimination in Employment Act (subject to Section 3 below); or

(c) any other federal, state or local law, all as they have been or may be amended, and all claims for attorneys fees and/or costs, to the full extent that such claims may be released.

This Release does not apply to (i) claims which cannot be released as a matter of law, including claims for indemnification under applicable state law, (ii) any right Employee may have to enforce the Separation Agreement, (iii) any right or claim that arises after the date of this Release, (iv) Employee's eligibility for indemnification and advancement of expenses in accordance with applicable laws or the certificate of incorporation and by-laws of Company and/or its subsidiaries, or any applicable insurance policy or (v) any right Employee may have to obtain contribution as permitted by law in the event of entry of judgment against Employee as a result of any act or failure to act for which Employee, on the one hand, and Company or any other releasee hereunder, on the other hand, are jointly liable.

2. **All Claims Waived:** Employee understands that he is releasing claims that he may not know about. That is Employee's knowing and voluntary intent even though he recognizes that someday he may regret having signed the Separation Agreement and this Release. Nevertheless, by signing the Separation Agreement and this Release, Employee agrees that he is assuming that risk, and he agrees that the Separation Agreement and this Release shall remain effective in all respects in any such case. Employee expressly waives all rights he may have under any law that is intended to protect him from waiving unknown claims.

3. **<u>Older Workers Benefit Protection Act:</u>** In accordance with the Older Workers Benefit Protection Act, Employee understands and acknowledges that he has been advised to consult an attorney before accepting the Separation Agreement and signing this Release. Employee further understands and acknowledges that he has up to 21 days from the Separation Date to sign this Release by dating and signing a copy of this Release and returning it to the Company, although it may be accepted at any time within such period. Employee further understands that, once having signed this Release, Employee will have an additional seven (7) days within which to revoke the release of claims solely under the Age Discrimination in Employment Act (the "**ADEA Release**"), by delivering written notice of revocation of the ADEA Release to Christine Wolf, Managing Director, Human Resources. If Employee revokes such ADEA Release during such seven-day period, Employee will not be eligible for the consideration under Section 1(c) of the Separation Agreement. Employee's revocation of the ADEA Release shall not impact the Release in any other way, and the Release is otherwise irrevocable on the date signed.

EMPLOYEE UNDERSTANDS THAT HE IS ENTITLED TO CONSULT WITH, AND HAS CONSULTED WITH, AN ATTORNEY PRIOR TO SIGNING THE SEPARATION AGREEMENT AND THIS RELEASE AND THAT HE IS GIVING UP ANY LEGAL CLAIMS HE HAS AGAINST THE PARTIES RELEASED ABOVE BY SIGNING THIS RELEASE. EMPLOYEE IS SIGNING THIS AGREEMENT KNOWINGLY, WILLINGLY AND VOLUNTARILY IN EXCHANGE FOR THE BENEFITS DESCRIBED IN SECTION 1 OF THE SEPARATION AGREEMENT.

Dated:	Employee
	R. Jarrett Lilien
Dated:	E*TRADE Financial Corporation
	By:

Exhibit 10.4

SEPARATION AGREEMENT

AND GENERAL RELEASE OF CLAIMS

This Agreement dated April 25, 2008 is between Robert Simmons ("**Employee**") and E*TRADE Financial Corporation (the "**Company**") (the "**Parties**").

1. **Separation.** The Parties hereby agree that Employee's employment with the Company will end on the earlier of: (i) the date on which the Company hires a new Chief Financial Officer or otherwise terminates the employment relationship; or (ii) July 18, 2008 (as applicable, the "**Separation Date**"). Employee's position of Chief Financial Officer will terminate on May 9, 2008 or such earlier date as may be specified by the Company (as applicable, the "**Officer Termination Date**") and thereafter Employee shall remain employed as a full-time employee until the Separation Date.

2. **Consideration:** In consideration for and subject to Employee signing on or within 21 days after the Separation Date the release of claims set forth on Exhibit A hereto (the "**Release**"), the Company agrees to pay or provide Employee with the following payments and benefits:

   a. A lump sum payment of $2,193,989, to be paid on or promptly following the Officer Termination Date (but no later than 3 business days following the Officer Termination Date, subject to compliance with applicable laws and regulations), reflecting the sum of (i) one times Employee's base salary, (ii) one times Employee's target bonus for fiscal 2007 and (iii) a prorated target bonus for 2008.

