

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 June 30, 2016

or

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

For the transition period from to .

Commission File Number 1-11921

E*TRADE Financial Corporation

(Exact Name of Registrant as Specified in its Charter)

Delaware
(State or other jurisdiction
of incorporation or organization)

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

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

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

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

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

Indicate by check mark whether the registrant is a large accelerated filer, an accelerated filer, a non-accelerated filer or a smaller reporting company. See definitions of "large accelerated filer," "accelerated filer" and "smaller reporting company" in Rule 12b-2 of the Exchange Act.

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

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

Indicate the number of shares outstanding of each of the issuer's classes of common stock, as of the latest practicable date:

As of August 1, 2016, there were 273,685,226 shares of common stock outstanding.

E*TRADE FINANCIAL CORPORATION
FORM 10-Q QUARTERLY REPORT
For the Quarter Ended June 30, 2016
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*Unless otherwise indicated, references to "the Company," "we," "us," "our" and "E*TRADE" mean E*TRADE Financial Corporation and its subsidiaries, and references to the parent company mean E*TRADE Financial Corporation but not its subsidiaries.*

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PART I

FORWARD-LOOKING STATEMENTS

This report contains forward-looking statements, within the meaning of the Private Securities Litigation Reform Act of 1995, that involve risks and uncertainties. These statements discuss, among other things, our future plans, objectives, outlook, strategies, expectations and intentions relating to our business and future financial and operating results and the assumptions that underlie these matters and include any statement that is not historical in nature. These statements may be identified by the use of words such as "assume," "expect," "believe," "may," "will," "should," "anticipate," "intend," "plan," "estimate," "continue" and similar expressions. We caution that actual results could differ materially from those discussed in these forward-looking statements. Important factors that could contribute to our actual results differing materially from any forward-looking statements include, but are not limited to, those discussed under *Part II. Item 1A. Risk Factors* and *Part I. Item 2. Management's Discussion and Analysis of Financial Condition and Results of Operations* of this Form 10-Q; and *Part I. Item 1A. Risk Factors* of our Annual Report on Form 10-K for the year ended December 31, 2015, filed with the Securities and Exchange Commission ("SEC"), which are incorporated herein by reference. By their nature forward-looking statements are not guarantees of future performance or results and are subject to risks, uncertainties and assumptions that are difficult to predict or quantify. Actual future results may vary materially from expectations expressed or implied in this report or any of our prior communications. The forward-looking statements contained in this report reflect our expectations only as of the date of this report. You should not place undue reliance on forward-looking statements, as we do not undertake to update or revise forward-looking statements to reflect the impact of circumstances or events that arise after the date the forward-looking statements were made, except as required by law.

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

The following discussion should be read in conjunction with the consolidated financial statements and the related notes that appear elsewhere in this document and with the Annual Report on Form 10-K for the year ended December 31, 2015.

GLOSSARY OF TERMS

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

OVERVIEW

Strategy

Our business strategy is centered on two core objectives: accelerating the growth of our brokerage business to drive organic growth and improve market share, and generating robust earnings growth and healthy returns on capital to deliver long-term value for our stockholders.

Accelerate Growth of Brokerage Business

- *Enhance digital and offline customer experience*

We are focused on delivering cutting edge solutions for trading, margin lending and cash management, while expanding our customer share of wallet in retirement, investing and savings. Through these offerings, we aim to continue growing our customer base while deepening engagement with our existing customers.

- *Capitalize on value of corporate services channel*

Our corporate services channel is a strategically important driver of brokerage account and asset growth. We leverage our industry-leading position to improve corporate client acquisition and engage with plan participants to bolster awareness of our full suite of offerings.

Generate Robust Earnings Growth and Healthy Returns on Capital

- *Maximize value of customer deposits*

We utilize our bank structure to effectively monetize brokerage relationships by investing stable, low-cost deposits primarily in agency mortgage-backed securities.

- *Create capital efficiency*

We continue to manage down the size and risks associated with our legacy loan portfolio, while mitigating credit losses where possible. As we continue to deliver on our capital plan initiatives, we are focused on generating excess capital through earnings and continuing to earn approvals to operate E*TRADE Bank at levels closer to regulatory minimum capital levels, as well as effectively deploying excess capital.

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

In addition to the items noted above, our success in the future will depend upon, among other things, our ability to execute on our business strategy.

Beginning January 1, 2016, we changed our segment reporting structure to align with the manner in which business performance is now reviewed and resource allocation decisions are now made. As business performance assessments and resource allocation decisions are based on consolidated operating margin and we no longer have separate operating segments, we no longer present disaggregated segment financial results. We also updated the presentation of the consolidated income statement to reflect how business performance is now measured and prior periods have been reclassified to conform to the current period presentation:

- interest expense related to corporate debt and interest income related to corporate cash reclassified from other income (expense) to net interest income;
- losses on early extinguishment of debt reclassified from other income (expense) to non-interest expense; and
- other income (expense) reclassified from other income (expense) to gains (losses) on securities and other.

Our net revenue is generated primarily from net interest income, commissions and fees and service charges. Net interest income is largely impacted by the size of our balance sheet, our balance sheet mix, and average yields on our assets and liabilities. Net interest income is driven primarily from interest earned on margin receivables and investment securities, less interest paid on interest-bearing liabilities, including deposits, customer payables, other borrowings and corporate debt. Net interest income is also earned on our loan portfolio which we expect to continue to run off in future periods. Commissions revenue is generated by customer trades and is largely impacted by trade volume and commission rates. Fees and service charges revenue is mainly impacted by order flow revenue and fee-generating customer assets. Our net revenue is offset by non-interest expenses, the largest of which are compensation and benefits and advertising and market development.

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

	Three Months Ended June 30,		Variance	Six Months Ended June 30,		Variance
	2016	2015	2016 vs. 2015	2016	2015	2016 vs. 2015
Customer Activity Metrics:						
Daily average revenue trades ("DARTs")	152,488	149,448	2 %	158,653	159,534	(1)%
Average commission per trade	\$ 10.82	\$ 10.96	(1)%	\$ 10.73	\$ 10.95	(2)%
Margin receivables (dollars in billions)	\$ 6.8	\$ 8.1	(16)%	\$ 6.8	\$ 8.1	(16)%
End of period brokerage accounts ⁽¹⁾	3,277,090	3,201,326	2 %	3,277,090	3,201,326	2 %
Net new brokerage accounts ⁽¹⁾	23,090	18,687	24 %	63,549	57,403	11 %
Brokerage account attrition rate ⁽¹⁾	8.3%	9.6%	(1.3)%	8.1%	9.2%	(1.1)%
Customer assets (dollars in billions)	\$ 285.9	\$ 302.4	(5)%	\$ 285.9	\$ 302.4	(5)%
Net new brokerage assets (dollars in billions)	\$ 1.6	\$ 0.9	78 %	\$ 4.5	\$ 4.4	2 %
Brokerage related cash (dollars in billions)	\$ 43.0	\$ 42.0	2 %	\$ 43.0	\$ 42.0	2 %
Company Metrics:						
Operating margin	45%	27%	18 %	43%	21%	22 %
Adjusted operating margin ⁽²⁾	38%	28%	10 %	36%	30%	6 %
Cash and equivalents (dollars in millions)	\$ 2,393	\$ 1,872	28 %	\$ 2,393	\$ 1,872	28 %
Corporate cash (dollars in millions) ⁽³⁾	\$ 523	\$ 406	29 %	\$ 523	\$ 406	29 %
E*TRADE Financial Tier 1 leverage ratio	7.5%	8.5%	(1.0)%	7.5%	8.5%	(1.0)%
E*TRADE Bank Tier 1 leverage ratio ⁽⁴⁾	8.2%	9.8%	(1.6)%	8.2%	9.8%	(1.6)%
Special mention loan delinquencies (dollars in millions)	\$ 120	\$ 143	(16)%	\$ 120	\$ 143	(16)%
Allowance for loan losses (dollars in millions)	\$ 293	\$ 402	(27)%	\$ 293	\$ 402	(27)%
Net interest margin	2.64%	2.37%	0.27 %	2.72%	2.40%	0.32 %
Interest-earning assets (average dollars in billions)	\$ 43.4	\$ 42.5	2 %	\$ 42.2	\$ 41.9	1 %
Total employees (period end)	3,588	3,260	10 %	3,588	3,260	10 %

(1) Net new brokerage accounts and end of period brokerage accounts for the six months ended June 30, 2016 were impacted by the closure of 4,430 accounts related to the shutdown of the Company's Hong Kong and Singapore operations. Excluding the impact of these items, brokerage account attrition rate was 7.9% for the six months ended June 30, 2016. Net new brokerage accounts and end of period brokerage accounts for the three and six months ended June 30, 2015 were impacted by the closure of 3,484 accounts related to the escheatment of unclaimed property and 3,325 accounts related to the shutdown of the Company's global trading platform. Excluding the impact of these items, brokerage account attrition rate was 8.7% and 8.8% for the three and six months ended June 30, 2015, respectively.

(2) See *Earnings Overview* for a reconciliation of this non-GAAP measure to the comparable GAAP measure.

(3) See *Liquidity and Capital Resources* for a reconciliation of this non-GAAP measure to the comparable GAAP measure.

(4) E*TRADE Securities and E*TRADE Clearing were moved out from under E*TRADE Bank in February 2015 and July 2015, respectively.

Customer Activity Metrics

- DARTs are the predominant driver of commissions revenue from our customers.
- Average commission per trade is an indicator of changes in our customer mix, product mix and/or product pricing.
- Margin receivables represent credit extended to customers to finance their purchases of securities by borrowing against securities they own and are a key driver of net interest income.
- End of period brokerage accounts, net new brokerage accounts and brokerage account attrition rate are indicators of our ability to attract and retain brokerage customers. The brokerage account attrition rate is calculated by dividing attriting brokerage accounts, which are gross new brokerage accounts less net new brokerage accounts, by total brokerage accounts at the previous period end, and is presented on an annualized basis.

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- Changes in customer assets are an indicator of the value of our relationship with the customer. An increase in customer assets generally indicates that the use of our products and services by existing and new customers is expanding. Changes in this metric are also driven by changes in the valuations of our customers' underlying securities.
- Net new brokerage assets are total inflows to all new and existing brokerage accounts less total outflows from all closed and existing brokerage accounts and are a general indicator of the use of our products and services by new and existing brokerage customers.
- Brokerage related cash is an indicator of the level of engagement with our brokerage customers and is a key driver of net interest income as well as fees and service charges revenue, which includes fees earned on customer assets held by third parties outside the Company.

Company Metrics

- Operating margin is the percentage of net revenue that results in income before income taxes. The percentage is calculated by dividing income before income taxes by total net revenue. Adjusted operating margin percentage is a non-GAAP measure calculated by dividing adjusted income before income taxes, excluding the provision (benefit) for loan losses and losses on early extinguishment of debt, by total net revenue. Adjusted operating margin provides a useful measure of our ongoing operating performance and is used by management for this purpose as the provision (benefit) for loan losses and losses on early extinguishment of debt are not viewed as key factors governing our investments in the business. See *Earnings Overview* for a reconciliation of this non-GAAP measure to the comparable GAAP measure.
- Corporate cash is a component of cash and equivalents and is the primary source of capital above and beyond the capital deployed in our regulated subsidiaries. See *Liquidity and Capital Resources* for a reconciliation of this non-GAAP measure to the comparable GAAP measure.
- Tier 1 leverage ratio is an indication of capital adequacy for E*TRADE Financial and E*TRADE Bank. Tier 1 leverage ratio is Tier 1 capital divided by adjusted average assets for leverage capital purposes. See *Liquidity and Capital Resources* for additional information, including the calculation of regulatory capital ratios.
- Special mention loan delinquencies are loans 30-89 days past due and are an indicator of the expected trend for charge-offs in future periods as these loans have a greater propensity to migrate into nonaccrual status and to ultimately be charged-off.
- Allowance for loan losses is an estimate of probable losses inherent in the loan portfolio as of the balance sheet date, as well as the forecasted losses, including economic concessions to borrowers, over the estimated remaining life of loans modified as troubled debt restructurings ("TDRs").
- Interest-earning assets, in conjunction with our net interest margin, are indicators of our ability to generate net interest income.

Significant Events in the Second Quarter of 2016

OptionsHouse acquisition

- On July 25, 2016, we announced an agreement to acquire Aperture New Holdings, Inc., the ultimate parent company of OptionsHouse, an online brokerage, for \$725 million in cash. We intend to finance the transaction through the issuance of up to \$400 million of non-cumulative perpetual preferred stock and corporate cash. The acquisition is expected to close in the fourth quarter of 2016, subject to customary closing conditions and regulatory approvals.

Announced our intention to cross the \$50 billion consolidated assets regulatory threshold

- We expect to cross the \$50 billion consolidated assets regulatory threshold during the first half of 2017. We ended the quarter with total consolidated assets near our current target of \$49.5 billion and intend to convert a substantial portion of our off-balance sheet customer assets into our sweep deposit program in the third quarter of 2016, thus increasing the amount of off-balance sheet customer assets that we can bring back on to our balance sheet. We continue to monitor and prepare for the incremental regulatory and reporting requirements.

Launched our Adaptive Portfolio offering, which delivers automated investing with access to Financial Consultants

- We launched the Adaptive Portfolio product in June 2016, which leverages an online tool to match investors with a diversified portfolio based on their investment objective, time horizon, and risk tolerance, with automated rebalancing and access to a managed account support team. Adaptive Portfolio offers investors access to a variety of strategies, including hybrid strategies that pair actively managed mutual funds with the efficiency and broad market exposure of exchange-traded funds.

Repurchased \$151 million of shares of our common stock

- We continued to execute on our stock repurchase plan, under which the Board of Directors has authorized the repurchase of up to \$800 million of shares of our common stock through March 31, 2017. During the second quarter of 2016, we repurchased 5.9 million shares of common stock at an average price of \$25.64 for a total of \$151 million. As of June 30, 2016, we have repurchased 20.6 million shares of common stock at an average price of \$24.34 for a total of \$502 million since we began repurchasing shares in the fourth quarter of 2015. As a result of the OptionsHouse acquisition, we anticipate resuming share repurchases in the second half of 2017.

\$187 million in dividends paid from bank and broker-dealer subsidiaries to the parent company

- E*TRADE Bank paid dividends of \$85 million to the parent company during the second quarter of 2016.
- E*TRADE Securities paid a dividend of \$27 million to the parent company during the second quarter of 2016 and \$57 million in July 2016.
- E*TRADE Clearing paid a dividend of \$75 million to the parent company during the second quarter of 2016 and \$28 million in July 2016.

REGULATORY DEVELOPMENTS

On April 6, 2016, the U.S. Department of Labor published its final fiduciary regulations under the Employee Retirement Income Security Act of 1974 and the Internal Revenue Code of 1986. These regulations, which begin to take effect in April 2017, will subject certain persons, such as broker-dealers and other financial services providers that provide investment assistance to individual retirement accounts and other qualified retirement plans and accounts, to fiduciary duties and prohibited transaction restrictions for a wider range of customer interactions. This may require changes to the services and products we offer for our customers' tax-qualified retirement accounts and benefit plans and could diminish our profitability and increase our potential liabilities with respect to these accounts and plans.

Each of our banking entities has deposits insured by the Federal Deposit Insurance Corporation ("FDIC") and pays quarterly assessments to the Deposit Insurance Fund ("DIF"), maintained by the FDIC, for this insurance coverage. On March 15, 2016, the FDIC finalized the rule to add a surcharge to the regular DIF assessments of banks with \$10 billion or more in assets, which includes E*TRADE Bank. Under the final rule, E*TRADE Bank will be subject to an additional surcharge applied to its assessment base, beginning as early as the third quarter of 2016, subject to the FDIC's assessment of the fund. Surcharges at an annual rate of 4.5 basis points will be assessed until the sooner of (1) the fund attaining 1.35 percent or (2) fourth quarter 2018. The FDIC anticipates eight quarters of "surcharge assessments." There may be a one-time "shortfall assessment" in the first quarter of 2019 to bring the fund immediately to 1.35 percent if needed. The surcharge is not expected to have a material impact on our financial condition, results of operations or cash flows.

For additional information, see *Part I. Item 1. Business—Regulation* in our Annual Report on Form 10-K for the year ended December 31, 2015.

EARNINGS OVERVIEW

The following table sets forth the significant components of the consolidated statement of income (dollars in millions except per share amounts):

	Three Months Ended June 30,		Variance		Six Months Ended June 30,		Variance	
			2016 vs. 2015				2016 vs. 2015	
	2016	2015	Amount	%	2016	2015	Amount	%
Net interest income	\$ 286	\$ 252	\$ 34	13 %	\$ 573	\$ 502	\$ 71	14 %
Total non-interest income	188	177	11	6 %	373	368	5	1 %
Total net revenue	474	429	45	10 %	946	870	76	9 %
Provision (benefit) for loan losses	(35)	3	(38)	*	(69)	8	(77)	*
Total non-interest expense	295	309	(14)	(5)%	607	682	(75)	(11)%
Income before income tax expense (benefit)	214	117	97	83 %	408	180	228	127 %
Income tax expense (benefit)	81	(175)	256	*	122	(152)	274	*
Net income	\$ 133	\$ 292	\$ (159)	(54)%	\$ 286	\$ 332	\$ (46)	(14)%
Diluted earnings per share	\$ 0.48	\$ 0.99	\$ (0.51)	(52)%	\$ 1.01	\$ 1.13	\$ (0.12)	(11)%

* Percentage not meaningful.

Net income decreased 54% to \$133 million, or \$0.48 per diluted share, and decreased 14% to \$286 million, or \$1.01 per diluted share, for the three and six months ended June 30, 2016, respectively, compared to the same periods in 2015. The decrease for the three and six months ended June 30, 2016 was primarily driven by the settlement of an IRS examination in the second quarter of 2015, which resulted in a \$220 million income tax benefit, partially offset by higher total net revenue and a benefit for loan losses compared with a provision for the same periods in 2015. The decrease for the six months ended June 30, 2016 was further offset by a \$73 million loss on early extinguishment of debt recognized in the first quarter of 2015.

Net Revenue

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

	Three Months Ended June 30,		Variance		Six Months Ended June 30,		Variance	
			2016 vs. 2015				2016 vs. 2015	
	2016	2015	Amount	%	2016	2015	Amount	%
Net interest income	\$ 286	\$ 252	\$ 34	13%	\$ 573	\$ 502	\$ 71	14 %
Commissions	106	103	3	3%	213	217	(4)	(2)%
Fees and service charges	62	55	7	13%	120	107	13	12 %
Gains (losses) on securities and other	10	10	—	—%	20	25	(5)	(20)%
Other revenues	10	9	1	11%	20	19	1	5 %
Total non-interest income	188	177	11	6%	373	368	5	1 %
Total net revenue	\$ 474	\$ 429	\$ 45	10%	\$ 946	\$ 870	\$ 76	9 %

Net Interest Income

Net interest income increased 13% to \$286 million and 14% to \$573 million for the three and six months ended June 30, 2016, respectively, compared to the same periods in 2015. Net interest income is earned primarily through investment securities, margin receivables and our legacy loan portfolio, which will continue to run off in future periods, offset by funding costs. During the third quarter of 2015, we terminated \$4.4 billion of legacy wholesale funding obligations, which has significantly reduced our funding costs and improved our ability to generate net interest income.

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

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Three Months Ended June 30, ⁽¹⁾

	2016			2015		
	Average Balance	Interest Inc./Exp.	Average Yield/ Cost	Average Balance	Interest Inc./Exp.	Average Yield/ Cost
Cash and equivalents	\$ 1,589	\$ 1	0.36%	\$ 1,597	\$ —	0.18%
Cash required to be segregated under federal or other regulation	1,599	1	0.34%	379	—	0.15%
Available-for-sale securities	13,503	68	2.01%	13,587	66	1.93%
Held-to-maturity securities	15,354	107	2.80%	12,366	86	2.78%
Margin receivables	6,502	61	3.76%	8,118	70	3.44%
Loans ⁽²⁾	4,512	49	4.32%	5,864	57	3.89%
Broker-related receivables and other	363	1	0.29%	608	1	0.62%
Subtotal interest-earning assets	43,422	288	2.65%	42,519	280	2.64%
Other interest revenue ⁽³⁾	—	18		—	30	
Total interest-earning assets	43,422	306	2.83%	42,519	310	2.92%
Total non-interest-earning assets ⁽⁴⁾	4,815			4,630		
Total assets	\$ 48,237			\$ 47,149		
Deposits	\$ 31,865	\$ 1	0.01%	\$ 26,285	\$ 1	0.01%
Customer payables	6,913	1	0.07%	6,576	1	0.08%
Broker-related payables and other	1,345	—	0.00%	1,828	—	0.00%
Other borrowings ⁽⁵⁾	410	4	4.43%	4,948	41	3.34%
Corporate debt	993	14	5.40%	1,025	13	5.25%
Subtotal interest-bearing liabilities	41,526	20	0.19%	40,662	56	0.56%
Other interest expense ⁽⁶⁾	—	—		—	2	
Total interest-bearing liabilities	41,526	20	0.20%	40,662	58	0.56%
Total non-interest-bearing liabilities ⁽⁷⁾	969			893		
Total liabilities	42,495			41,555		
Total shareholders' equity	5,742			5,594		
Total liabilities and shareholders' equity	\$ 48,237			\$ 47,149		
Excess of interest earning assets over interest bearing liabilities/net interest income/net interest margin	\$ 1,896	\$ 286	2.64%	\$ 1,857	\$ 252	2.37%

- (1) Beginning in 2016, interest expense related to corporate debt and interest income related to corporate cash are presented within net interest income. Prior periods have been reclassified to conform with current period presentation.
- (2) Nonaccrual loans are included in the average loan balances. Interest payments received on nonaccrual loans are recognized on a cash basis in interest income until it is doubtful that full payment will be collected, at which point payments are applied to principal.
- (3) Represents interest income on securities loaned.
- (4) Non-interest earning assets consist of property and equipment, net, goodwill, other intangibles, net and other assets that do not generate interest income.
- (5) In September 2015, we terminated \$4.4 billion of legacy wholesale funding obligations.
- (6) Represents interest expense on securities borrowed.
- (7) Non-interest bearing liabilities consist of other liabilities that do not generate interest expense.

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Six Months Ended June 30, ⁽¹⁾

	2016			2015		
	Average Balance	Interest Inc./Exp.	Average Yield/ Cost	Average Balance	Interest Inc./Exp.	Average Yield/ Cost
Cash and equivalents	\$ 1,600	\$ 3	0.38%	\$ 1,635	\$ 1	0.16%
Cash required to be segregated under federal or other regulation	1,366	2	0.33%	344	—	0.12%
Available-for-sale securities	13,072	132	2.02%	12,967	132	2.03%
Held-to-maturity securities	14,515	210	2.90%	12,322	174	2.82%
Margin receivables	6,590	125	3.82%	8,004	138	3.47%
Loans ⁽²⁾	4,658	100	4.28%	6,033	119	3.95%
Broker-related receivables and other	356	1	0.29%	633	2	0.68%
Subtotal interest-earning assets	42,157	573	2.72%	41,938	566	2.71%
Other interest revenue ⁽³⁾	—	41		—	60	
Total interest-earning assets	42,157	614	2.92%	41,938	626	2.99%
Total non-interest-earning assets ⁽⁴⁾	4,868			4,682		
Total assets	\$ 47,025			\$ 46,620		
Deposits	\$ 30,716	\$ 2	0.01%	\$ 25,671	\$ 3	0.02%
Customer payables	6,682	2	0.07%	6,483	2	0.08%
Broker-related payables and other	1,398	—	0.00%	1,794	—	0.00%
Other borrowings ⁽⁵⁾	423	9	4.28%	4,988	82	3.34%
Corporate debt	994	27	5.39%	1,144	33	5.91%
Subtotal interest-bearing liabilities	40,213	40	0.20%	40,080	120	0.61%
Other interest expense ⁽⁶⁾	—	1		—	4	
Total interest-bearing liabilities	40,213	41	0.21%	40,080	124	0.62%
Total non-interest-bearing liabilities ⁽⁷⁾	1,079			1,024		
Total liabilities	41,292			41,104		
Total shareholders' equity	5,733			5,516		
Total liabilities and shareholders' equity	\$ 47,025			\$ 46,620		
Excess of interest earning assets over interest bearing liabilities/net interest income/net interest margin	\$ 1,944	\$ 573	2.72%	\$ 1,858	\$ 502	2.40%

- (1) Beginning in 2016, interest expense related to corporate debt and interest income related to corporate cash are presented within net interest income. Prior periods have been reclassified to conform with current period presentation.
- (2) Nonaccrual loans are included in the average loan balances. Interest payments received on nonaccrual loans are recognized on a cash basis in interest income until it is doubtful that full payment will be collected, at which point payments are applied to principal.
- (3) Represents interest income on securities loaned.
- (4) Non-interest earning assets consist of property and equipment, net, goodwill, other intangibles, net and other assets that do not generate interest income.
- (5) In September 2015, we terminated \$4.4 billion of legacy wholesale funding obligations.
- (6) Represents interest expense on securities borrowed.
- (7) Non-interest bearing liabilities consist of other liabilities that do not generate interest expense.

Average interest-earning assets increased 2% to \$43.4 billion and 1% to \$42.2 billion for the three and six months ended June 30, 2016, respectively, compared to the same periods in 2015. The fluctuation in interest-earning assets is generally driven by changes in interest-bearing liabilities, specifically deposits and customer payables. Average interest-bearing liabilities increased 2% to \$41.5 billion and less than 1% to \$40.2 billion for the three and six months ended June 30, 2016, respectively, compared to the same periods in 2015. The increases were primarily due to increased deposits as a result of transferring customer assets held by third parties to our balance sheet using our sweep deposit platform. The increases were partially offset by the termination of our legacy wholesale funding obligations during the third quarter of 2015 and the reduction of broker-related payables and other and corporate debt balances. For additional information on our balance sheet growth and customer assets held by third parties, see *Balance Sheet Overview—Deposits* section.

Beginning in 2016, we transitioned to utilizing net interest margin as the key metric for measuring our performance in leveraging our bank structure to effectively monetize brokerage relationships. Net interest margin increased 27 basis points to 2.64% and 32 basis points to 2.72% for the three and six months ended June 30, 2016, respectively, compared to the same periods in 2015. Net interest margin is driven by the mix of asset and liability average balances and the interest rates earned or paid on those balances. The increases were primarily due to lower borrowing costs resulting from the termination of \$4.4 billion of legacy wholesale funding obligations during the third quarter of 2015 and the reduction of corporate debt cost. In addition, for the three and six months ended June 30, 2016,

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revenue from investments in securities increased primarily as a result of slower prepayment speeds and increased balances compared to the prior period. These increases were partially offset by the lower reinvestment rates earned on investing funds from the continued run-off of our legacy loan portfolio. Margin balances also decreased 20% and 18%, respectively, for the three and six months ended June 30, 2016 compared to the same periods in 2015; however, the impact of the margin receivables decrease was partially offset by increased rates earned on margin due to the increase in market interest rates and changes in customer mix.

Commissions

Commissions revenue increased 3% to \$106 million and decreased 2% to \$213 million for the three and six months ended June 30, 2016, respectively, compared to the same periods in 2015. The main factors that affect commissions revenue are DARTs, average commission per trade and the number of trading days.

DART volume increased 2% to 152,488 and decreased 1% to 158,653 for the three and six months ended June 30, 2016, respectively, compared to the same periods in 2015. Option-related DARTs, which generate higher revenue per trade compared with other trade types, represented 23% of trading volume for both the three and six months ended June 30, 2016 and 2015.

Average commission per trade decreased 1% to \$10.82 and 2% to \$10.73 for the three and six months ended June 30, 2016, respectively, compared to the same periods in 2015. Average commission per trade is impacted by customer mix and the different commission rates on various trade types (e.g. equities, options, fixed income, stock plan, exchange-traded funds, and mutual funds).

Fees and Service Charges

Fees and service charges increased 13% to \$62 million and 12% to \$120 million for the three and six months ended June 30, 2016, respectively, compared to the same periods in 2015. The components of fees and service charges and the resulting variances are as follows (dollars in millions):

	Three Months Ended June 30,		Variance		Six Months Ended June 30,		Variance	
			2016 vs. 2015				2016 vs. 2015	
	2016	2015	Amount	%	2016	2015	Amount	%
Order flow revenue	\$ 22	\$ 21	\$ 1	5 %	\$ 44	\$ 44	\$ —	— %
Mutual fund service fees	9	6	3	50 %	18	12	6	50 %
Advisor management fees	6	7	(1)	(14)%	13	14	(1)	(7)%
Foreign exchange revenue	5	5	—	— %	9	9	—	— %
Reorganization fees	4	3	1	33 %	7	5	2	40 %
Money market funds and sweep deposits revenue ⁽¹⁾	10	6	4	67 %	18	11	7	64 %
Other fees and service charges	6	7	(1)	(14)%	11	12	(1)	(8)%
Total fees and service charges	<u>\$ 62</u>	<u>\$ 55</u>	<u>\$ 7</u>	13 %	<u>\$ 120</u>	<u>\$ 107</u>	<u>\$ 13</u>	12 %

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

The increase in fees and services charges for the three and six months ended June 30, 2016, compared to the same periods in 2015, was primarily driven by increased rates earned on mutual fund services and the impact of increased market interest rates on customer assets held by third parties, including money market funds and sweep deposits. Fees and service charges may decline in future periods as we continue to transfer customer assets held by third parties onto our balance sheet.

Gains (Losses) on Securities and Other

The components of gains (losses) on securities and other and the resulting variances are as follows (dollars in millions):

	Three Months Ended June 30,		Variance 2016 vs. 2015		Six Months Ended June 30,		Variance 2016 vs. 2015	
	2016	2015	Amount	%	2016	2015	Amount	%
Gains on available-for-sale securities, net	\$ 14	\$ 8	\$ 6	75 %	\$ 29	\$ 18	\$ 11	61 %
Hedge ineffectiveness	(2)	3	(5)	(167)%	(4)	2	(6)	(300)%
Equity method investment income (loss) and other	(2)	(1)	(1)	100 %	(5)	5	(10)	(200)%
Gains (losses) on securities and other	<u>\$ 10</u>	<u>\$ 10</u>	<u>\$ —</u>	<u>— %</u>	<u>\$ 20</u>	<u>\$ 25</u>	<u>\$ (5)</u>	<u>(20)%</u>

Gains (losses) on securities and other remained consistent at \$10 million and decreased 20% to \$20 million for the three and six months ended June 30, 2016, respectively, compared to the same periods in 2015. During the three and six months ended June 30, 2016 increased gains on the sale of available-for-sale agency securities, net, were offset by losses on both hedge ineffectiveness and equity method investments.

Provision (Benefit) for Loan Losses

We recognized a benefit for loan losses of \$35 million and \$69 million for the three and six months ended June 30, 2016, respectively, compared to a provision of \$3 million and \$8 million for the same periods in 2015. The current period benefit reflected recoveries in excess of prior expectations, including recoveries of previous charge-offs that were not included in our loss estimates, as well as better than expected performance of high-risk home equity lines of credit ("HELOCs") for which the period of our forecasted loan losses captured within the general allowance includes the total probable loss over the remaining life of these loans. The timing and magnitude of the provision (benefit) for loan losses is affected by many factors that could result in variability, particularly as mortgage loans reach the end of their interest-only period. For additional information on management's estimate of the allowance for loan losses, see *Concentrations of Credit Risk*.

Non-Interest Expense

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

	Three Months Ended June 30,		Variance 2016 vs. 2015		Six Months Ended June 30,		Variance 2016 vs. 2015	
	2016	2015	Amount	%	2016	2015	Amount	%
Compensation and benefits	\$ 125	\$ 118	\$ 7	6 %	\$ 251	\$ 231	\$ 20	9 %
Advertising and market development	30	32	(2)	(6)%	73	66	7	11 %
Clearing and servicing	25	25	—	— %	49	49	—	— %
FDIC insurance premiums	6	11	(5)	(45)%	12	29	(17)	(59)%
Professional services	22	26	(4)	(15)%	44	53	(9)	(17)%
Occupancy and equipment	24	22	2	9 %	47	43	4	9 %
Communications	20	19	1	5 %	43	38	5	13 %
Depreciation and amortization	20	20	—	— %	40	40	—	— %
Amortization of other intangibles	5	5	—	— %	10	10	—	— %
Restructuring and other exit activities	1	2	(1)	(50)%	3	6	(3)	(50)%
Losses on early extinguishment of debt	—	—	—	— %	—	73	(73)	(100)%
Other non-interest expenses	17	29	(12)	(41)%	35	44	(9)	(20)%
Total non-interest expense	<u>\$ 295</u>	<u>\$ 309</u>	<u>\$ (14)</u>	<u>(5)%</u>	<u>\$ 607</u>	<u>\$ 682</u>	<u>\$ (75)</u>	<u>(11)%</u>

Compensation and Benefits

Compensation and benefits increased 6% to \$125 million and 9% to \$251 million for the three and six months ended June 30, 2016, respectively, compared to the same periods in 2015. The increases were primarily due to increased salary expenses driven by a 10% increase in headcount for both the three and six months ended June 30, 2016, respectively, compared to the same periods in 2015. The increase was primarily driven by the hiring of financial consultants and customer service professionals, which aligns with our key business objective of accelerating growth of the brokerage business. Compensation and benefits for the three and six months ended June 30, 2015 includes executive severance of \$6 million, which partially offset the current period increase.

Advertising and Market Development

Advertising and market development decreased 6% to \$30 million and increased 11% to \$73 million for the three and six months ended June 30, 2016, respectively, compared to the same periods in 2015. The increase for the six months ended June 30, 2016 was driven by increased investment to drive customer acquisition and deepen engagement, partially offset by decreased spending on brand promotion during the three months ended June 30, 2016 in response to the current operating environment.

FDIC Insurance Premiums

FDIC insurance premiums decreased 45% to \$6 million and 59% to \$12 million for the three and six months ended June 30, 2016, respectively, compared to the same periods in 2015. The decreases were driven by reduced rate assessments due to continued improvement in the quality of our balance sheet, improving capital ratios and overall risk profile, compared to the same periods in 2015.

Professional Services

Professional services expense decreased 15% to \$22 million and 17% to \$44 million for the three and six months ended June 30, 2016, respectively, compared to the same periods in 2015. The decreases were primarily driven by lower project-based consulting expenses, compared to the same periods in 2015.

Communications

Communications expense increased 5% to \$20 million and 13% to \$43 million for the three and six months ended June 30, 2016, respectively, compared to the same periods in 2015. The increases were primarily driven by higher quote service fees, compared to the same periods in 2015.

Losses on Early Extinguishment of Debt

There were no losses on early extinguishment of debt for the three and six months ended June 30, 2016 and for the three months ended June 30, 2015, compared to \$73 million for the six months ended June 30, 2015. During the six months ended June 30, 2015, we issued \$460 million of 4 ⁵/₈% Senior Notes and used the net proceeds together with \$432 million of corporate cash to redeem \$800 million of 6 ³/₈% Senior Notes, which resulted in a \$73 million loss on early extinguishment of debt.

Other Non-Interest Expenses

Other non-interest expenses decreased 41% to \$17 million and 20% to \$35 million for the three and six months ended June 30, 2016, respectively, compared to the same periods in 2015. The decreases were primarily driven by a \$9 million expense related to third party contract amendment executed during the three months ended June 30, 2015.

Operating Margin

Operating margin was 45% and 43% for the three and six months ended June 30, 2016, respectively, compared to 27% and 21% for the same periods in 2015. Adjusted operating margin, a non-GAAP measure, was 38% and 36% for the three and six months ended June 30, 2016, respectively, compared to 28% and 30% for the same periods in 2015.

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The following table provides a reconciliation of adjusted income before income tax expense and adjusted operating margin, non-GAAP measures, to comparable GAAP measures (dollars in millions):

	Three Months Ended June 30,				Six Months Ended June 30,			
	2016		2015		2016		2015	
	Amount	Operating Margin %	Amount	Operating Margin %	Amount	Operating Margin %	Amount	Operating Margin %
Income before income tax expense (benefit) / operating margin	\$ 214	45%	\$ 117	27%	\$ 408	43%	\$ 180	21%
Add back impact of pre-tax items:								
Provision (benefit) for loan losses	(35)		3		(69)		8	
Losses on early extinguishment of debt	—		—		—		73	
Subtotal	(35)		3		(69)		81	
Adjusted income before income tax expense (benefit) / adjusted operating margin	<u>\$ 179</u>	38%	<u>\$ 120</u>	28%	<u>\$ 339</u>	36%	<u>\$ 261</u>	30%

Income Tax Expense (Benefit)

Income tax expense was \$81 million and \$122 million for the three and six months ended June 30, 2016, respectively, compared to an income tax benefit of \$175 million and \$152 million for the same periods in 2015. The effective tax rates were 38% and 30% for the three and six months ended June 30, 2016, respectively, compared to (149)% and (84)% for the same periods in 2015.

The effective tax rate of 30% for the six months ended June 30, 2016 was primarily driven by a \$31 million tax benefit recognized in the three months ended March 31, 2016 related to the release of valuation allowances against certain state deferred tax assets. Effective January 1, 2016, we elected to treat E*TRADE Securities and E*TRADE Clearing as single member LLCs for tax purposes. Prior to our election, the broker-dealers were treated as separate taxable corporations. The election to be treated as single member LLCs, in addition to the future income projections at the broker-dealers, will result in the utilization of certain state deferred tax assets, primarily state NOLs, against which we had previously recorded valuation allowances.