   b. Reimbursement for the cost of medical insurance coverage at a level equivalent to that provided by the Company to Employee and his dependents immediately prior to the Separation Date and elected by Employee through COBRA (or, if Employee is no longer eligible for COBRA continuation coverage, through a lump sum payment in an amount necessary to permit Employee to obtain medical insurance coverage at a level equivalent to that provided by the Company immediately prior to the Separation Date, which lump sum payment shall be made to the Employee promptly after Employee provides the Company with the necessary documentation but in any event no later than five business days after the first anniversary date of the Separation Date) and for the cost of life and disability insurance coverage at a level equivalent to that provided by the Company to Employee, for a period from the Separation Date through the earlier of (i) the one-year anniversary of the Separation Date or (ii) the time Employee begins alternative employment. Receipt of the benefits pursuant to this clause (c) shall be subject to Employee not revoking the ADEA Release (as defined in the Release).

c. Payment for the reasonable attorney's fees and expenses incurred by Employee in connection with the review and negotiation of this Agreement, in an amount not to exceed $10,000, such payment to be made within 30 days following the Separation Date.

3. **Resignations:** As of the Separation Date, Employee hereby resigns (and the Company hereby accepts such resignations) from any and all director, manager, officer, employee, or other positions he may hold with the Company, its subsidiaries and any of its affiliates. Until the Separation Date, Employee shall continue to receive his base salary and employee benefits and be reimbursed for reasonable business expenses in accordance with the Company's practices and procedures.

4. **Transition Consulting.** To the extent the parties agree to terminate Employee's employment prior to July 18, 2008, Employee agrees to provide consulting services to the Company as an independent contractor from the Separation Date until the earlier of (i) the date on which the consulting relationship is terminated by either party or (ii) July 18, 2008 (the "**Consulting Period**"). During the Consulting Period, Employee will consult on various matters associated

with the financial management of the Company, as requested by the Company, and will receive a weekly consulting fee, which shall be the same as Employee's currently weekly prorated base salary and shall be paid in arrears no less often than bi-weekly. As a consultant, Employee shall not be an employee of the Company and shall not be entitled to participate in any employee benefit plans or other benefits or conditions of employment (including any bonus plans) available to the employees of the Company. Employee shall have no authority to act as an agent of the Company, except on authority specifically so delegated, and Employee shall not represent the contrary to any person. The Company will reimburse Employee for reasonable business expenses incurred during the Consulting Period in accordance with the Company's policies, but in any event on or before December 31, 2008. Any amounts due under this Section shall be subject to tax withholding and reporting to the extent deemed necessary by the Company.

5. **Reimbursements:** Employee will be reimbursed for outstanding reasonable business expenses incurred in connection with his duties to the Company prior to the Separation Date ("**Covered Business Expenses**") in accordance with the Company's standard procedures. Employee will have 10 business days from the Separation Date to submit all outstanding Covered Business Expenses, if any, with appropriate documentation for reimbursement by the Company. Failure to submit documented Covered Business Expenses for reimbursement within this time period will be considered a representation by Employee that he has been reimbursed for all business expenses.

6. **Vested and Accrued Benefits; Unvested Equity Awards:** Employee understands and acknowledges that he shall be entitled to no benefits from the Company other than those expressly set forth in Section 2 and any vested and accrued benefits earned under employee benefit plans through the Separation Date (including accrued vacation leave, if any), which shall be paid or provided by the Company to Employee in accordance with the terms and conditions of such plans. All unvested stock options and unvested restricted stock awards (including as

applicable both restricted shares and restricted stock units) shall terminate on the Separation Date. All vested stock options shall remain exercisable for the period set forth in the applicable stock option agreement. Employee understands that he will receive no bonus payment for the 2007 or 2008 fiscal year except as expressly set forth in Section 2.

7. **Tax Matters:** All amounts referenced in Section 2 and elsewhere in this Agreement shall be subject to any required tax withholding by the Company.

8. **No Admission:** This Agreement constitutes a mutually acceptable vehicle for effecting Employee's departure from the Company and shall not be used or treated or deemed to be an admission of liability or responsibility on the part of any released person or entity.