The effective tax rates of (149)% and (84)% for the three and six months ended June 30, 2015, respectively, were driven by the settlement of an IRS examination, resulting in a \$220 million income tax benefit in the second quarter of 2015. For additional information, see *Note 11—Income Taxes*.

BALANCE SHEET OVERVIEW

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

	June 30, 2016	December 31, 2015	Variance	
			2016 vs. 2015	
			Amount	%
Assets:				
Cash and equivalents	\$ 2,393	\$ 2,233	\$ 160	7 %
Segregated cash	1,821	1,057	764	72 %
Securities ⁽¹⁾	29,611	25,602	4,009	16 %
Margin receivables	6,824	7,398	(574)	(8)%
Loans receivable, net	4,089	4,613	(524)	(11)%
Receivables from brokers, dealers and clearing organizations ⁽²⁾	692	520	172	33 %
Deferred tax assets, net	830	1,033	(203)	(20)%
Other ⁽³⁾	2,942	2,971	(29)	(1)%
Total assets	<u>\$ 49,202</u>	<u>\$ 45,427</u>	<u>\$ 3,775</u>	8 %
Liabilities and shareholders' equity:				
Deposits	\$ 32,964	\$ 29,445	\$ 3,519	12 %
Customer payables	6,712	6,544	168	3 %
Payables to brokers, dealers and clearing organizations ⁽⁴⁾	1,744	1,576	168	11 %
Other borrowings	409	491	(82)	(17)%
Corporate debt	993	997	(4)	— %
Other liabilities	595	575	20	3 %
Total liabilities	<u>43,417</u>	<u>39,628</u>	<u>3,789</u>	10 %
Shareholders' equity	<u>5,785</u>	<u>5,799</u>	<u>(14)</u>	— %
Total liabilities and shareholders' equity	<u>\$ 49,202</u>	<u>\$ 45,427</u>	<u>\$ 3,775</u>	8 %

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

(2) Includes deposits paid for securities borrowed of \$205 million and \$120 million as of June 30, 2016 and December 31, 2015, respectively.

(3) Includes balance sheet line items property and equipment, net, goodwill, other intangibles, net and other assets.

(4) Includes deposits received for securities loaned of \$1.7 billion and \$1.5 billion as of June 30, 2016 and December 31, 2015, respectively.

Segregated Cash

Segregated cash increased 72% to \$1.8 billion during the six months ended June 30, 2016. The level of cash required to be segregated under federal or other regulations, or segregated cash, is driven largely by customer payables and securities lending balances we hold as liabilities in excess of the amount of margin receivables and securities borrowed balances we hold as assets. The excess represents customer cash that we are required by our regulators to segregate for the exclusive benefit of our brokerage customers.

Securities

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

			Variance	
	June 30,	December 31,	2016 vs. 2015	
	2016	2015	Amount	%
Available-for-sale securities:				
Debt securities:				
Agency mortgage-backed securities and CMOs	\$ 12,586	\$ 11,763	\$ 823	7%
Other debt securities	1,276	794	482	61%
Total debt securities	13,862	12,557	1,305	10%
Publicly traded equity securities ⁽¹⁾	33	32	1	3%
Total available-for-sale securities	<u>\$ 13,895</u>	<u>\$ 12,589</u>	<u>\$ 1,306</u>	10%
Held-to-maturity securities:				
Agency mortgage-backed securities and CMOs	\$ 12,704	\$ 10,353	\$ 2,351	23%
Other debt securities	3,012	2,660	352	13%
Total held-to-maturity securities	<u>\$ 15,716</u>	<u>\$ 13,013</u>	<u>\$ 2,703</u>	21%
Total investments in securities	\$ 29,611	\$ 25,602	\$ 4,009	16%

(1) Consists of investments in a mutual fund related to the Community Reinvestment Act.

Securities represented 60% and 56% of total assets at June 30, 2016 and December 31, 2015, respectively. We classify debt securities as available-for-sale or held-to-maturity based on our investment strategy and management's assessment of our intent and ability to hold the debt securities until maturity.

The increase in total investments in securities during the six months ended June 30, 2016 was primarily due to net purchases of investment securities as a result of increased sweep deposits and the reinvestment of funds as our loan portfolios pay down. During the three months ended June 30, 2016, securities with a fair value of approximately \$492 million were transferred from available-for-sale to held-to-maturity pursuant to an evaluation of our investment strategy and an assessment by management about our intent and ability to hold those particular securities until maturity. See *Note 12—Shareholders' Equity* for additional information.

Margin Receivables

Margin receivables decreased 8% to \$6.8 billion during the six months ended June 30, 2016. The decrease in margin receivables was primarily driven by downward market pressures and overall customer market sentiment during the six months ended June 30, 2016, lowering demand for additional margin lending. These impacts were partially offset by a temporary increase associated with market volatility surrounding the United Kingdom's referendum to withdraw from the European Union on June 23, 2016. Average margin receivables were \$6.6 billion for the six months ended June 30, 2016.

Loans Receivable, Net

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

	June 30, 2016	December 31, 2015	Variance 2016 vs. 2015	
			Amount	%
One- to four-family	\$ 2,244	\$ 2,488	\$ (244)	(10)%
Home equity	1,827	2,114	(287)	(14)%
Consumer and other	292	341	(49)	(14)%
Total loans receivable	4,363	4,943	(580)	(12)%
Unamortized premiums, net	19	23	(4)	(17)%
Allowance for loan losses	(293)	(353)	60	(17)%
Total loans receivable, net	\$ 4,089	\$ 4,613	\$ (524)	(11)%

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Loans receivable, net decreased 11% to \$4.1 billion during the six months ended June 30, 2016. We are continuing our strategy of reducing balance sheet risk through loan portfolio run-off, which we plan to do for the foreseeable future. Loan portfolio run-off is impacted by a variety of factors. As our portfolio ages and we gather substantive performance history on loan conversions from interest-only to amortizing, we will continue to assess the economic environment and the value of our portfolio in the marketplace. While it is our intention to continue to hold these loans, if the markets improve our strategy could change. For additional information on management's estimate of the allowance for loan losses, see *Concentrations of Credit Risk*.

Deposits

Deposits are summarized as follows (dollars in millions):

	June 30, 2016	December 31, 2015	Variance 2016 vs. 2015	
			Amount	%
Sweep deposits	\$ 27,772	\$ 24,018	\$ 3,754	16 %
Complete savings deposits	3,185	3,357	(172)	(5)%
Checking deposits	1,208	1,239	(31)	(3)%
Other money market and savings deposits	764	792	(28)	(4)%
Time deposits	35	39	(4)	(10)%
Total deposits	\$ 32,964	\$ 29,445	\$ 3,519	12 %

Deposits represented 76% and 74% of total liabilities at June 30, 2016 and December 31, 2015, respectively. At June 30, 2016, approximately 90% of our customer deposits were covered by FDIC insurance.

The majority of the deposits balance, specifically sweep deposits, is included in brokerage related cash, which is reported as a customer activity metric. Total brokerage related cash is summarized as follows (dollars in millions):

	June 30, 2016	December 31, 2015	Variance 2016 vs. 2015	
			Amount	%
Sweep deposits ⁽¹⁾⁽²⁾	\$ 27,772	\$ 24,018	\$ 3,754	16 %
Customer payables	6,712	6,544	168	3 %
Subtotal	34,484	30,562	3,922	13 %
Customer assets held by third parties ⁽³⁾	8,515	11,173	(2,658)	(24)%
Total brokerage related cash	\$ 42,999	\$ 41,735	\$ 1,264	3 %

(1) Sweep deposits are held at bank subsidiaries and are included in the deposits line item on our consolidated balance sheet.

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

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

We offer an extended insurance sweep deposit account ("ESDA") program to our brokerage customers. The ESDA program utilizes our bank subsidiaries, in combination with additional third party program banks, to allow certain customers the ability to have aggregate deposits they hold in the ESDA program insured up to \$1,250,000 for each category of legal ownership. As of June 30, 2016, the vast majority of sweep deposits were in the ESDA program.

Customer assets held by third parties are maintained at third party financial institutions. The components of customer assets held by third parties are summarized as follows (dollars in millions):

	June 30, 2016	December 31, 2015	Variance 2016 vs. 2015	
			Amount	%
Sweep deposits at unaffiliated financial institutions	\$ 4,601	\$ 5,818	\$ (1,217)	(21)%
Money market fund	299	1,756	(1,457)	(83)%
Municipal funds and other	3,615	3,599	16	— %
Customer assets held by third parties	\$ 8,515	\$ 11,173	\$ (2,658)	(24)%

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During the six months ended June 30, 2016, we transferred a net total of \$2.8 billion of customer assets held at third party institutions back onto our balance sheet. This amount included \$1.6 billion of customer assets converted from the money market fund product held by third parties to our ESDA program during the first quarter of 2016, allowing us to more efficiently manage our balance sheet size through our sweep deposits platform. We intend to convert approximately \$4 billion of additional customer assets held by third parties to our ESDA program in the third quarter of 2016. This conversion will increase the total amount of off-balance sheet customer assets that we can bring back on to our balance sheet to approximately \$6 billion. We expect to cross the \$50 billion consolidated assets regulatory threshold during the first half of 2017.

Other Borrowings

Other borrowings, which includes securities sold under agreements to repurchase and trust preferred securities ("TRUPs"), are summarized as follows (dollars in millions):

	June 30, 2016	December 31, 2015	Variance 2016 vs. 2015	
			Amount	%
Trust preferred securities	\$ 409	\$ 409	\$ —	—%
Repurchase agreements	—	82	(82)	(100)%
Total other borrowings	\$ 409	\$ 491	\$ (82)	(17)%

Other borrowings represented 1% of total liabilities at both June 30, 2016 and December 31, 2015.

Corporate Debt

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

	Face Value	Discount	Net
June 30, 2016			
Interest-bearing notes:			
5 ³ / ₈ % Notes, due 2022	\$ 540	\$ (5)	\$ 535
4 ⁵ / ₈ % Notes, due 2023	460	(5)	455
Total interest-bearing notes	1,000	(10)	990
Non-interest-bearing debt:			
0% Convertible debentures, due 2019	3	—	3
Total corporate debt	\$ 1,003	\$ (10)	\$ 993
	Face Value	Discount	Net
December 31, 2015			
Interest-bearing notes:			
5 ³ / ₈ % Notes, due 2022	\$ 540	\$ (6)	\$ 534
4 ⁵ / ₈ % Notes, due 2023	460	(5)	455
Total interest-bearing notes	1,000	(11)	989
Non-interest-bearing debt:			
0% Convertible debentures, due 2019	8	—	8
Total corporate debt	\$ 1,008	\$ (11)	\$ 997

During the six months ended June 30, 2016, \$5 million of convertible debentures were converted into 0.5 million shares of common stock.

Shareholders' Equity

The activity in shareholders' equity during the six months ended June 30, 2016 is summarized as follows (dollars in millions):

	Common Stock / Additional Paid-In Capital	Accumulated Deficit / Other Comprehensive Income (Loss)	Total
Beginning balance, December 31, 2015	\$ 7,359	\$ (1,560)	\$ 5,799
Net income	—	286	286
Net change from available-for-sale securities	—	145	145
Repurchases of common stock	(452)	—	(452)
Other ⁽¹⁾	7	—	7
Ending balance, June 30, 2016	\$ 6,914	\$ (1,129)	\$ 5,785

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

LIQUIDITY AND CAPITAL RESOURCES

We have established liquidity and capital policies to support the successful execution of our business strategy, while ensuring ongoing and sufficient liquidity through the business cycle. We believe liquidity is of critical importance to the Company and especially important within E*TRADE Bank and our broker-dealer subsidiaries. The objective of our policies is to ensure that we can meet our corporate, banking and broker-dealer liquidity needs under both normal operating conditions and under periods of stress in the financial markets. For additional information, see *Part II, Item 7. Management's Discussion and Analysis of Financial Condition and Results of Operations* in our Annual Report on Form 10-K for the year ended December 31, 2015.

Liquidity

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

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

Corporate Cash

Corporate cash, a non-GAAP measure and a component of consolidated cash and equivalents, is the primary source of liquidity at the parent company. We define corporate cash as cash held at the parent company and certain subsidiaries, not including bank and broker-dealer subsidiaries, that can be distributed to the parent company without any regulatory approval or notification. E*TRADE Bank and its subsidiaries require regulatory approval prior to the payment of dividends to the parent company. E*TRADE Securities and E*TRADE Clearing can pay dividends to the parent company with proper regulatory notifications.

We believe corporate cash is a useful measure of the parent company's liquidity as it is the primary source of capital above and beyond the capital deployed in our regulated subsidiaries. Corporate cash can fluctuate in any given quarter and is impacted primarily by the following:

- approval and timing of subsidiary dividends;
- share repurchases;
- debt service costs;
- tax settlements and the reimbursement from the parent company's subsidiaries for the use of its deferred tax assets;
- other overhead cost sharing arrangements; and

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- acquisitions and investments.

The following table provides a reconciliation of consolidated cash and equivalents to corporate cash (dollars in millions):

	June 30, 2016	December 31, 2015	June 30, 2015
Consolidated cash and equivalents	\$ 2,393	\$ 2,233	\$ 1,872
Less: Bank cash ⁽¹⁾	(1,306)	(1,264)	(1,330)
Less: U.S. broker-dealers' cash ⁽¹⁾	(537)	(497)	(111)
Less: Other cash	(27)	(25)	(25)
Corporate cash	\$ 523	\$ 447	\$ 406

- (1) U.S. broker-dealers' cash includes E*TRADE Securities as of June 30, 2015 and E*TRADE Securities and E*TRADE Clearing as of June 30, 2016 and December 31, 2015. E*TRADE Securities and E*TRADE Clearing moved out from under E*TRADE Bank effective February 1, 2015 and July 1, 2015, respectively. Bank cash included \$285 million of cash held by E*TRADE Clearing at June 30, 2015.

Corporate cash increased \$76 million to \$523 million during the six months ended June 30, 2016. Corporate cash included dividends of \$333 million from E*TRADE Bank, \$199 million from E*TRADE Clearing and \$51 million from E*TRADE Securities to the parent company during the six months ended June 30, 2016. We used corporate cash to repurchase a total of \$452 million, or 19.0 million shares, of common stock during the six months ended June 30, 2016.

During 2015, we reduced our total corporate debt to \$1.0 billion and, in conjunction with a refinancing, decreased our annual debt service costs to \$50 million. We maintain corporate cash at a minimum of two times our scheduled annual corporate debt service payments and scheduled maturities over the next 12 months. As we do not have any scheduled maturities of corporate debt in the coming year, our current minimum is approximately \$100 million. Our nearest maturity of interest-bearing corporate debt is November 2022.

On July 25, 2016, we announced an agreement to acquire OptionsHouse for \$725 million in cash. We intend to finance the transaction through the issuance of up to \$400 million of non-cumulative perpetual preferred stock and corporate cash. As a result of this transaction, we anticipate resuming share repurchases in the second half of 2017.

Revolving Credit Facility

At June 30, 2016, we have a senior secured revolving credit facility at the parent company with an available line of credit of \$250 million. The revolving credit facility enhances our ability to meet liquidity needs at the parent company, as we have the ability to borrow against this facility for working capital and general corporate purposes. Our revolving credit facility contains certain covenants, including the requirement for the parent company to maintain unrestricted cash of at least \$100 million. At June 30, 2016, there was no outstanding balance under this revolving credit facility.

*E*TRADE Bank Liquidity*

E*TRADE Bank relies on bank cash and deposits for liquidity needs. Management believes that within deposits, sweep deposits are of particular importance as they are a stable source of liquidity for E*TRADE Bank. We have the ability to generate liquidity in the form of additional deposits by raising the yield on our customer deposit products and by bringing additional deposits onto our balance sheet. We also utilize our sweep deposit platform to efficiently manage our balance sheet size. Sweep deposits on our balance sheet as of June 30, 2016 increased \$3.8 billion compared to December 31, 2015.

Historically, E*TRADE Bank has relied on wholesale funding sources for liquidity purposes. In September 2015, we terminated \$4.4 billion of legacy wholesale funding obligations at E*TRADE Bank. We may utilize wholesale funding sources for short-term liquidity and contingency funding requirements. Our ability to borrow these funds is dependent upon the continued availability of funding in the wholesale borrowings market. In addition, we can borrow from the Federal Reserve Bank's discount window to meet short-term liquidity requirements, although it is not viewed as a primary source of funding. At June 30, 2016, E*TRADE Bank had approximately \$2.9 billion and \$0.8 billion in additional collateralized borrowing capacity with the FHLB and the Federal Reserve Bank, respectively.

*E*TRADE Clearing Liquidity*

E*TRADE Clearing relies on customer payables, securities lending, and internal and external lines of credit to provide liquidity and to finance margin lending. At June 30, 2016, E*TRADE Clearing's external liquidity lines totaled approximately \$1.1 billion and included the following:

- a 364-day, \$400 million senior unsecured committed revolving credit facility with a syndicate of banks that matures in June 2017. This revolving credit facility replaced the \$345 million senior unsecured committed revolving credit facility which expired in accordance with its terms;
- secured committed lines of credit with two unaffiliated banks, aggregating to \$175 million renewed in June 2016 with a maturity date of June 2017;
- unsecured uncommitted lines of credit with two unaffiliated banks, aggregating to \$100 million, of which \$75 million is scheduled to mature in August 2016 and the remaining line has no maturity date; and
- secured uncommitted lines of credit with several unaffiliated banks, aggregating to \$375 million with no maturity date.

The revolving credit facility contains certain covenants including maintenance covenants related to E*TRADE Clearing's minimum consolidated tangible net worth and regulatory net capital ratio. There were no outstanding balances for any of these lines at June 30, 2016. E*TRADE Clearing also maintains lines of credit with the parent company and E*TRADE Bank.

Capital Resources

Creating capital efficiency is a priority for us. The \$583 million of dividends paid to the parent company during the six months ended June 30, 2016 included the following:

- \$333 million from E*TRADE Bank, both from earnings and excess capital as a result of regulatory approval to operate E*TRADE Bank at an 8.0% Tier 1 leverage ratio; and
- \$250 million from our broker-dealers, both from earnings and other sources of excess capital.

The timing and amount of dividends from E*TRADE Bank will vary as we utilize capital for balance sheet growth and is subject to regulatory approvals. As it relates to our broker-dealer subsidiaries, we are currently in the process of merging E*TRADE Securities, the introducing broker, with E*TRADE Clearing. We plan to continue quarterly distributions of excess capital to the parent based on the historical practice of distributing earnings generated from the activities of the introducing firm.