9. **Continuing Agreements:** Employee acknowledges and agrees that he shall continue to be bound by and comply with the Company's Employee Inventions and Proprietary Rights Assignment Agreement. Without limiting the foregoing, Employee agrees that during the Consulting Period and for a period of one year thereafter, he shall not, either directly or indirectly, solicit the services, or attempt to solicit the services, of any employee of the Company to any other person or entity. Anything to the contrary notwithstanding, the Company agrees that the following shall not be deemed a violation of this Section 9: (i) Employee's responding to an unsolicited request for an employment reference regarding any former employee of the Company from such former employee, or from a third party, by providing a reference setting forth his personal views about such former employee, or (ii) if an entity with which Employee is associated hires or engages any employee of the Company or any of its subsidiaries, if Employee was not, directly or indirectly, involved in hiring or identifying such person as a potential recruit or assisting in the recruitment of such employee. For purposes hereof, Employee shall be deemed to have been involved "indirectly" in soliciting, hiring or identifying an employee only if Employee (x) directs a third party to solicit or hire the employee, (y) identifies an employee to a third party as a potential recruit or (z) aids, assists or participates with a third party in soliciting or hiring an employee.

10. **<u>Agreement Not to Compete; Return of Company Property:</u>** Employee agrees that he shall not compete with the Company in any unfair manner, including, without limitation, using any confidential or proprietary information of the Company to compete with the Company in any way. The parties agree that Employee's employment by any other person or entity shall not, by itself, violate the preceding sentence. Employee represents that he has returned, or will return following the later of the Separation Date or the end of the Consulting Period, to the Company all documents, property, and other records of the Company or any affiliate of the Company, and all copies thereof, within Employee's possession, custody or control. Anything to the contrary notwithstanding, Employee shall be entitled to retain (i) papers and other materials of a personal nature, including, but not limited to, photographs, correspondence, personal diaries, calendars and rolodexes, personal files and phone books, (ii) information showing his compensation or relating to reimbursement of expenses, (iii) information that he reasonably believes may be needed for tax purposes, (iv) copies of plans, programs and agreements relating to his employment, or termination thereof, with the Company and (v) copies of minutes, presentation materials and personal notes from any meeting of the Board of Directors of the Company or any of its subsidiaries, or any committee thereof, while he was a member of any such Board of Directors or committee thereof.

11. **<u>Non-Disparagement; Disclosure of Agreement:</u>** Employee agrees that he shall not disparage the Company or any of its former, current or future officers, directors, employees, products or services, and the Company agrees that it will not (and will cause each of its subsidiaries not to and will use reasonable efforts to cause its directors and officers not to) disparage Employee in the course of any authorized internal or external communication. Notwithstanding the foregoing, nothing contained in this Agreement shall prohibit Employee or the Company from (x)

responding publicly to incorrect, disparaging or derogatory public statements to the extent reasonably necessary to correct or refute such public statement or (y) making any truthful statement to the extent (i) necessary with respect to any litigation, arbitration or mediation involving this Agreement, including, but not limited to, the enforcement of this Agreement or (ii) required by law or by any court, arbitrator, mediator or administrative or legislative body (including any committee thereof) with apparent jurisdiction over Employee or the Company. Employee and the Company acknowledge that the Company will be required to disclose this Agreement and its terms in its public filings with the SEC.

12. **Cooperation Clause:** Employee agrees that, as requested by the Company or its counsel, he will fully cooperate with the Company and its counsel in any formal or informal inquiry, investigation, disciplinary or other proceeding initiated by any government, regulatory or law enforcement agency (including without limitation the Securities and Exchange Commission, FINRA, formerly the National Association of Securities, Inc., or the Office of Thrift Supervision). Employee further agrees to fully cooperate with the Company and its counsel in both the pursuit or prosecution of any claim or right the Company may hold against others (other than Employee) for damages or relief and in defending the Company against any pending or future claims, complaints or actions brought against the Company, including but not limited regulatory actions, administrative proceedings, arbitration claims, lawsuits or independent investigations by the Board in conjunction with a stockholder demand. In this regard, Employee agrees that he will promptly provide all information or documents he may possess relevant to the subject matter of any inquiry, and that he will testify truthfully and with complete candor in connection with any such regulatory, administrative or legal action or proceeding. To the extent possible, the Company will try to limit Employee's participation to regular business hours. Any request for cooperation by the Company hereunder will take into account, to the extent practicable, Employee's personal and professional schedule, and shall be scheduled so as not to

unreasonably interfere with Employee's professional schedule. The Company agrees to provide Employee reasonable notice, to the extent practicable, in the event his assistance is required. The Company will reimburse Employee for reasonable travel expenses (including lodging and meals) incurred by him in connection with providing such assistance and for legal fees to the extent Employee reasonably believes that separate representation is warranted, in either case within 30 days of the submission of the appropriate documentation to the Company. In addition, to the extent the Company requires Employee to provide in excess of 8 hours of cooperation in any calendar month, then the Company shall pay Employee an hourly fee based on the last salary rate paid to Employee prior to the Separation Date. Employee's entitlement to such reimbursement, including legal fees, pursuant to this Section 12, shall in no way affect Employee's rights to be indemnified and/or advanced expenses in accordance with the Company's or any of its subsidiaries' corporate or other organizational documents, or any applicable insurance policy.