Bank Capital Requirements

The Dodd-Frank Act requires all companies, including savings and loan holding companies, that directly or indirectly control an insured depository institution to serve as a source of strength for the institution. The Company and E*TRADE Bank are subject to banking regulatory capital requirements. Some of these requirements are still subject to phase-in periods, including certain regulatory deductions and adjustments that will be fully implemented at 100% in 2018. For additional information on bank regulatory requirements and phase-in periods, see *Part I. Item 1. Business—Regulation* in our Annual Report on Form 10-K for the year ended December 31, 2015. At June 30, 2016, our regulatory capital ratios for E*TRADE Financial were well above the minimum ratios required to be "well capitalized." E*TRADE Financial's capital ratios are calculated as follows (dollars in millions):

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	June 30, 2016	December 31, 2015	June 30, 2015
E*TRADE Financial shareholders' equity	\$ 5,785	\$ 5,799	\$ 5,714
Add:			
(Gains) losses in other comprehensive income on available-for-sale debt securities and cash flow hedges, net of tax	(43)	101	259
Deduct:			
Goodwill and other intangible assets, net of deferred tax liabilities	(1,422)	(1,419)	(1,441)
Disallowed deferred tax assets	(857)	(838)	(827)
Other ⁽¹⁾	—	104	108
E*TRADE Financial Common Equity Tier 1 capital / Tier 1 capital	3,463	3,747	3,813
Add:			
Allowable allowance for loan losses	129	129	136
Non-qualifying capital instruments subject to phase-out (trust preferred securities) ⁽¹⁾	414	310	325
E*TRADE Financial total capital	\$ 4,006	\$ 4,186	\$ 4,274
E*TRADE Financial average assets for leverage capital purposes	\$ 48,255	\$ 44,016	\$ 47,133
Deduct:			
Goodwill and other intangible assets, net of deferred tax liabilities	(1,422)	(1,419)	(1,441)
Disallowed deferred tax assets	(857)	(839)	(827)
Other ⁽¹⁾	—	104	108
E*TRADE Financial adjusted average assets for leverage capital purposes	\$ 45,976	\$ 41,862	\$ 44,973
E*TRADE Financial total risk-weighted assets ⁽²⁾	\$ 9,731	\$ 9,536	\$ 10,103
E*TRADE Financial Tier 1 leverage ratio (Tier 1 capital / Adjusted average assets for leverage capital purposes) ⁽³⁾	7.5%	9.0%	8.5%
E*TRADE Financial Common Equity Tier 1 capital / Total risk-weighted assets	35.6%	39.3%	37.7%
E*TRADE Financial Tier 1 capital / Total risk-weighted assets	35.6%	39.3%	37.7%
E*TRADE Financial total capital / Total risk-weighted assets	41.2%	43.9%	42.3%

- (1) As a result of applying the transition provisions under Basel III in 2015, the Company included 25% of the TRUPs in the calculation of E*TRADE Financial's Tier 1 capital and 75% of the TRUPs in the calculation of E*TRADE Financial's total capital. In accordance with the transition provisions, the TRUPs were fully phased out of E*TRADE Financial's Tier 1 capital in 2016.
- (2) Under the regulatory guidelines for risk-based capital, on-balance sheet assets and credit equivalent amounts of derivatives and off-balance sheet items are assigned to one of several broad risk categories according to the obligor or, if relevant, the guarantor or the nature of any collateral. The aggregate dollar amount in each risk category is then multiplied by the risk weight associated with that category. The resulting weighted values from each of the risk categories are aggregated for determining total risk-weighted assets.
- (3) We intend to finance the purchase of OptionsHouse with up to \$400 million of non-cumulative perpetual preferred stock and corporate cash. Based on this financing structure, we do not expect the acquisition to impact our ability to maintain a 7.0% Tier 1 leverage ratio.

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At June 30, 2016, our regulatory capital ratios for E*TRADE Bank were well above the minimum ratios required to be "well capitalized." E*TRADE Bank's capital ratios are calculated as follows (dollars in millions):

	June 30, 2016	December 31, 2015 ⁽¹⁾	June 30, 2015 ⁽¹⁾
E*TRADE Bank shareholders' equity ⁽¹⁾	\$ 3,207	\$ 3,181	\$ 4,146
Add:			
(Gains) losses in other comprehensive income on available-for-sale debt securities and cash flow hedges, net of tax	(43)	101	258
Deduct:			
Goodwill and other intangible assets, net of deferred tax liabilities	(38)	(38)	(38)
Disallowed deferred tax assets	(186)	(169)	(82)
E*TRADE Bank Common Equity Tier 1 capital / Tier 1 capital	2,940	3,075	4,284
Add:			
Allowable allowance for loan losses	112	110	123
E*TRADE Bank total capital	\$ 3,052	\$ 3,185	\$ 4,407
E*TRADE Bank average assets for leverage capital purposes ⁽¹⁾	\$ 36,292	\$ 31,785	\$ 44,021
Deduct:			
Goodwill and other intangible assets, net of deferred tax liabilities	(38)	(38)	(38)
Disallowed deferred tax assets	(186)	(169)	(82)
Other	—	—	—
E*TRADE Bank adjusted average assets for leverage capital purposes	\$ 36,068	\$ 31,578	\$ 43,901
E*TRADE Bank total risk-weighted assets ⁽¹⁾⁽²⁾	\$ 8,594	\$ 8,424	\$ 9,444
E*TRADE Bank Tier 1 leverage ratio (Tier 1 capital / Adjusted average assets for leverage capital purposes)	8.2%	9.7%	9.8%
E*TRADE Bank Common Equity Tier 1 capital / Total risk-weighted assets	34.2%	36.5%	45.4%
E*TRADE Bank Tier 1 capital / Total risk-weighted assets	34.2%	36.5%	45.4%
E*TRADE Bank total capital / Total risk-weighted assets	35.5%	37.8%	46.7%

- (1) Amounts presented for E*TRADE Bank in 2015 exclude E*TRADE Securities as of February 1, 2015 and E*TRADE Clearing as of July 1, 2015, the dates the subsidiaries were moved out from under E*TRADE Bank, respectively.
- (2) Under the regulatory guidelines for risk-based capital, on-balance sheet assets and credit equivalent amounts of derivatives and off-balance sheet items are assigned to one of several broad risk categories according to the obligor or, if relevant, the guarantor or the nature of any collateral. The aggregate dollar amount in each risk category is then multiplied by the risk weight associated with that category. The resulting weighted values from each of the risk categories are aggregated for determining total risk-weighted assets.

Broker-Dealer Capital Requirements

Our broker-dealer subsidiaries are subject to capital requirements determined by their respective regulators. At June 30, 2016, all of our brokerage subsidiaries met their minimum net capital requirements, ending the period with excess net capital of \$820 million.

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. Additionally, we enter into guarantees and other similar arrangements as part of transactions in the ordinary course of business. For additional information on these arrangements, see *Item 1. Consolidated Financial Statements (Unaudited)*.

RISK MANAGEMENT

As a financial services company, our business is exposed to certain risks. The identification, mitigation and management of existing and potential risks is critical to effective enterprise risk management. There are certain risks inherent to our industry (e.g. execution of transactions) and certain risks that will surface through the conduct of our business operations. We seek to monitor and manage our significant risk exposures by operating under a set of Board-approved limits and by monitoring certain risk indicators. Our governance framework requires regular reporting on metrics, significant risks and exposures to senior management and the Board of Directors. As of July 1, 2015, our risk management framework became subject to the risk committee requirement for publicly traded bank holding companies with total consolidated assets of greater than \$10 billion and less than \$50 billion, contained in the Federal Reserve's enhanced prudential standards for bank holding companies and foreign banking organizations. Our framework, as described below, is in compliance with all applicable requirements.

We have a Board-approved Enterprise Risk Appetite Statement ("RAS") that is provided to all employees. The RAS specifies significant risk exposures and addresses the Company's tolerance of those risks, which are categorized as follows, with further information provided elsewhere in this Form 10-Q or in our Annual Report on Form 10-K for the year ended December 31, 2015, as indicated:

- *Credit Risk*—the risk of loss arising from the failure of a borrower or counterparty to meet its credit obligations. For additional information, see *Credit Risk Management* below.
- *Interest Rate Risk*—the risk of adverse changes in earnings or market value arising from our balance sheet positions due to changes in interest rates. This includes convexity risk, which arises primarily from prepayment options on mortgages as well as the ability of customers to withdraw deposits. For additional information, see *Item 3. Quantitative and Qualitative Disclosures about Market Risk*.
- *Liquidity Risk*—the potential inability to meet contractual and contingent financial obligations, either on- or off-balance sheet, in a timely and cost-effective manner as they come due. For additional information, see *Liquidity and Capital Resources*.
- *Market Risk*—the risk that asset values or income streams will be adversely affected by changes in market conditions. For additional information, see *Item 3. Quantitative and Qualitative Disclosures about Market Risk* in this Form 10-Q and *Item 7A. Quantitative and Qualitative Disclosures about Market Risk* in our Annual Report on Form 10-K for the year ended December 31, 2015.

For additional information on the following risks, see *Part II. Item 7. Management's Discussion and Analysis of Financial Condition and Results of Operations* in our Annual Report on Form 10-K for the year ended December 31, 2015:

- *Operational Risk*—the risk of loss due to failure of people, processes, and systems, or damage to physical assets.
- *Information Technology ("IT") and Cybersecurity Risk*—the risk of loss of customer or company data, integrity, or availability of systems through the compromise of our electronic digital media (e.g., computers, mobile devices, etc.).
- *Strategic Risk*—the risk of loss of market size or market share, leading to lost revenues and potentially significant reductions to net income and/or market value.
- *Reputational Risk*—the potential that negative perceptions regarding our conduct or business practices, or capacity to conduct business, will adversely affect valuation, profitability, operations or the customer base, or require costly litigation or other measures.
- *Legal, Regulatory and Compliance Risk*—the current and prospective risk to earnings or capital arising from violations of, or nonconformance with, laws, rules, regulations, prescribed practices, internal policies and procedures, or ethical standards.

We are also subject to other risks that could impact our business, financial condition, results of operations or cash flows in future periods. See *Part I. Item 1A. Risk Factors* in our Annual Report on Form 10-K for the year ended December 31, 2015.

Credit Risk Management

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

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- We hold credit risk exposure in our loan portfolio. We are not currently originating or purchasing loans, and we are continuing our strategy of reducing balance sheet risk through loan portfolio run-off.
- We extend margin loans to our brokerage customers which exposes us to the risk of credit losses in the event adverse market conditions result in an unsecured margin balance that the customer is not able or willing to cover.
- We engage in financial transactions with counterparties which expose us to credit losses in the event a counterparty cannot meet its obligations. These financial transactions include our invested cash, securities lending and derivatives portfolios, as well as the settlement of trades.

Credit risk is monitored by our Credit Committee and Margin Risk Committee. The Credit Committee's objective is to evaluate current and expected credit performance of our loans, investments, borrowers and counterparties relative to market conditions and the probable impact on our financial performance. They establish credit risk guidelines in accordance with our strategic objectives and existing policies, and they review investment and lending activities with credit risk to ensure consistency with those established guidelines. These reviews involve an analysis of portfolio balances, delinquencies, losses, recoveries, default management and collateral liquidation performance, as well as any credit risk mitigation efforts relating to the portfolios. In addition, the Credit Committee reviews and approves credit related counterparties engaged in financial transactions with us. The Margin Risk Committee is responsible for corporate governance and oversight with regard to margin risk. The Committee identifies, monitors and mitigates where necessary market, operational and credit risks related to E*TRADE's margin lending activities.

Loss Mitigation on the Loan Portfolio

Our credit risk operations team manages the mitigation of credit risk within the loan portfolio. Through a variety of strategies, including voluntary line closures, automatically freezing lines on all delinquent accounts, and freezing lines on loans with materially reduced home equity, we reduced our exposure to open home equity lines from a high of over \$7 billion in 2007 to approximately \$50 million at June 30, 2016. In addition, we have continued a loan modification program initiated in 2015 that targets borrowers of home equity lines of credit whose original contract terms provided an option to accelerate the date at which the loan begins amortizing. This program, certain terms of which represented economic concessions such as extended amortization periods, resulted in \$15 million and \$14 million, respectively, of modifications classified as TDRs and \$63 million and \$44 million, respectively, of modifications not classified as TDRs during the six months ended June 30, 2016 and 2015.

We continue to have loan modification programs that were established to minimize potential losses in the mortgage portfolios by targeting borrowers experiencing financial difficulties. During the six months ended June 30, 2016 and 2015, these programs were utilized to modify \$6 million and \$8 million, respectively, of one- to four-family loans, and \$13 million and \$6 million, respectively, of home equity loans. These modifications were classified as TDRs. We also process minor modifications on certain loans in the normal course of servicing delinquent accounts. Minor modifications resulting in an insignificant delay in the timing of payments are not considered economic concessions and therefore are not classified as TDRs. At June 30, 2016 and December 31, 2015, we had \$18 million and \$20 million, respectively, of mortgage loans with minor modifications that were not considered TDRs. We currently do not have any active loan modification programs for consumer and other loans. Loan modification volume may increase in future periods to mitigate potential losses as the volume of mortgage loans reaching the end of their interest-only period increases. The impact to our financial results from such modifications is dependent on a variety of factors, including any allowance previously established on the modified principal balance.

Currently, our entire loan portfolio is serviced by third parties. To reduce vendor, operational and regulatory risks, we have assessed our servicing relationships and, where appropriate, consolidated providers or transferred certain mortgage loans to servicers that specialize in managing troubled assets. At June 30, 2016, \$2.8 billion gross unpaid principal balance of our mortgage loans were held at servicers that specialize in managing troubled assets. We believe this initiative has improved and will continue to improve the credit performance of the loans transferred compared to the expected credit performance of these same loans if they had not been transferred.

During the first quarter of 2016, we completed our review of the mortgage loan portfolio that was aimed at identifying loans to be repurchased by the originator. Our review primarily focused on identifying loans with violations of transaction representations and warranties or material misrepresentation on the part of the seller. Any loans identified with these deficiencies were submitted to the original seller for repurchase. During the three months ended March 31, 2016 and the six months ended June 30, 2015, we received one-time payments of \$3 million and \$2 million, respectively, from third party mortgage originators to satisfy in full all pending and future repurchase requests.

with them. We recognized these settlements as recoveries to the allowance for loan losses, resulting in a corresponding reduction to net charge-offs and, ultimately, a benefit to our provision (benefit) for loan losses. A total of \$464 million of loans have been repurchased by or settled with third party mortgage originators since we began the review process in 2008. As our review is complete, we do not expect any future repurchases or settlements on the mortgage loan portfolio.

CONCENTRATIONS OF CREDIT RISK

Loans

Interest-Only Loans

One- to four-family loans include loans for a five to ten year interest-only period, followed by an amortizing period ranging from 25 to 30 years. At June 30, 2016, 36% of our one- to four-family portfolio was not yet amortizing. During the trailing twelve months ended June 30, 2016, borrowers of approximately 16% of the portfolio made voluntary annual principal payments of at least \$2,500 and of this population, nearly half made principal payments that were \$10,000 or greater.

The home equity loan portfolio is primarily second lien loans on residential real estate properties, which have a higher level of credit risk than first lien mortgage loans. Approximately 13% of the home equity loan portfolio was in the first lien position and we held both the first and second lien positions in less than 1% of the home equity loan portfolio at June 30, 2016. The home equity loan portfolio consisted of approximately 18% of home equity installment loans and approximately 82% of home equity lines of credit at June 30, 2016. Of the home equity lines of credit, 55% had converted to amortizing loans at June 30, 2016.

Home equity installment loans are primarily fixed rate and fixed term, fully amortizing loans that do not offer the option of an interest-only payment. The majority of home equity lines of credit convert to amortizing loans at the end of the draw period, which typically ranges from five to ten years. Approximately 3% of this portfolio will require the borrowers to repay the loan in full at the end of the draw period. At June 30, 2016, 45% of the home equity line of credit portfolio had not converted from the interest-only draw period and had not begun amortizing. During the trailing twelve months ended June 30, 2016, borrowers of approximately 40% of the portfolio made voluntary annual principal payments of at least \$500 on their home equity lines of credit and slightly under half of those reduced their principal balance by at least \$2,500.

The following table outlines when one- to four-family and home equity lines of credit convert to amortizing by percentage of the one- to four-family and home equity line of credit portfolios, respectively, at June 30, 2016:

<u>Period of Conversion to Amortizing Loan</u>	<u>% of One- to Four-Family Portfolio</u>	<u>% of Home Equity Line of Credit Portfolio</u>
Already amortizing	64%	55%
Through December 31, 2016	12%	29%
Year ending December 31, 2017	24%	15%
Year ending December 31, 2018 or later	—%	1%

Nonperforming Assets

We classify loans as nonperforming when they are no longer accruing interest, which includes loans that are 90 days and greater past due, TDRs that are on nonaccrual status for all classes of loans (including loans in bankruptcy) and certain junior liens that have a delinquent senior lien. The following table shows the comparative data for nonperforming loans and assets at June 30, 2016 and December 31, 2015 (dollars in millions):

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	June 30, 2016	December 31, 2015
One- to four-family	\$ 247	\$ 263
Home equity	166	154
Consumer and other	—	1
Total nonperforming loans receivable	413	418
Real estate owned and other repossessed assets, net	29	29
Total nonperforming assets, net	\$ 442	\$ 447
Nonperforming loans receivable as a percentage of gross loans receivable	9.5%	8.5%
One- to four-family allowance for loan losses as a percentage of one- to four-family nonperforming loans receivable	17.1%	15.3%
Home equity allowance for loan losses as a percentage of home equity nonperforming loans receivable	147.7%	198.8%
Consumer and other allowance for loan losses as a percentage of consumer and other nonperforming loans receivable	1,600.5%	667.0%
Total allowance for loan losses as a percentage of total nonperforming loans receivable	70.8%	84.6%

Nonperforming assets, net decreased \$5 million to \$442 million during the six months ended June 30, 2016. This decrease reflected continued improvement in economic conditions and loan portfolio run-off. The decrease was partially offset by our recent offers of loan modification programs to a subset of borrowers with home equity lines of credit whose original loan terms provided the borrowers the option to accelerate their date of conversion to amortizing loans. As certain terms of our offer represented economic concessions, such as longer amortization periods than were in the original loan agreements, this program resulted in \$15 million of TDRs during the six months ended June 30, 2016. See *Risk Management* for additional information.

Allowance for Loan Losses

The allowance for loan losses is management's estimate of probable losses inherent in the loan portfolio at the balance sheet date, as well as the forecasted losses, including economic concessions to borrowers, over the estimated remaining life of loans modified as TDRs. The general allowance for loan losses includes a qualitative component to account for a variety of factors that present additional uncertainty that may not be fully considered in the quantitative loss model but are factors we believe may impact the level of credit losses. The following table presents the allowance for loan losses by loan portfolio at June 30, 2016 and December 31, 2015 (dollars in millions):

	One- to Four-Family		Home Equity		Consumer and Other		Total	
	June 30, 2016	December 31, 2015	June 30, 2016	December 31, 2015	June 30, 2016	December 31, 2015	June 30, 2016	December 31, 2015
General reserve:								
Quantitative component	\$ 32	\$ 28	\$ 180	\$ 245	\$ 6	\$ 6	\$ 218	\$ 279
Qualitative component	3	3	15	10	—	—	18	13
Specific valuation allowance	7	9	50	52	—	—	57	61
Total allowance for loan losses	\$ 42	\$ 40	\$ 245	\$ 307	\$ 6	\$ 6	\$ 293	\$ 353
Allowance as a % of loans receivable(1)	1.9%	1.6%	13.4%	14.5%	2.0%	1.9%	6.7%	7.1%

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

Total loans receivable designated as held-for-investment decreased \$0.5 billion during the six months ended June 30, 2016. The allowance for loan losses was \$293 million, or 6.7% of total loans receivable, as of June 30, 2016

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compared to \$353 million, or 7.1% of total loans receivable, as of December 31, 2015, reflecting better than expected performance on the higher-risk loans in the HELOC portfolio. Our quantitative allowance methodology continues to include the identification of higher risk mortgage loans and the period of our forecasted loan losses captured within the general allowance includes the total probable loss over the remaining life of these loans. For additional information on management's estimate of the allowance for loan losses, see *Summary of Critical Accounting Policies and Estimates in Part II, Item 7. Management's Discussion and Analysis of Financial Condition and Results of Operations* in the annual report on Form 10-K for the year ended December 31, 2015.

Net Charge-offs

The following table provides an analysis of net charge-offs for the three and six months ended June 30, 2016 and 2015 (dollars in millions):

	Charge-offs	Recoveries ⁽¹⁾	Net (Charge-Offs) Recoveries	% of Average Loans (Annualized)
Three Months Ended June 30, 2016				
One- to four-family	\$ —	\$ 1	\$ 1	(0.07)%
Home equity	(4)	10	6	(1.25)%
Consumer and Other	(2)	1	(1)	1.54 %
Total	<u>\$ (6)</u>	<u>\$ 12</u>	<u>\$ 6</u>	<u>(0.46)%</u>
Three Months Ended June 30, 2015				
One- to four-family	\$ (2)	\$ —	\$ (2)	0.32 %
Home equity	(9)	9	—	— %
Consumer and Other	(3)	2	(1)	0.66 %
Total	<u>\$ (14)</u>	<u>\$ 11</u>	<u>\$ (3)</u>	<u>0.20 %</u>
Six Months Ended June 30, 2016				
One- to four-family	\$ (1)	\$ 3	\$ 2	(0.13)%
Home equity	(9)	17	8	(0.83)%
Consumer and Other	(4)	3	(1)	1.03 %
Total	<u>\$ (14)</u>	<u>\$ 23</u>	<u>\$ 9</u>	<u>(0.35)%</u>
Six Months Ended June 30, 2015				
One- to four-family	\$ (3)	\$ —	\$ (3)	0.21 %
Home equity	(19)	14	(5)	0.35 %
Consumer and Other	(6)	4	(2)	0.81 %
Total	<u>\$ (28)</u>	<u>\$ 18</u>	<u>\$ (10)</u>	<u>0.32 %</u>

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

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

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Net recoveries for the three and six months ended June 30, 2016 increased \$9 million and \$19 million, respectively, compared to the same periods in 2015. This increase reflected continued improvement in economic conditions, an increase in recoveries of previous charge-offs and loan portfolio run-off. The timing and magnitude of charge-offs are affected by many factors and we anticipate variability from quarter to quarter, particularly as home equity lines of credit convert to amortizing loans.

For additional information on the loans portfolio, see *Note 6—Loans Receivable, Net*.

Securities

We focus primarily on security type and credit rating to monitor credit risk in our securities portfolios. We consider securities backed by the U.S. government or its agencies to have low credit risk as the long-term debt rating of the U.S. government is AA+ by S&P and AAA by Moody's and Fitch at June 30, 2016. The amortized cost of these securities accounted for over 99% of our total securities portfolio at June 30, 2016. We review the remaining debt securities that were not backed by the U.S. government or its agencies according to their credit ratings from S&P, Moody's and Fitch where available. At June 30, 2016, all municipal bonds and corporate bonds in our securities portfolio were rated investment grade (defined as a rating equivalent to a Moody's rating of "Baa3" or higher, or a S&P or Fitch rating of "BBB-" or higher).

SUMMARY OF CRITICAL ACCOUNTING POLICIES AND ESTIMATES

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

GLOSSARY OF TERMS

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

ALCO—Asset Liability Committee.

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

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.

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

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

BPO—Broker price opinion.

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

CFTC—Commodity Futures Trading Commission.

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

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CLTV—Combined loan-to-value.

CMOs—Collateralized mortgage obligations.

Common Equity Tier 1 Capital—A measurement of the Company's core equity capital.

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

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

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

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

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

DIF—Depositors Insurance Fund.

Earnings at Risk ("EAR")—The sensitivity of GAAP earnings to changes in interest rates over a twelve month horizon. It is a short-term measurement of interest rate risk and does not consider risks beyond the simulation time horizon. In addition, it requires reinvestment, funding, and hedging assumptions for the horizon.

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

ESDA—Extended insurance sweep deposit accounts.

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

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

FASB—Financial Accounting Standards Board.

FDIC—Federal Deposit Insurance Corporation.

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

FHLB—Federal Home Loan Bank.

FICO—Fair Isaac Credit Organization.

FINRA—Financial Industry Regulatory Authority.

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

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

HELOC—Home equity lines of credit.

Interest-bearing liabilities—Liabilities such as deposits, customer payables, other borrowings, corporate debt and certain customer credit balances and securities loaned programs on which the Company pays interest; excludes customer balances held by third parties.

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

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.

IT—Information technology.

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

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LLC—Limited liability company.

LTV—Loan-to-value.

Net interest income—A measure of interest revenue, net interest income is equal to interest income less interest expense.

Net interest margin—A measure of the net yield on our average interest-bearing assets. Net interest margin is calculated for a given period by dividing the annualized sum of net interest income by average interest-bearing assets.

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

NFA—National Futures Association.

NOLs—Net operating losses.

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

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

OCC—Office of the Comptroller of the Currency.

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

OTTI—Other-than-temporary impairment.

RAS—Risk Appetite Statement.

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

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

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

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

S&P—Standard & Poor's.

SEC—U.S. Securities and Exchange Commission.

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

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

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

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

TRUPs—Trust preferred securities.

VIE—Variable interest entity.

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

ITEM 3. QUANTITATIVE AND QUALITATIVE DISCLOSURES ABOUT MARKET RISK

The following discussion about market risk includes forward-looking statements. Actual results could differ materially from those projected in the forward-looking statements as a result of certain factors, including, but not limited to, those set forth in Part I. Item 1A. Risk Factors in the Annual Report on Form 10-K for the year ended December 31, 2015.

Interest Rate Risk

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

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

Exposure to interest rate risk is dependent upon the distribution and composition of interest-earning assets, interest-bearing liabilities and derivatives. The differing risk characteristics of each product are managed to mitigate our exposure to interest rate fluctuations. At June 30, 2016, 91% of our total assets were interest-earning assets and we had no securities classified as trading.

At June 30, 2016, approximately 59% of total assets were available-for-sale and held-to-maturity mortgage-backed securities and residential real estate loans. 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 are prepaid, unamortized premiums and/or discounts are recognized immediately in interest income. Depending on the timing of the prepayment, these adjustments to income would impact anticipated yields. The Asset Liability Committee ("ALCO") reviews estimates of the impact of changing market rates on prepayments. This information is incorporated into our interest rate risk management strategy.

Our liability structure consists of two central sources of funding: deposits and customer payables. Deposit products, including sweep deposit accounts, complete savings accounts, checking accounts and other money market and savings accounts, as well as customer payables, re-price at management's discretion. We may utilize wholesale funding sources as needed for short-term liquidity and contingency funding requirements.

Derivative Instruments

We use derivative instruments to help manage interest rate risk using designated hedge relationships. 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. See *Note 7—Derivative Instruments and Hedging Activities* for additional information about our use of derivative contracts.

Scenario Analysis

Scenario analysis is an advanced approach to estimating interest rate risk exposure. The ALCO monitors interest rate risk using the Economic Value of Equity ("EVE") approach and the Earnings-at-Risk ("EAR") approach.

Under the EVE approach, the present value of expected cash flows of all existing interest-earning assets, interest-bearing liabilities, derivatives and forward commitments are estimated and combined to produce an EVE figure. EVE is a long-term sensitivity measure of interest rate risk. The approach values only the current balance sheet in which the most significant assumptions are the prepayment rates of the loan portfolio and mortgage-backed securities and the repricing of deposits. This approach does not incorporate assumptions related to business growth, or liquidation and re-investment of instruments. This approach provides an indicator of future earnings and capital levels because changes in EVE indicate

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the anticipated change in the value of future cash flows. The sensitivity of this value to changes in interest rates is then determined by applying alternative interest rate scenarios. The change in EVE amounts fluctuate based on instantaneous parallel shifts in interest rates primarily due to the change in timing of cash flows in the Company's residential loan and mortgage-backed securities portfolios. Expected prepayment rates on residential mortgage loans and mortgage-backed securities increase as interest rates decline, whereas expected prepayment rates decrease in a rising interest rate environment.

EAR is a short-term sensitivity measure of interest rate risk and illustrates the impact of alternative interest rate scenarios on net interest income, including corporate interest expense, over a twelve month time frame. In measuring the sensitivity of net interest income to changes in interest rates, we assume instantaneous parallel interest rate shocks applied to the forward curve. In addition, we assume that cash flows from loan payoffs are reinvested in mortgage-backed securities, we exclude revenue from off-balance sheet customer assets and we assume no balance sheet growth.

The sensitivity of EAR and EVE at the consolidated E*TRADE Financial level at June 30, 2016 and December 31, 2015 is as follows (dollars in millions):

Instantaneous Parallel Change in Interest Rates (basis points) ⁽¹⁾	Economic Value of Equity				Earnings-at-Risk			
	June 30, 2016		December 31, 2015		June 30, 2016		December 31, 2015	
	Amount	Percentage	Amount	Percentage	Amount	Percentage	Amount	Percentage
+200	\$ (8)	(0.1)%	\$ (148)	(2.6)%	\$ 190	17.1 %	\$ 178	15.8 %
+100	\$ 180	2.9 %	\$ 58	1.0 %	\$ 122	10.9 %	\$ 116	10.3 %
-50	\$ (180)	(2.9)%	\$ (107)	(1.9)%	\$ (69)	(6.2)%	\$ (64)	(5.7)%

(1) These scenario analyses assume a balance sheet size as of the dates indicated. Any changes in size would cause the amounts to vary.

We actively manage interest rate risk positions. As interest rates change, we will adjust our strategy and mix of assets, liabilities and derivatives to optimize our position. For example, a 100 basis points increase in rates may not result in a change in value as indicated above. We compare the instantaneous parallel shift in interest rate changes in EVE and EAR to the established limits set by the Board of Directors in order to assess interest rate risk on a monthly basis. In the event that the percentage change in EVE or EAR exceeds the Board limits, our Chief Executive Officer, Chief Risk Officer, Chief Financial Officer and Treasurer must all be promptly notified in writing and decide upon a plan of remediation. In addition, the Board of Directors must be promptly notified of the exception and the planned resolution. At June 30, 2016, the EVE and EAR percentage changes were within our Board limits.

PART I - FINANCIAL INFORMATION
ITEM 1. CONSOLIDATED FINANCIAL STATEMENTS (UNAUDITED)
E*TRADE FINANCIAL CORPORATION AND SUBSIDIARIES
CONSOLIDATED STATEMENT OF INCOME

(In millions, except share data and per share amounts)

(Unaudited)

	Three Months Ended June 30,		Six Months Ended June 30,	
	2016	2015	2016	2015
Revenue:				
Interest income	\$ 306	\$ 310	\$ 614	\$ 626
Interest expense	(20)	(58)	(41)	(124)
Net interest income	286	252	573	502
Commissions	106	103	213	217
Fees and service charges	62	55	120	107
Gains (losses) on securities and other	10	10	20	25
Other revenue	10	9	20	19
Total non-interest income	188	177	373	368
Total net revenue	474	429	946	870
Provision (benefit) for loan losses	(35)	3	(69)	8
Non-interest expense:				
Compensation and benefits	125	118	251	231
Advertising and market development	30	32	73	66
Clearing and servicing	25	25	49	49
FDIC insurance premiums	6	11	12	29
Professional services	22	26	44	53
Occupancy and equipment	24	22	47	43
Communications	20	19	43	38
Depreciation and amortization	20	20	40	40
Amortization of other intangibles	5	5	10	10
Restructuring and other exit activities	1	2	3	6
Losses on early extinguishment of debt	—	—	—	73
Other non-interest expenses	17	29	35	44
Total non-interest expense	295	309	607	682
Income before income tax expense (benefit)	214	117	408	180
Income tax expense (benefit)	81	(175)	122	(152)
Net income	\$ 133	\$ 292	\$ 286	\$ 332
Basic earnings per share	\$ 0.48	\$ 1.01	\$ 1.02	\$ 1.15
Diluted earnings per share	\$ 0.48	\$ 0.99	\$ 1.01	\$ 1.13
Shares used in computation of per share data:				
Basic (in thousands)	277,013	290,086	281,141	289,915
Diluted (in thousands)	277,978	294,936	282,426	294,912

See accompanying notes to the consolidated financial statements

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

	Three Months Ended June 30,		Six Months Ended June 30,	
	2016	2015	2016	2015
Net income	\$ 133	\$ 292	\$ 286	\$ 332
Other comprehensive income (loss), net of tax				
Available-for-sale securities:				
Unrealized gains (losses), net	69	(59)	163	(20)
Reclassification into earnings, net	(9)	(5)	(18)	(11)
Net change from available-for-sale securities	60	(64)	145	(31)
Cash flow hedging instruments:				
Unrealized gains (losses), net	—	6	—	(5)
Reclassification into earnings, net	—	16	—	32
Net change from cash flow hedging instruments	—	22	—	27
Other comprehensive income (loss)	60	(42)	145	(4)
Comprehensive income	\$ 193	\$ 250	\$ 431	\$ 328

See accompanying notes to the consolidated financial statements

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

	June 30, 2016	December 31, 2015
<u>ASSETS</u>		
Cash and equivalents	\$ 2,393	\$ 2,233
Cash required to be segregated under federal or other regulations	1,821	1,057
Available-for-sale securities	13,895	12,589
Held-to-maturity securities (fair value of \$16,272 and \$13,123 at June 30, 2016 and December 31, 2015, respectively)	15,716	13,013
Margin receivables	6,824	7,398
Loans receivable, net (net of allowance for loan losses of \$293 and \$353 at June 30, 2016 and December 31, 2015, respectively)	4,089	4,613
Receivables from brokers, dealers and clearing organizations	692	520
Property and equipment, net	231	236
Goodwill	1,792	1,792
Other intangibles, net	164	174
Deferred tax assets, net	830	1,033
Other assets	755	769
Total assets	<u>\$ 49,202</u>	<u>\$ 45,427</u>
<u>LIABILITIES AND SHAREHOLDERS' EQUITY</u>		
Liabilities:		
Deposits	\$ 32,964	\$ 29,445
Customer payables	6,712	6,544
Payables to brokers, dealers and clearing organizations	1,744	1,576
Other borrowings	409	491
Corporate debt	993	997
Other liabilities	595	575
Total liabilities	<u>43,417</u>	<u>39,628</u>
Commitments and contingencies (see Note 15)		
Shareholders' equity:		
Common stock, \$0.01 par value, shares authorized: 400,000,000 at June 30, 2016 and December 31, 2015; shares issued and outstanding: 273,677,799 and 291,335,241 at June 30, 2016 and December 31, 2015, respectively	3	3
Additional paid-in-capital	6,911	7,356
Accumulated deficit	(1,175)	(1,461)
Accumulated other comprehensive income (loss)	46	(99)
Total shareholders' equity	<u>5,785</u>	<u>5,799</u>
Total liabilities and shareholders' equity	<u>\$ 49,202</u>	<u>\$ 45,427</u>

See accompanying notes to the consolidated financial statements

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

	Common Stock		Additional Paid-in Capital	Accumulated Deficit	Accumulated Other Comprehensive Income (Loss)	Total Shareholders' Equity
	Shares	Amount				
Balance at December 31, 2015	291	\$ 3	\$ 7,356	\$ (1,461)	\$ (99)	\$ 5,799
Net income	—	—	—	286	—	286
Other comprehensive income	—	—	—	—	145	145
Conversion of convertible debentures	1	—	5	—	—	5
Exercise of stock options and related tax effects	—	—	2	—	—	2
Repurchases of common stock	(19)	—	(452)	—	—	(452)
Issuance of restricted stock, net of forfeitures and retirements to pay taxes	1	—	(14)	—	—	(14)
Share-based compensation	—	—	14	—	—	14
Balance at June 30, 2016	274	\$ 3	\$ 6,911	\$ (1,175)	\$ 46	\$ 5,785

	Common Stock		Additional Paid-in Capital	Accumulated Deficit	Accumulated Other Comprehensive Loss	Total Shareholders' Equity
	Shares	Amount				
Balance at December 31, 2014	289	\$ 3	\$ 7,350	\$ (1,729)	\$ (249)	\$ 5,375
Net income	—	—	—	332	—	332
Other comprehensive loss	—	—	—	—	(4)	(4)
Conversion of convertible debentures	—	—	3	—	—	3
Exercise of stock options and related tax effects	—	—	1	—	—	1
Issuance of restricted stock, net of forfeitures and retirements to pay taxes	1	—	(10)	—	—	(10)
Share-based compensation	—	—	17	—	—	17
Balance at June 30, 2015	290	\$ 3	\$ 7,361	\$ (1,397)	\$ (253)	\$ 5,714

See accompanying notes to the consolidated financial statements

E*TRADE FINANCIAL CORPORATION AND SUBSIDIARIES

CONSOLIDATED STATEMENT OF CASH FLOWS

(In millions)

(Unaudited)

	Six Months Ended June 30,	
	2016	2015
Cash flows from operating activities:		
Net income	\$ 286	\$ 332
Adjustments to reconcile net income to net cash provided by operating activities:		
Provision (benefit) for loan losses	(69)	8
Depreciation and amortization (including discount amortization and accretion)	112	186
(Gains) losses on securities and other	(20)	(25)
Losses on early extinguishment of debt	—	5
Share-based compensation	14	17
Deferred tax expense (benefit)	114	(149)
Other	4	(2)
Net effect of changes in assets and liabilities:		
Increase in cash required to be segregated under federal or other regulations	(764)	(212)
Decrease (increase) in receivables from brokers, dealers and clearing organizations	(172)	210
Decrease (increase) in margin receivables	574	(464)
Increase in other assets	—	(23)
Increase in payables to brokers, dealers and clearing organizations	168	289
Increase in customer payables	168	247
Decrease in other liabilities	(88)	(30)
Net cash provided by operating activities	327	389
Cash flows from investing activities:		
Purchases of available-for-sale securities	(3,687)	(3,434)
Proceeds from sales of available-for-sale securities	1,621	763
Proceeds from maturities of and principal payments on available-for-sale securities	681	913
Purchases of held-to-maturity securities	(3,122)	(898)
Proceeds from maturities of and principal payments on held-to-maturity securities	864	791
Net decrease in loans receivable	579	668
Capital expenditures for property and equipment	(38)	(32)
Proceeds from sale of real estate owned and repossessed assets	10	17
Net cash flow from derivative contracts	(56)	—
Other	(4)	(10)
Net cash used in investing activities	(3,152)	(1,222)

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

	Six Months Ended June 30,	
	2016	2015
Cash flows from financing activities:		
Net increase in deposits	\$ 3,519	\$ 1,324
Net decrease in securities sold under agreements to repurchase	(82)	(55)
Advances from FHLB	—	540
Payments on advances from FHLB	—	(540)
Net proceeds from issuance of senior notes	—	460
Payments on senior notes	—	(800)
Repurchases of common stock	(452)	—
Other	—	(7)
Net cash provided by financing activities	2,985	922
Increase in cash and equivalents	160	89
Cash and equivalents, beginning of period	2,233	1,783
Cash and equivalents, end of period	<u>\$ 2,393</u>	<u>\$ 1,872</u>
Supplemental disclosures:		
Cash paid for interest	\$ 59	\$ 146
Cash paid for income taxes, net of refunds	\$ 5	\$ 3
Non-cash investing and financing activities:		
Transfers of loans held-for-investment to loans held-for-sale	\$ —	\$ 39
Transfers from loans to other real estate owned and repossessed assets	\$ 14	\$ 12
Transfers from other real estate owned and repossessed assets to loans	\$ 1	\$ —
Conversion of convertible debentures to common stock	\$ 5	\$ 3
Transfer of available-for-sale securities to held-to-maturity securities	\$ 492	\$ —

See accompanying notes to the consolidated financial statements

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

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

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

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

The Company's consolidated financial statements are prepared in accordance with U.S. GAAP. Intercompany accounts and transactions are eliminated in consolidation. 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. These consolidated financial statements should be read in conjunction with the Annual Report on Form 10-K for the year ended December 31, 2015.