13. **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), Employee and the Company agree that all such disputes shall be fully and finally resolved by binding arbitration conducted through the American Arbitration Association in Arlington, Virginia in accordance with its National Employment Dispute Resolution rules. The Parties acknowledge that by accepting this arbitration provision that they are 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 born in a court proceeding.

14. **Prevailing Party:** The prevailing party shall be entitled to recover from the losing party its attorneys' fees and costs incurred in any action or proceeding brought to enforce any right arising out of this Agreement.

15. **<u>Entire Agreement:</u>** This Agreement, any confidentiality, proprietary rights and dispute resolution agreement between Employee and the Company, and any agreement concerning any stock options and other equity awards issued to Employee, constitute the entire agreement between the parties with respect to the subject matter hereof and thereof and supersede all prior negotiations and agreements, whether written or oral, including without limitation the Employment Agreement between Employee and the Company dated as of September 1, 2004 (as amended, the "**Employment Agreement**"). This Agreement may not be altered or amended except by a written document signed by Employee and an authorized representative of the Company. This Agreement shall be governed by the internal laws of the State of New York.

16. **<u>Acknowledgment:</u>** Employee understands and acknowledges that he has been advised to consult an attorney before accepting this Agreement. Employee further understands and acknowledges that he has up to 21 days from the Separation Date to sign the Release and return it to the Company, although it may be signed and returned at any time within such period. In the event Employee does not sign the Release, Employee will not be eligible and will be required to return all consideration received under this Agreement.

17. **<u>Indemnification:</u>** Nothing herein or in the Release shall affect or otherwise limit any indemnification of Employee provided by the Company's (or its subsidiaries') bylaws, charter, other corporate or organizational documents or other agreement concerning indemnification (including the Company's insurance policies). The indemnification provisions for officers under the Company's (or its subsidiaries') bylaws shall (to the maximum extent permitted by law) be extended to the Employee following the Separation Date with respect to all matters, events or transactions occurring or effected during the Employee's period of employment with the Company.

EMPLOYEE UNDERSTANDS THAT HE IS ENTITLED TO CONSULT WITH, AND HAS CONSULTED WITH, AN ATTORNEY PRIOR TO SIGNING THIS AGREEMENT. EMPLOYEE IS SIGNING THIS AGREEMENT KNOWINGLY, WILLINGLY AND VOLUNTARILY IN EXCHANGE FOR THE BENEFITS DESCRIBED IN SECTION 2.

Dated: April 25, 2008	Employee
	/s/ Robert Simmons Robert Simmons
Dated: April 25, 2008	E*TRADE Financial Corporation
	By: /s/ Donald H. Layton Chief Executive Officer and Chairman of the Board of Directors

EXHIBIT A – Release of Claims

1. **Full Release:** In exchange for the benefits described in the Separation Agreement dated April 25, 2008 (the "**Separation Agreement**") between Robert Simmons ("**Employee**") and E*TRADE Financial Corporation (the "**Company**") (the "**Parties**"), Employee and his successors and assigns release and absolutely discharge the Company and its subsidiaries and other affiliated entities, and each of their respective shareholders, directors, employees, agents, attorneys, legal successors and assigns of and from any and all claims, actions and causes of action, whether now known or unknown, which Employee now has, or at any other time had, or shall or may have, against those released parties arising out of or relating to any matter, cause, fact, thing, act or omission whatsoever occurring or existing at any time to and including the date of execution of this Separation Agreement by Employee, including, but not limited to:

    (a) claims relating to any letter offering Employee employment with the Company, the Employment Agreement between Employee and the Company dated as of September 1, 2004, the parties' employment relationship, the termination of that relationship, the Employee's purchase or right to purchase shares of the Company's stock, and any claims for breach of contract, infliction of emotional distress, fraud, defamation, personal injury, wrongful discharge or age, sex, race, national origin, industrial injury, physical or mental disability, medical condition, sexual orientation or other discrimination, harassment or retaliation, claims under the federal Americans with Disabilities Act, Title VII of the federal Civil Rights Act of 1964, as amended, 42 U.S.C. Section 1981, the federal Fair Labor Standards Act, the federal Employee Retirement Income Security Act, the federal Worker Adjustment and Retraining Notification Act, the federal Family and Medical Leave Act, the National Labor Relations Act, the Virginians with Disabilities Act and the Virginia Human Rights Act, which prevent employment discrimination, Virginia Code sections 40.1-29, et seq.,

(b) the Age Discrimination in Employment Act (subject to Section 3 below); or

(c) any other federal, state or local law, all as they have been or may be amended, and all claims for attorneys fees and/or costs, to the full extent that such claims may be released.