Beginning January 1, 2016, the Company changed its segment reporting structure to align with the manner in which the Chief Operating Decision Maker now reviews business performance and makes resource allocation decisions. As the Chief Operating Decision Maker's business performance assessments and resource allocation decisions are based on consolidated operating margin and the Company no longer has separate operating segments, the Company no longer presents disaggregated segment financial results. The Company also updated the presentation of its consolidated income statement to reflect how business performance is now measured and prior periods have been reclassified to conform to the current period presentation as follows:

- interest expense related to corporate debt and interest income related to corporate cash reclassified from other income (expense) to net interest income;
- losses on early extinguishment of debt reclassified from other income (expense) to non-interest expense; and
- other income (expense) reclassified from other income (expense) to gains (losses) on securities and other.

Use of Estimates—Preparing the Company's consolidated financial statements in accordance with GAAP requires management to make estimates and assumptions that affect the amounts reported in the consolidated financial statements and related notes for the periods presented. Actual results could differ from management's estimates. Certain significant accounting policies are critical because they are based on estimates and assumptions that require complex and subjective judgments by management. Changes in these estimates or assumptions could materially impact the Company's financial condition and results of operations. Material estimates in which management believes changes could reasonably occur include: allowance for loan losses; asset impairment, including goodwill impairment and OTTI; estimates of effective tax rates, deferred taxes and valuation allowance; accounting for derivative instruments; and fair value measurements.

Financial Statement Descriptions and Related Accounting Policies

Margin Receivables—Margin receivables represent credit extended to customers to finance their purchases of securities by borrowing against securities the customers own. Securities owned by customers are held as collateral for amounts due on the margin receivables, the value of which is not reflected in the consolidated balance sheet. The Company is permitted to sell or re-pledge these securities held as collateral and to use the securities to enter into securities lending transactions, to collateralize borrowings or for delivery to counterparties to cover customer short positions.

The fair value of securities that the Company received as collateral in connection with margin receivables and securities borrowing activities, where the Company is permitted to sell or re-pledge the securities, was approximately \$9.2 billion and \$10.1 billion at June 30, 2016 and December 31, 2015, respectively. Of this amount, \$2.7 billion and \$2.5 billion had been pledged or sold in connection with securities loans and deposits with clearing organizations at June 30, 2016 and December 31, 2015, respectively.

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

Adoption of New Accounting Standards

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

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

Consolidation

In February 2015, the FASB amended the guidance on consolidation of certain legal entities. The amended guidance modifies the evaluation of whether limited partnerships and similar legal entities are VIEs or voting interest entities, eliminates the presumption that a general partner should consolidate a limited partnership, and clarifies how to determine whether a group of equity holders has power over an entity. The Company adopted the amended guidance for annual and interim periods beginning on January 1, 2016 on a modified retrospective basis. The adoption of the amended guidance did not impact the Company's financial condition, results of operations or cash flows.

Accounting for Customer Fees Paid in a Cloud Computing Arrangement

In April 2015, the FASB amended the accounting guidance on customer fees paid in a cloud computing arrangement. The amended guidance requires that internal-use software accessed by a customer in cloud computing arrangements be accounted for as software licenses if specific criteria are met; otherwise they should be accounted for as service contracts. The Company adopted the amended guidance for annual and interim periods beginning on January 1, 2016 on a prospective basis. The adoption of the amended guidance did not impact the Company's financial condition, results of operations or cash flows.

New Accounting Standards Not Yet Adopted

Revenue Recognition on Contracts with Customers

In May 2014, the FASB amended the guidance on revenue recognition on contracts with customers. The new standard outlines a single comprehensive model for entities to apply in accounting for revenue arising from contracts with customers. The FASB issued supplemental amendments to the new standard to clarify certain accounting guidance and provide narrow scope improvements and practical expedients in the first half of 2016. The amended guidance will be effective for annual and interim periods beginning on January 1, 2018 for the Company and may be applied on either a full retrospective or modified retrospective basis. The Company is currently evaluating the impact of the new accounting guidance and expects to complete this evaluation in 2017; however, the adoption of the

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amended guidance is not expected to have a material impact on the Company's financial condition, results of operations or cash flows.

Classification and Measurement of Financial Instruments

In January 2016, the FASB amended the accounting and disclosure guidance on the classification and measurement of financial instruments. Relevant changes in the amended guidance include the requirement that equity investments, excluding those accounted for under the equity method of accounting or those resulting in consolidation of the investee, be measured at fair value in the consolidated balance sheet with changes in fair value recognized in net income. For disclosure purposes, the Company will no longer be required to disclose the methods and significant assumptions used to estimate fair value for financial instruments measured at amortized cost in the consolidated balance sheet. The amended guidance will be effective for interim and annual periods beginning on January 1, 2018 for the Company and is required to be applied on a modified retrospective basis by means of a cumulative-effect adjustment to the consolidated balance sheet on that date. While the Company is currently evaluating the impact of the new accounting guidance, the adoption of the amended guidance is not expected to have a material impact on the Company's financial condition, results of operations or cash flows.

Accounting for Leases

In February 2016, the FASB amended the guidance on accounting for leases. The new standard requires lessees to recognize assets and liabilities on the balance sheet for the rights and obligations created by all qualifying leases with terms of more than twelve months. The recognition, measurement and presentation of expenses and cash flows arising from a lease by a lessee remains substantially unchanged and depends on classification as a finance or operating lease. The new standard also requires additional quantitative and qualitative disclosures that provide additional information about the amounts related to leasing arrangements recorded in the financial statements. The new guidance will be effective for interim and annual periods beginning on January 1, 2019 for the Company and is required to be applied on a modified retrospective basis to the earliest period presented, which includes practical expedient options in certain circumstances. The Company is currently evaluating the impact of the new accounting guidance on the Company's financial condition, results of operations and cash flows.

Accounting for Employee Share-based Payments

In March 2016, the FASB amended the accounting guidance on employee share-based payments. Relevant changes in the amended guidance include the requirement to recognize all excess tax benefits and deficiencies upon exercise or vesting as income tax expense or benefit in the income statement; to treat excess tax benefits and deficiencies as discrete items in the reporting period they occur; to not delay recognition of excess tax benefits until the tax benefit is realized through a reduction in current taxes payable; and to make an accounting policy election to either estimate forfeitures or account for forfeiture as they occur. The new guidance will be effective for interim and annual periods beginning on January 1, 2017 for the Company and application methods vary based on the amended guidance. Early adoption in interim periods is permitted. The Company is currently evaluating the impact of the new accounting guidance on the Company's financial condition, results of operations and cash flows.

Accounting for Credit Losses

In June 2016, the FASB amended the accounting guidance on accounting for credit losses. The amended guidance requires measurement of all expected credit losses for financial instruments and other commitments to extend credit held at the reporting date. For financial assets measured at amortized cost, factors such as historical experience, current conditions, and reasonable and supportable forecasts will be used to estimate expected credit losses. The amended guidance will also change the manner in which credit losses are recognized on debt securities classified as available-for-sale. The new guidance will be effective for interim and annual periods beginning January 1, 2020 for the Company. Early adoption is permitted. The Company is currently evaluating the impact of the new accounting guidance on the Company's financial condition, results of operations and cash flows.

NOTE 2—INTEREST INCOME AND INTEREST EXPENSE

The following table shows the components of interest income and interest expense for the three and six months ended June 30, 2016 and 2015 (dollars in millions):

	Three Months Ended June 30,		Six Months Ended June 30,	
	2016	2015	2016	2015
Interest income:				
Cash and equivalents	\$ 1	\$ —	\$ 3	\$ 1
Cash required to be segregated under federal or other regulation	1	—	2	—
Available-for-sale securities	68	66	132	132
Held-to-maturity securities	107	86	210	174
Margin receivables	61	70	125	138
Loans	49	57	100	119
Broker-related receivables and other	1	1	1	2
Subtotal interest income	288	280	573	566
Other interest revenue ⁽¹⁾	18	30	41	60
Total interest income	306	310	614	626
Interest expense:				
Deposits	(1)	(1)	(2)	(3)
Customer payables	(1)	(1)	(2)	(2)
Other borrowings ⁽²⁾	(4)	(41)	(9)	(82)
Corporate debt	(14)	(13)	(27)	(33)
Subtotal interest expense	(20)	(56)	(40)	(120)
Other interest expense ⁽³⁾	—	(2)	(1)	(4)
Total interest expense	(20)	(58)	(41)	(124)
Net interest income ⁽⁴⁾	\$ 286	\$ 252	\$ 573	\$ 502

(1) Represents interest income on securities loaned.

(2) In September 2015, the Company terminated \$4.4 billion of legacy wholesale funding obligations.

(3) Represents interest expense on securities borrowed.

(4) Beginning in 2016, interest expense related to corporate debt and interest income related to corporate cash are presented within net interest income. Prior periods have been reclassified to conform with current period presentation.

NOTE 3—FAIR VALUE DISCLOSURES

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

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

The availability of observable inputs can vary and in certain cases, the inputs used to measure fair value may fall into different levels of the fair value hierarchy. In such cases, the level within the fair value hierarchy is based on the lowest level of input that is significant to the fair value measurement. The Company's assessment of the

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significance of a particular input to a fair value measurement requires judgment and consideration of factors specific to the asset or liability.

Recurring Fair Value Measurement Techniques

Mortgage-backed Securities

The Company's mortgage-backed securities portfolio is primarily comprised of agency mortgage-backed securities and collateralized mortgage obligations ("CMOs"). Agency mortgage-backed securities and CMOs are guaranteed by U.S. government sponsored enterprises and federal agencies. The weighted average coupon rates for the available-for-sale mortgage-backed securities at June 30, 2016 are shown in the following table:

	Weighted Average Coupon Rate
Agency mortgage-backed securities	2.84%
Agency CMOs	3.31%

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

Other Debt Securities

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

The Company's fair value level classification of U.S. Treasuries is based on the original maturity dates of the securities and whether the securities are the most recent issuances of a given maturity. U.S. Treasuries with original maturities less than one year are classified as Level 1. U.S. Treasuries with original maturities longer than one year are classified as Level 1 if they represent the most recent issuance of a given maturity; otherwise, these securities are classified as Level 2.

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

The Company's municipal bonds are revenue bonds issued by state and other local government agencies. The valuation of corporate bonds is impacted by the credit worthiness of the corporate issuer. All of the Company's municipal bonds and corporate bonds were rated investment grade at June 30, 2016. These securities were valued using a market approach with pricing service valuations corroborated by recent market transactions for identical or similar bonds. Municipal bonds and corporate bonds were categorized in Level 2 of the fair value hierarchy.

Publicly Traded Equity Securities

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

Derivative Instruments

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

Nonrecurring Fair Value Measurement Techniques

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

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

Loans Receivable

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

BPOs are a type of valuation input used to determine the estimated property values of our collateral dependent mortgage loans. In addition, when available, BPOs are used in various loss mitigation, default management and portfolio monitoring efforts, allowance for loan losses modeling and CLTV estimates. The Company validates BPOs through quality control measures, including comparison to tax records, comparable sale and listing data, prior BPO values and original appraisals. The Company does not adjust BPO values but will only utilize BPOs that pass validation.

Real Estate Owned

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

Nonrecurring fair value measurements on one- to four-family and home equity loans and real estate owned were classified as Level 3 of the fair value hierarchy as the valuations included unobservable inputs that were significant to the fair value. The following table presents additional information about significant unobservable inputs used in the valuation of assets measured at fair value on a nonrecurring basis that were categorized in Level 3 of the fair value hierarchy at June 30, 2016 and December 31, 2015:

	Unobservable Inputs	Average	Range
<u>June 30, 2016</u>			
Loans receivable:			
One- to four-family	Appraised value	\$ 414,300	\$15,000-\$1,850,000
Home equity	Appraised value	\$ 292,900	\$8,000-\$2,450,000
Real estate owned	Appraised value	\$ 308,000	\$12,900-\$2,100,000
<u>December 31, 2015</u>			
Loans receivable:			
One- to four-family	Appraised value	\$ 422,900	\$8,500-\$1,900,000
Home equity	Appraised value	\$ 274,100	\$9,000-\$1,300,000
Real estate owned	Appraised value	\$ 330,700	\$26,500-\$1,250,000

Recurring and Nonrecurring Fair Value Measurements

Assets and liabilities measured at fair value at June 30, 2016 and December 31, 2015 are summarized in the following tables (dollars in millions):

	Level 1	Level 2	Level 3	Total Fair Value
June 30, 2016:				
Recurring fair value measurements:				
Assets				
Available-for-sale securities:				
Debt securities:				
Agency mortgage-backed securities and CMOs	\$ —	\$ 12,586	\$ —	\$ 12,586
Agency debentures	—	848	—	848
U.S. Treasuries	—	312	—	312
Agency debt securities	—	77	—	77
Municipal bonds	—	35	—	35
Corporate bonds	—	4	—	4
Total debt securities	—	13,862	—	13,862
Publicly traded equity securities	33	—	—	33
Total available-for-sale securities	33	13,862	—	13,895
Total assets measured at fair value on a recurring basis ⁽¹⁾	\$ 33	\$ 13,862	\$ —	\$ 13,895
Liabilities				
Derivative liabilities ⁽²⁾	\$ —	\$ 193	\$ —	\$ 193
Total liabilities measured at fair value on a recurring basis ⁽¹⁾	\$ —	\$ 193	\$ —	\$ 193
Nonrecurring fair value measurements:				
Loans receivable:				
One- to four-family	\$ —	\$ —	\$ 18	\$ 18
Home equity	—	—	15	15
Total loans receivable	—	—	33	33
Real estate owned	—	—	21	21
Total assets measured at fair value on a nonrecurring basis ⁽³⁾	\$ —	\$ —	\$ 54	\$ 54

(1) Assets and liabilities measured at fair value on a recurring basis represented 28% and less than 1% of the Company's total assets and total liabilities, respectively, at June 30, 2016.

(2) All derivative liabilities were interest rate contracts at June 30, 2016. Information related to derivative instruments is detailed in *Note 7—Derivative Instruments and Hedging Activities*.

(3) Represents the fair value of assets prior to deducting estimated selling costs that were carried on the consolidated balance sheet at June 30, 2016, and for which a fair value measurement was recorded during the period.

	Level 1	Level 2	Level 3	Total Fair Value
December 31, 2015:				
Recurring fair value measurements:				
Assets				
Available-for-sale securities:				
Debt securities:				
Agency mortgage-backed securities and CMOs	\$ —	\$ 11,763	\$ —	\$ 11,763
Agency debentures	—	557	—	557
U.S. Treasuries	—	143	—	143
Agency debt securities	—	55	—	55
Municipal bonds	—	35	—	35
Corporate bonds	—	4	—	4
Total debt securities	—	12,557	—	12,557
Publicly traded equity securities	32	—	—	32
Total available-for-sale securities	32	12,557	—	12,589
Other assets:				
Derivative assets ⁽¹⁾	—	10	—	10
Total assets measured at fair value on a recurring basis ⁽²⁾	\$ 32	\$ 12,567	\$ —	\$ 12,599
Liabilities				
Derivative liabilities ⁽¹⁾	\$ —	\$ 55	\$ —	\$ 55
Total liabilities measured at fair value on a recurring basis ⁽²⁾	\$ —	\$ 55	\$ —	\$ 55
Nonrecurring fair value measurements:				
Loans receivable:				
One- to four-family	\$ —	\$ —	\$ 41	\$ 41
Home equity	—	—	22	22
Total loans receivable	—	—	63	63
Real estate owned	—	—	26	26
Total assets measured at fair value on a nonrecurring basis ⁽³⁾	\$ —	\$ —	\$ 89	\$ 89

(1) All derivative assets and liabilities were interest rate contracts at December 31, 2015. Information related to derivative instruments is detailed in *Note 7—Derivative Instruments and Hedging Activities*.

(2) Assets and liabilities measured at fair value on a recurring basis represented 28% and less than 1% of the Company's total assets and total liabilities, respectively, at December 31, 2015.

(3) Represents the fair value of assets prior to deducting estimated selling costs that were carried on the consolidated balance sheet at December 31, 2015.

The following table presents losses recognized on assets measured at fair value on a nonrecurring basis during the three and six months ended June 30, 2016 and 2015 (dollars in millions):

	Three Months Ended June 30,		Six Months Ended June 30,	
	2016	2015	2016	2015
One- to four-family	\$ 1	\$ 2	\$ 2	\$ 4
Home equity	4	5	7	9
Total losses on loans receivable measured at fair value	\$ 5	\$ 7	\$ 9	\$ 13
Losses on real estate owned measured at fair value	\$ 1	\$ —	\$ 1	\$ 1

Transfers Between Levels 1 and 2

For assets and liabilities measured at fair value on a recurring basis, the Company's transfers between levels of the fair value hierarchy are deemed to have occurred at the beginning of the reporting period on a quarterly basis. The Company had no transfers between Level 1 and 2 during the six months ended June 30, 2016 and 2015.

Recurring Fair Value Measurements Categorized within Level 3

For the periods presented, no assets or liabilities measured at fair value on a recurring basis were categorized within Level 3 of the fair value hierarchy.

Fair Value of Financial Instruments Not Carried at Fair Value

The following table summarizes the carrying values, fair values and fair value hierarchy level classification of financial instruments that are not carried at fair value on the consolidated balance sheet at June 30, 2016 and December 31, 2015 (dollars in millions):

	June 30, 2016				
	Carrying Value	Level 1	Level 2	Level 3	Total Fair Value
Assets					
Cash and equivalents	\$ 2,393	\$ 2,393	\$ —	\$ —	\$ 2,393
Cash required to be segregated under federal or other regulations	\$ 1,821	\$ 1,821	\$ —	\$ —	\$ 1,821
Held-to-maturity securities:					
Agency mortgage-backed securities and CMOs	\$ 12,704	\$ —	\$ 13,127	\$ —	\$ 13,127
Agency debentures	119	—	120	—	120
Agency debt securities	2,883	—	3,015	—	3,015
Other non-agency debt securities	10	—	—	10	10
Total held-to-maturity securities	\$ 15,716	\$ —	\$ 16,262	\$ 10	\$ 16,272
Margin receivables	\$ 6,824	\$ —	\$ 6,824	\$ —	\$ 6,824
Loans receivable, net:					
One- to four-family	\$ 2,216	\$ —	\$ —	\$ 2,218	\$ 2,218
Home equity	1,584	—	—	1,530	1,530
Consumer and other	289	—	—	298	298
Total loans receivable, net ⁽¹⁾	\$ 4,089	\$ —	\$ —	\$ 4,046	\$ 4,046
Receivables from brokers, dealers and clearing organizations	\$ 692	\$ —	\$ 692	\$ —	\$ 692
Liabilities					
Deposits	\$ 32,964	\$ —	\$ 32,964	\$ —	\$ 32,964
Customer payables	\$ 6,712	\$ —	\$ 6,712	\$ —	\$ 6,712
Payables to brokers, dealers and clearing organizations	\$ 1,744	\$ —	\$ 1,744	\$ —	\$ 1,744
Trust preferred securities	\$ 409	\$ —	\$ —	\$ 260	\$ 260
Corporate debt	\$ 993	\$ —	\$ 1,043	\$ —	\$ 1,043

(1) The carrying value of loans receivable, net includes the allowance for loan losses of \$293 million and loans that are recorded at fair value on a nonrecurring basis at June 30, 2016.

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	December 31, 2015				
	Carrying Value	Level 1	Level 2	Level 3	Total Fair Value
Assets					
Cash and equivalents	\$ 2,233	\$ 2,233	\$ —	\$ —	\$ 2,233
Cash required to be segregated under federal or other regulations	\$ 1,057	\$ 1,057	\$ —	\$ —	\$ 1,057
Held-to-maturity securities:					
Agency mortgage-backed securities and CMOs	\$ 10,353	\$ —	\$ 10,444	\$ —	\$ 10,444
Agency debentures	127	—	125	—	125
Agency debt securities	2,523	—	2,544	—	2,544
Other non-agency debt securities	10	—	—	10	10
Total held-to-maturity securities	<u>\$ 13,013</u>	<u>\$ —</u>	<u>\$ 13,113</u>	<u>\$ 10</u>	<u>\$ 13,123</u>
Margin receivables	\$ 7,398	\$ —	\$ 7,398	\$ —	\$ 7,398
Loans receivable, net:					
One- to four-family	\$ 2,465	\$ —	\$ —	\$ 2,409	\$ 2,409
Home equity	1,810	—	—	1,660	1,660
Consumer and other	338	—	—	343	343
Total loans receivable, net ⁽¹⁾	<u>\$ 4,613</u>	<u>\$ —</u>	<u>\$ —</u>	<u>\$ 4,412</u>	<u>\$ 4,412</u>
Receivables from brokers, dealers and clearing organizations	\$ 520	\$ —	\$ 520	\$ —	\$ 520
Liabilities					
Deposits	\$ 29,445	\$ —	\$ 29,444	\$ —	\$ 29,444
Customer Payables	\$ 6,544	\$ —	\$ 6,544	\$ —	\$ 6,544
Payables to brokers, dealers and clearing organizations	\$ 1,576	\$ —	\$ 1,576	\$ —	\$ 1,576
Other borrowings:					
Securities sold under agreements to repurchase	\$ 82	\$ —	\$ 82	\$ —	\$ 82
Trust preferred securities	409	—	—	252	252
Total other borrowings	<u>\$ 491</u>	<u>\$ —</u>	<u>\$ 82</u>	<u>\$ 252</u>	<u>\$ 334</u>
Corporate debt	\$ 997	\$ —	\$ 1,055	\$ —	\$ 1,055

(1) The carrying value of loans receivable, net includes the allowance for loan losses of \$353 million and loans that are recorded at fair value on a nonrecurring basis at December 31, 2015.

The fair value measurement techniques for financial instruments not carried at fair value on the consolidated balance sheet at June 30, 2016 and December 31, 2015 are summarized as follows:

Cash and equivalents, cash required to be segregated under federal or other regulations, margin receivables, receivables from brokers, dealers and clearing organizations, customer payables and payables to brokers, dealers and clearing organizations—Due to their short term nature, fair value is estimated to be carrying value.

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

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

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

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

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

Securities sold under agreements to repurchase—Fair value for securities sold under agreements to repurchase was determined by discounting future cash flows using discount factors derived from current observable rates implied for other similar instruments with similar remaining maturities.

Trust preferred securities—For subordinated debentures, fair value is estimated by discounting future cash flows at the yield implied by dealer pricing quotes.

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

Fair Value of Commitments and Contingencies

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. Changes in the economy or interest rates may influence the impact that these commitments and contingencies have on the Company in the future. The Company does not estimate the fair value of those commitments. The Company has the right to cancel these commitments in certain circumstances and has closed a significant amount of customer home equity lines of credit in the past eight years. At June 30, 2016, the Company had approximately \$50 million of unfunded commitments to extend credit. Information related to such commitments and contingent liabilities is detailed in *Note 15—Commitments, Contingencies and Other Regulatory Matters*.

NOTE 4—OFFSETTING ASSETS AND LIABILITIES

For financial statement purposes, the Company does not offset derivative instruments, repurchase agreements, or securities borrowing and securities lending transactions. These activities are generally transacted under master agreements that are widely used by counterparties and that may allow for net settlements of payments in the normal course, as well as offsetting of all contracts with a given counterparty in the event of bankruptcy or default of one of the two parties to the transaction. The following table presents information about these transactions to enable the users of the Company's financial statements to evaluate the potential effect of rights of set-off between these recognized assets and recognized liabilities at June 30, 2016 and December 31, 2015 (dollars in millions):

				Gross Amounts Not Offset in the Consolidated Balance Sheet		
	Gross Amounts of Recognized Assets and Liabilities	Gross Amounts Offset in the Consolidated Balance Sheet	Net Amounts Presented in the Consolidated Balance Sheet ⁽¹⁾⁽²⁾	Financial Instruments	Collateral Received or Pledged (Including Cash)	Net Amount
June 30, 2016						
Assets:						
Deposits paid for securities borrowed ⁽³⁾	\$ 205	\$ —	\$ 205	\$ (188)	\$ (11)	\$ 6
Total	\$ 205	\$ —	\$ 205	\$ (188)	\$ (11)	\$ 6
Liabilities:						
Deposits received for securities loaned ⁽⁴⁾	\$ 1,703	\$ —	\$ 1,703	\$ (188)	\$ (1,417)	\$ 98
Derivative liabilities ⁽⁵⁾⁽⁶⁾	42	—	42	—	(42)	—
Total	\$ 1,745	\$ —	\$ 1,745	\$ (188)	\$ (1,459)	\$ 98

December 31, 2015

Assets:						
Deposits paid for securities borrowed ⁽³⁾	\$ 120	\$ —	\$ 120	\$ (94)	\$ (18)	\$ 8
Total	\$ 120	\$ —	\$ 120	\$ (94)	\$ (18)	\$ 8
Liabilities:						
Deposits received for securities loaned ⁽⁴⁾	\$ 1,535	\$ —	\$ 1,535	\$ (94)	\$ (1,314)	\$ 127
Repurchase agreements ⁽⁶⁾	82	—	82	—	(81)	1
Derivative liabilities ⁽⁵⁾⁽⁶⁾	11	—	11	—	(11)	—
Total	\$ 1,628	\$ —	\$ 1,628	\$ (94)	\$ (1,406)	\$ 128

- (1) Net amount of deposits paid for securities borrowed are reflected in the receivables from brokers, dealers and clearing organizations line item in the consolidated balance sheet.
- (2) Net amount of deposits received for securities loaned, repurchase agreements and derivative liabilities are reflected in the payables to brokers, dealers and clearing organizations, other borrowings and other liabilities line items in the consolidated balance sheet, respectively.
- (3) Included in the gross amounts of deposits paid for securities borrowed was \$83 million and \$34 million at June 30, 2016 and December 31, 2015, respectively, transacted through a program with a clearing organization, which guarantees the return of cash to the Company. For presentation purposes, these amounts presented are based on the counterparties under the Company's master securities loan agreements.
- (4) Included in the gross amounts of deposits received for securities loaned was \$970 million and \$722 million at June 30, 2016 and December 31, 2015, respectively, transacted through a program with a clearing organization, which guarantees the return of securities to the Company. For presentation purposes, these amounts presented are based on the counterparties under the Company's master securities loan agreements.
- (5) Excludes net accrued interest payable of \$2 million and \$3 million at June 30, 2016 and December 31, 2015, respectively.
- (6) The Company pledges available-for-sale and held-to-maturity securities as collateral for amounts due on repurchase agreements and derivative liabilities. The collateral pledged included available-for-sale securities at fair value and held-to-maturity securities at amortized cost for June 30, 2016 and available-for-sale securities at fair value for December 31, 2015.

Derivative Transactions

Certain types of derivatives that the Company utilizes in its hedging activities are subject to derivatives clearing agreements ("cleared derivatives contracts") under the Dodd-Frank Act. These cleared derivatives contracts enable clearing by a derivatives clearing organization through a clearing member. Under the contracts, the clearing member typically has a one-way right to offset all contracts in the event of the Company's default or bankruptcy. Collateral exchanged under these contracts is not included in the table above as the contracts may not qualify as master netting agreements. At June 30, 2016 the Company did not have any cleared derivative contract assets compared with \$10 million at December 31, 2015. At June 30, 2016 and December 31, 2015, the Company had \$151 million and \$44 million, respectively, of cleared derivative contract liabilities.

Securities Lending Transactions

Deposits paid for securities borrowed and deposits received for securities loaned are recorded at the amount of cash collateral advanced or received. Deposits paid for securities borrowing transactions require the Company to deposit cash with the lender whereas deposits received for securities loaned result in the Company receiving collateral in the form of cash in an amount generally in excess of the market value of the securities loaned. Securities lending transactions have overnight or continuous remaining contractual maturities.

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

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

The amortized cost and fair value of available-for-sale and held-to-maturity securities at June 30, 2016 and December 31, 2015 are shown in the following tables (dollars in millions):

	Amortized Cost	Gross Unrealized / Unrecognized Gains	Gross Unrealized / Unrecognized Losses	Fair Value
June 30, 2016:				
Available-for-sale securities: ⁽¹⁾				
Debt securities:				
Agency mortgage-backed securities and CMOs	\$ 12,424	\$ 180	\$ (18)	\$ 12,586
Agency debentures	774	74	—	848
U.S. Treasuries	290	22	—	312
Agency debt securities	74	3	—	77
Municipal bonds	34	1	—	35
Corporate bonds	5	—	(1)	4
Total debt securities	13,601	280	(19)	13,862
Publicly traded equity securities ⁽²⁾	33	—	—	33
Total available-for-sale securities	\$ 13,634	\$ 280	\$ (19)	\$ 13,895
Held-to-maturity securities: ⁽¹⁾				
Agency mortgage-backed securities and CMOs	\$ 12,704	\$ 439	\$ (16)	\$ 13,127
Agency debentures	119	1	—	120
Agency debt securities	2,883	132	—	3,015
Other non-agency debt securities	10	—	—	10
Total held-to-maturity securities	\$ 15,716	\$ 572	\$ (16)	\$ 16,272
December 31, 2015:				
Available-for-sale securities:				
Debt securities:				
Agency mortgage-backed securities and CMOs	\$ 11,888	\$ 41	\$ (166)	\$ 11,763
Agency debentures	551	18	(12)	557
U.S. Treasuries	147	—	(4)	143
Agency debt securities	55	—	—	55
Municipal bonds	35	—	—	35
Corporate bonds	5	—	(1)	4
Total debt securities	12,681	59	(183)	12,557
Publicly traded equity securities ⁽²⁾	33	—	(1)	32
Total available-for-sale securities	\$ 12,714	\$ 59	\$ (184)	\$ 12,589
Held-to-maturity securities:				
Agency mortgage-backed securities and CMOs	\$ 10,353	\$ 149	\$ (58)	\$ 10,444
Agency debentures	127	—	(2)	125
Agency debt securities	2,523	34	(13)	2,544
Other non-agency debt securities	10	—	—	10
Total held-to-maturity securities	\$ 13,013	\$ 183	\$ (73)	\$ 13,123

(1) During the three months ended June 30, 2016, securities with a fair value of approximately \$492 million were transferred from available-for-sale securities to held-to-maturity securities pursuant to an evaluation of our investment strategy and an assessment by management about our intent and ability to hold those particular securities until maturity. See Note 12—Shareholders' Equity for information on the impact to accumulated other comprehensive income.

(2) Consists of investments in a mutual fund related to the Community Reinvestment Act.

Contractual Maturities

The contractual maturities of all available-for-sale and held-to-maturity debt securities at June 30, 2016 are shown in the following table (dollars in millions):

	Amortized Cost	Fair Value
Available-for-sale debt securities:		
Due within one year	\$ —	\$ —
Due within one to five years	11	11
Due within five to ten years	3,744	3,843
Due after ten years	9,846	10,008
Total available-for-sale debt securities	<u>\$ 13,601</u>	<u>\$ 13,862</u>
Held-to-maturity debt securities:		
Due within one year	\$ 23	\$ 23
Due within one to five years	1,283	1,343
Due within five to ten years	4,430	4,636
Due after ten years	9,980	10,270
Total held-to-maturity debt securities	<u>\$ 15,716</u>	<u>\$ 16,272</u>

At June 30, 2016, the Company pledged \$7 million of available-for-sale debt securities and \$0.6 billion of held-to-maturity debt securities as collateral for derivatives and other purposes. At December 31, 2015, the Company pledged \$17 million of available-for-sale debt securities and \$0.7 billion of held-to-maturity debt securities as collateral for derivatives and other purposes.

Investments with Unrealized or Unrecognized Losses

The following tables show the fair value and unrealized or unrecognized losses on available-for-sale and held-to-maturity securities, aggregated by investment category, and the length of time that individual securities have been in a continuous unrealized or unrecognized loss position at June 30, 2016 and December 31, 2015 (dollars in millions):

	Less than 12 Months		12 Months or More		Total	
	Fair Value	Unrealized / Unrecognized Losses	Fair Value	Unrealized / Unrecognized Losses	Fair Value	Unrealized / Unrecognized Losses
June 30, 2016:						
Available-for-sale securities:						
Debt securities:						
Agency mortgage-backed securities and CMOs	\$ 1,208	\$ (5)	\$ 1,501	\$ (13)	\$ 2,709	\$ (18)
Corporate bonds	—	—	5	(1)	5	(1)
Total temporarily impaired available-for-sale securities	<u>\$ 1,208</u>	<u>\$ (5)</u>	<u>\$ 1,506</u>	<u>\$ (14)</u>	<u>\$ 2,714</u>	<u>\$ (19)</u>
Held-to-maturity securities:						
Agency mortgage-backed securities and CMOs	\$ 137	\$ (1)	\$ 1,436	\$ (15)	\$ 1,573	\$ (16)
Agency debt securities	19	—	—	—	19	—
Total temporarily impaired held-to-maturity securities	<u>\$ 156</u>	<u>\$ (1)</u>	<u>\$ 1,436</u>	<u>\$ (15)</u>	<u>\$ 1,592</u>	<u>\$ (16)</u>
December 31, 2015:						
Available-for-sale securities:						
Debt securities:						
Agency mortgage-backed securities and CMOs	\$ 6,832	\$ (88)	\$ 2,496	\$ (78)	\$ 9,328	\$ (166)
Agency debentures	329	(12)	9	—	338	(12)
U.S. Treasuries	143	(4)	—	—	143	(4)
Agency debt securities	55	—	—	—	55	—
Municipal bonds	—	—	15	—	15	—
Corporate bonds	—	—	4	(1)	4	(1)
Publicly traded equity securities	32	(1)	—	—	32	(1)
Total temporarily impaired available-for-sale securities	<u>\$ 7,391</u>	<u>\$ (105)</u>	<u>\$ 2,524</u>	<u>\$ (79)</u>	<u>\$ 9,915</u>	<u>\$ (184)</u>
Held-to-maturity securities:						
Agency mortgage-backed securities and CMOs	\$ 2,807	\$ (25)	\$ 1,495	\$ (33)	\$ 4,302	\$ (58)
Agency debentures	114	(2)	—	—	114	(2)
Agency debt securities	1,006	(10)	134	(3)	1,140	(13)
Total temporarily impaired held-to-maturity securities	<u>\$ 3,927</u>	<u>\$ (37)</u>	<u>\$ 1,629</u>	<u>\$ (36)</u>	<u>\$ 5,556</u>	<u>\$ (73)</u>

The Company does not believe that any individual unrealized loss in the available-for-sale portfolio or unrecognized loss in the held-to-maturity portfolio as of June 30, 2016 represents a credit loss. The Company does not intend to sell the debt securities in an unrealized or unrecognized loss position as of the balance sheet date and it is not more likely than not that the Company will be required to sell the debt securities before the anticipated recovery of its remaining amortized cost of the debt securities in an unrealized or unrecognized loss position at June 30, 2016.