This Release does not apply to (i) claims which cannot be released as a matter of law, including claims for indemnification under applicable state law, (ii) any right Employee may have to enforce the Separation Agreement, (iii) any right or claim that arises after the date of this Release, (iv) Employee's eligibility for indemnification and advancement of expenses in accordance with applicable laws or the certificate of incorporation and by-laws of Company and/or its subsidiaries, or any applicable insurance policy or (v) any right Employee may have to obtain contribution as permitted by law in the event of entry of judgment against Employee as a result of any act or failure to act for which Employee, on the one hand, and Company or any other releasee hereunder, on the other hand, are jointly liable.

2. **All Claims Waived:** Employee understands that he is releasing claims that he may not know about. That is Employee's knowing and voluntary intent even though he recognizes that someday he may regret having signed the Separation Agreement and this Release. Nevertheless, by signing the Separation Agreement and this Release, Employee agrees that he is assuming that risk, and he agrees that the Separation Agreement and this Release shall remain effective in all respects in any such case. Employee expressly waives all rights he may have under any law that is intended to protect him from waiving unknown claims.

3. **Older Workers Benefit Protection Act:** In accordance with the Older Workers Benefit Protection Act, Employee understands and acknowledges that he has been advised to consult an attorney before accepting the Separation Agreement and signing this Release. Employee further understands and acknowledges that he has up to 21 days from the Separation Date to sign this Release by dating and signing a copy of this Release and returning it to the Company, although it may be accepted at any time within such period. Employee further understands that, once having signed this Release, Employee will have an additional seven (7) days within which to revoke the release of claims solely under the Age Discrimination in Employment Act (the "**ADEA Release**"), by delivering written notice of revocation of the ADEA Release to Christine Wolf, Managing Director, Human Resources. If Employee revokes such ADEA Release during such seven-day period, Employee will not be eligible for the consideration under Section 1(c) of the Separation Agreement. Employee's revocation of the ADEA Release shall not impact the Release in any other way, and the Release is otherwise irrevocable on the date signed.

EMPLOYEE UNDERSTANDS THAT HE IS ENTITLED TO CONSULT WITH, AND HAS CONSULTED WITH, AN ATTORNEY PRIOR TO SIGNING THE SEPARATION AGREEMENT AND THIS RELEASE AND THAT HE IS GIVING UP ANY LEGAL CLAIMS HE HAS AGAINST THE PARTIES RELEASED ABOVE BY SIGNING THIS RELEASE. EMPLOYEE IS SIGNING THIS AGREEMENT KNOWINGLY, WILLINGLY AND VOLUNTARILY IN EXCHANGE FOR THE BENEFITS DESCRIBED IN SECTION 1 OF THE SEPARATION AGREEMENT.

Dated:	Employee
	Robert Simmons
Dated:	E*TRADE Financial Corporation
	By:

Exhibit 31.1

CERTIFICATION PURSUANT TO RULE 13a-14(a)/15d-14(a), AS ADOPTED PURSUANT TO SECTION 302 OF THE SARBANES-OXLEY ACT OF 2002

I, Donald H. Layton, 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 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: May 9, 2008

E*TRADE Financial Corporation
(Registrant)

By /s/ DONALD H. LAYTON

Donald H. Layton
Chief Executive Officer

Exhibit 31.2

CERTIFICATION PURSUANT TO RULE 13a-14(a)/15d-14(a), AS ADOPTED PURSUANT TO SECTION 302 OF THE SARBANES-OXLEY ACT OF 2002

I, Matthew J. Audette, 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 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: May 9, 2008

E*TRADE Financial Corporation
(Registrant)

By /s/ MATTHEW J. AUDETTE

Matthew J. Audette
Acting Chief Financial Officer
(Principal Financial and Accounting Officer)

Exhibit 32.1

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.

Donald H. Layton, the Chief Executive Officer and Matthew J. Audette, the Acting 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: May 9, 2008

/s/ DONALD H. LAYTON
Donald H. Layton
Chief Executive Officer

/s/ MATTHEW J. AUDETTE
Matthew J. Audette
Acting Chief Financial Officer
(Principal Financial and Accounting Officer)