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There were no impairment losses recognized in earnings on available-for-sale or held-to-maturity securities during the six months ended June 30, 2016 and 2015, respectively.

Included within the Company's securities portfolios are securities that have been written-down to a zero carrying value. The credit loss component of debt securities held by the Company that had a noncredit loss component previously recognized in other comprehensive income was \$152 million at both June 30, 2016 and December 31, 2015. Of these amounts, \$123 million at both June 30, 2016 and December 31, 2015 relates to debt securities that have been factored to zero, but the Company still holds legal title to these securities until maturity or until they are sold.

Gains (Losses) on Securities and Other

The following table shows the components of the gains (losses) on securities and other line items on the consolidated statement of income for the three and six months ended June 30, 2016 and 2015 (dollars in millions):

	Three Months Ended June 30,		Six Months Ended June 30,	
	2016	2015	2016	2015
Gains on available-for-sale securities	\$ 14	\$ 8	\$ 29	\$ 18
Hedge ineffectiveness	(2)	3	(4)	2
Equity method investment income (loss) and other	(2)	(1)	(5)	5
Gains (losses) on securities and other	\$ 10	\$ 10	\$ 20	\$ 25

NOTE 6—LOANS RECEIVABLE, NET

Loans receivable, net at June 30, 2016 and December 31, 2015 are summarized as follows (dollars in millions):

	June 30, 2016	December 31, 2015
One- to four-family	\$ 2,244	\$ 2,488
Home equity	1,827	2,114
Consumer and other	292	341
Total loans receivable	4,363	4,943
Unamortized premiums, net	19	23
Allowance for loan losses	(293)	(353)
Total loans receivable, net	\$ 4,089	\$ 4,613

At June 30, 2016, the Company pledged \$3.7 billion and \$0.3 billion of loans as collateral to the FHLB and Federal Reserve Bank, respectively. At December 31, 2015, the Company pledged \$4.2 billion and \$0.3 billion of loans as collateral to the FHLB and Federal Reserve Bank, respectively.

The following table presents the total recorded investment in loans receivable and allowance for loan losses by loans that have been collectively evaluated for impairment and those that have been individually evaluated for impairment by loan class at June 30, 2016 and December 31, 2015 (dollars in millions):

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	Recorded Investment		Allowance for Loan Losses	
	June 30, 2016	December 31, 2015	June 30, 2016	December 31, 2015
Collectively evaluated for impairment:				
One- to four-family	\$ 1,989	\$ 2,219	\$ 35	\$ 31
Home equity	1,620	1,915	195	255
Consumer and other	295	344	6	6
Total collectively evaluated for impairment	3,904	4,478	236	292
Individually evaluated for impairment:				
One- to four-family	270	286	7	9
Home equity	208	202	50	52
Total individually evaluated for impairment	478	488	57	61
Total	\$ 4,382	\$ 4,966	\$ 293	\$ 353

Credit Quality and Concentrations of Credit Risk

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

Credit Quality

The following tables show the distribution of the Company's mortgage loan portfolios by credit quality indicator at June 30, 2016 and December 31, 2015 (dollars in millions):

Current LTV/CLTV ⁽¹⁾	One- to Four-Family		Home Equity	
	June 30, 2016	December 31, 2015	June 30, 2016	December 31, 2015
<=80%	\$ 1,425	\$ 1,519	\$ 759	\$ 843
80%-100%	516	609	465	549
100%-120%	193	227	354	420
>120%	110	133	249	302
Total mortgage loans receivable	\$ 2,244	\$ 2,488	\$ 1,827	\$ 2,114
Average estimated current LTV/CLTV ⁽²⁾	75%	77%	89%	90%
Average LTV/CLTV at loan origination ⁽³⁾	71%	71%	81%	81%

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

<u>Current FICO</u> ⁽¹⁾	<u>One- to Four-Family</u>		<u>Home Equity</u>	
	<u>June 30, 2016</u>	<u>December 31, 2015</u>	<u>June 30, 2016</u>	<u>December 31, 2015</u>
≥720	\$ 1,301	\$ 1,423	\$ 910	\$ 1,069
719 - 700	198	246	188	222
699 - 680	181	198	169	183
679 - 660	135	150	126	152
659 - 620	175	198	178	203
<620	254	273	256	285
Total mortgage loans receivable	\$ 2,244	\$ 2,488	\$ 1,827	\$ 2,114

(1) FICO scores are updated on a quarterly basis; however, there were approximately \$35 million and \$39 million of one- to four-family loans at June 30, 2016 and December 31, 2015, respectively, and \$3 million of home equity loans at both June 30, 2016 and December 31, 2015 for which the updated FICO scores were not available. For these loans, the current FICO distribution included the most recent FICO scores where available, otherwise the original FICO score was used.

Concentrations of Credit Risk

One- to four-family loans include loans for a five to ten year interest-only period, followed by an amortizing period ranging from 25 to 30 years. At June 30, 2016, 36% of the Company's one- to four-family portfolio was not yet amortizing. During the trailing twelve months ended June 30, 2016, borrowers of approximately 16% of the portfolio made voluntary annual principal payments of at least \$2,500 and of this population, nearly half made principal payments that were \$10,000 or greater.

The home equity loan portfolio is primarily second lien loans on residential real estate properties, which have a higher level of credit risk than first lien mortgage loans. Approximately 13% of the home equity portfolio was in the first lien position and the Company holds both the first and second lien positions in less than 1% of the home equity loan portfolio at June 30, 2016. The home equity loan portfolio consists of approximately 18% of home equity installment loans and approximately 82% of home equity lines of credit at June 30, 2016. Of the home equity lines of credit, approximately 55% had converted to amortizing loans at June 30, 2016.

Home equity installment loans are primarily fixed rate and fixed term, fully amortizing loans that do not offer the option of an interest-only payment. The majority of home equity lines of credit convert to amortizing loans at the end of the draw period, which typically ranges from five to ten years. Approximately 3% of this portfolio will require the borrowers to repay the loan in full at the end of the draw period. At June 30, 2016, 45% of the home equity line of credit portfolio had not converted from the interest-only draw period and had not begun amortizing. During the trailing twelve months ended June 30, 2016, borrowers of approximately 40% of the portfolio made annual principal payments of at least \$500 on their home equity lines of credit and slightly under half reduced their principal balance by at least \$2,500.

The following table outlines when one- to four-family and home equity lines of credit convert to amortizing by percentage of the one- to four-family portfolio and home equity line of credit portfolios, respectively, at June 30, 2016:

<u>Period of Conversion to Amortizing Loan</u>	<u>% of One- to Four-Family Portfolio</u>	<u>% of Home Equity Line of Credit Portfolio</u>
Already amortizing	64%	55%
Through December 31, 2016	12%	29%
Year ending December 31, 2017	24%	15%
Year ending December 31, 2018 or later	—%	1%

The average age of our mortgage loans receivable was 10.3 and 9.9 years at June 30, 2016 and December 31, 2015, respectively. Approximately 37% of the Company's mortgage loans receivable were concentrated in California at both June 30, 2016 and December 31, 2015. No other state had concentrations of mortgage loans that represented 10% or more of the Company's mortgage loans receivable at June 30, 2016 and December 31, 2015.

Delinquent Loans

The following table shows total loans receivable by delinquency category at June 30, 2016 and December 31, 2015 (dollars in millions):

	Current	30-89 Days Delinquent	90-179 Days Delinquent	180+ Days Delinquent	Total
June 30, 2016					
One- to four-family	\$ 2,047	\$ 68	\$ 26	\$ 103	\$ 2,244
Home equity	1,694	47	27	59	1,827
Consumer and other	287	5	—	—	292
Total loans receivable	<u>\$ 4,028</u>	<u>\$ 120</u>	<u>\$ 53</u>	<u>\$ 162</u>	<u>\$ 4,363</u>
December 31, 2015					
One- to four-family	\$ 2,279	\$ 72	\$ 26	\$ 111	\$ 2,488
Home equity	1,978	52	31	53	2,114
Consumer and other	334	6	1	—	341
Total loans receivable	<u>\$ 4,591</u>	<u>\$ 130</u>	<u>\$ 58</u>	<u>\$ 164</u>	<u>\$ 4,943</u>

Loans delinquent 180 days and greater have been written down to their expected recovery value. Loans delinquent 90 to 179 days generally have not been written down to their expected recovery value (unless they are in process of bankruptcy or are modifications for which there is substantial doubt as to the borrower's ability to repay the loan), but present a risk of future charge-off. Additional charge-offs on loans delinquent 180 days and greater are possible if home prices decline beyond current estimates.

The Company monitors loans in which a borrower's current credit history casts doubt on their ability to repay a loan. Loans are classified as special mention when they are between 30 and 89 days past due. The trend in special mention loan balances is generally indicative of the expected trend for charge-offs in future periods, as these loans have a greater propensity to migrate into nonaccrual status and ultimately charge-off. One- to four-family loans are generally secured in a first lien position by real estate assets, reducing the potential loss when compared to an unsecured loan. Home equity loans are generally secured by real estate assets; however, the majority of these loans are secured in a second lien position, which substantially increases the potential loss when compared to a first lien position. The loss severity of our second lien home equity loans was approximately 93% for a trailing twelve-month period as of June 30, 2016.

Nonperforming Loans

The Company classifies loans as nonperforming when they are no longer accruing interest, which includes loans that are 90 days and greater past due, TDRs that are on nonaccrual status for all classes of loans (including loans in bankruptcy) and certain junior liens that have a delinquent senior lien. The following table shows the comparative data for nonperforming loans at June 30, 2016 and December 31, 2015 (dollars in millions):

	June 30, 2016	December 31, 2015
One- to four-family	\$ 247	\$ 263
Home equity	166	154
Consumer and other	—	1
Total nonperforming loans receivable	<u>\$ 413</u>	<u>\$ 418</u>

Real Estate Owned and Loans with Formal Foreclosure Proceedings in Process

At both June 30, 2016 and December 31, 2015, the Company held \$27 million of real estate owned that were acquired through foreclosure or through a deed in lieu of foreclosure or similar legal agreement. The Company also held \$95 million and \$108 million of loans for which formal foreclosure proceedings were in process at June 30, 2016 and December 31, 2015, respectively.

Allowance for Loan Losses

The following table provides a roll forward by loan portfolio of the allowance for loan losses for the three and six months ended June 30, 2016 and 2015 (dollars in millions):

	Three Months Ended June 30, 2016			
	One- to Four-Family	Home Equity	Consumer and Other	Total
Allowance for loan losses, beginning of period	\$ 49	\$ 267	\$ 6	\$ 322
Provision (benefit) for loan losses	(8)	(28)	1	(35)
Charge-offs	—	(4)	(2)	(6)
Recoveries	1	10	1	12
Net (charge-offs) recoveries	1	6	(1)	6
Allowance for loan losses, end of period	\$ 42	\$ 245	\$ 6	\$ 293

	Three Months Ended June 30, 2015			
	One- to Four-Family	Home Equity	Consumer and Other	Total
Allowance for loan losses, beginning of period	\$ 31	\$ 360	\$ 11	\$ 402
Provision (benefit) for loan losses	20	(15)	(2)	3
Charge-offs	(2)	(9)	(3)	(14)
Recoveries	—	9	2	11
Net (charge-offs) recoveries	(2)	—	(1)	(3)
Allowance for loan losses, end of period	\$ 49	\$ 345	\$ 8	\$ 402

	Six Months Ended June 30, 2016			
	One- to Four-Family	Home Equity	Consumer and Other	Total
Allowance for loan losses, beginning of period	\$ 40	\$ 307	\$ 6	\$ 353
Provision (benefit) for loan losses	—	(70)	1	(69)
Charge-offs	(1)	(9)	(4)	(14)
Recoveries	3	17	3	23
Net (charge-offs) recoveries	2	8	(1)	9
Allowance for loan losses, end of period	\$ 42	\$ 245	\$ 6	\$ 293

	Six Months Ended June 30, 2015			
	One- to Four-Family	Home Equity	Consumer and Other	Total
Allowance for loan losses, beginning of period	\$ 27	\$ 367	\$ 10	\$ 404
Provision (benefit) for loan losses	25	(17)	—	8
Charge-offs	(3)	(19)	(6)	(28)
Recoveries	—	14	4	18
Net (charge-offs) recoveries	(3)	(5)	(2)	(10)
Allowance for loan losses, end of period	\$ 49	\$ 345	\$ 8	\$ 402

Total loans receivable designated as held-for-investment decreased \$0.5 billion during the six months ended June 30, 2016. The allowance for loan losses was \$293 million, or 6.7% of total loans receivable, as of June 30, 2016 compared to \$353 million, or 7.1% of total loans receivable, as of December 31, 2015.

Impaired Loans—Troubled Debt Restructurings

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

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Delinquency status is the primary measure the Company uses to evaluate the performance of loans modified as TDRs. As mentioned above, the Company classifies loans as nonperforming when they are no longer accruing interest, which includes loans that are 90 days and greater past due, TDRs that are on nonaccrual status for all classes of loans, including loans in bankruptcy, and certain junior liens that have a delinquent senior lien. The following table shows a summary of the Company's recorded investment in TDRs that were on accrual and nonaccrual status, further disaggregated by delinquency status, in addition to the recorded investment in TDRs at June 30, 2016 and December 31, 2015 (dollars in millions):

	Accrual TDRs ⁽¹⁾	Nonaccrual TDRs				Total Recorded Investment in TDRs ⁽³⁾⁽⁴⁾
		Current ⁽²⁾	30-89 Days Delinquent	90-179 Days Delinquent	180+ Days Delinquent	
<u>June 30, 2016</u>						
One- to four-family	\$ 102	\$ 100	\$ 18	\$ 6	\$ 44	\$ 270
Home equity	113	55	10	6	24	208
Total	<u>\$ 215</u>	<u>\$ 155</u>	<u>\$ 28</u>	<u>\$ 12</u>	<u>\$ 68</u>	<u>\$ 478</u>
<u>December 31, 2015</u>						
One- to four-family	\$ 106	\$ 106	\$ 19	\$ 8	\$ 47	\$ 286
Home equity	120	42	11	8	21	202
Total	<u>\$ 226</u>	<u>\$ 148</u>	<u>\$ 30</u>	<u>\$ 16</u>	<u>\$ 68</u>	<u>\$ 488</u>

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

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

(3) The unpaid principal balance in one- to four-family TDRs was \$267 million and \$283 million at June 30, 2016 and December 31, 2015, respectively. For home equity loans, the recorded investment in TDRs represents the unpaid principal balance.

(4) Total recorded investment in TDRs at June 30, 2016 consisted of \$332 million of loans modified as TDRs and \$146 million of loans that have been charged off due to bankruptcy notification. Total recorded investment in TDRs at December 31, 2015 consisted of \$334 million of loans modified as TDRs and \$154 million of loans that have been charged off due to bankruptcy notification.

The following table shows the average recorded investment and interest income recognized both on a cash and accrual basis for the Company's TDRs during the three and six months ended June 30, 2016 and 2015 (dollars in millions):

	Average Recorded Investment		Interest Income Recognized	
	Three Months Ended June 30,		Three Months Ended June 30,	
	2016	2015	2016	2015
One- to four-family	\$ 278	\$ 307	\$ 3	\$ 2
Home equity	206	221	4	4
Total	<u>\$ 484</u>	<u>\$ 528</u>	<u>\$ 7</u>	<u>\$ 6</u>

	Average Recorded Investment		Interest Income Recognized	
	Six Months Ended June 30,		Six Months Ended June 30,	
	2016	2015	2016	2015
One- to four-family	\$ 280	\$ 310	\$ 5	\$ 4
Home equity	206	219	8	9
Total	<u>\$ 486</u>	<u>\$ 529</u>	<u>\$ 13</u>	<u>\$ 13</u>

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Included in the allowance for loan losses was a specific valuation allowance of \$57 million and \$61 million that was established for TDRs at June 30, 2016 and December 31, 2015, respectively. The specific allowance for these individually impaired loans represents the forecasted losses over the estimated remaining life of the loans, including the economic concessions granted to the borrowers. The following table shows detailed information related to the Company's TDRs at June 30, 2016 and December 31, 2015 (dollars in millions):

	June 30, 2016			December 31, 2015		
	Recorded Investment in TDRs	Specific Valuation Allowance	Net Investment in TDRs	Recorded Investment in TDRs	Specific Valuation Allowance	Net Investment in TDRs
With a recorded allowance:						
One- to four-family	\$ 64	\$ 7	\$ 57	\$ 72	\$ 9	\$ 63
Home equity	\$ 114	\$ 50	\$ 64	\$ 111	\$ 52	\$ 59
Without a recorded allowance: ⁽¹⁾						
One- to four-family	\$ 206	\$ —	\$ 206	\$ 214	\$ —	\$ 214
Home equity	\$ 94	\$ —	\$ 94	\$ 91	\$ —	\$ 91
Total:						
One- to four-family	\$ 270	\$ 7	\$ 263	\$ 286	\$ 9	\$ 277
Home equity	\$ 208	\$ 50	\$ 158	\$ 202	\$ 52	\$ 150

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

Troubled Debt Restructurings — Loan Modifications

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

The following table shows loans modified as TDRs by delinquency category at June 30, 2016 and December 31, 2015 (dollars in millions):

	Modifications Current	Modifications 30-89 Days Delinquent	Modifications 90-179 Days Delinquent	Modifications 180+ Days Delinquent	Total Recorded Investment in Modifications ⁽¹⁾
June 30, 2016					
One- to four-family	\$ 133	\$ 8	\$ 3	\$ 15	\$ 159
Home equity	148	8	4	13	173
Total	\$ 281	\$ 16	\$ 7	\$ 28	\$ 332
December 31, 2015					
One- to four-family	\$ 138	\$ 11	\$ 5	\$ 16	\$ 170
Home equity	139	8	6	11	164
Total	\$ 277	\$ 19	\$ 11	\$ 27	\$ 334

(1) Includes loans modified as TDRs that also had received a bankruptcy notification of \$44 million and \$42 million at June 30, 2016 and December 31, 2015, respectively.

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The following table shows loans modified as TDRs and the specific valuation allowance by loan portfolio as well as the percentage of total expected losses at June 30, 2016 and December 31, 2015 (dollars in millions):

	Recorded Investment in Modifications before Charge-offs	Charge-offs	Recorded Investment in Modifications	Specific Valuation Allowance	Net Investment in Modifications	Specific Valuation Allowance as a % of Modifications	Total Expected Losses
June 30, 2016							
One- to four-family	\$ 205	\$ (46)	\$ 159	\$ (7)	\$ 152	4%	26%
Home equity	285	(112)	173	(50)	123	29%	57%
Total	<u>\$ 490</u>	<u>\$ (158)</u>	<u>\$ 332</u>	<u>\$ (57)</u>	<u>\$ 275</u>	17%	44%
December 31, 2015							
One- to four-family	\$ 216	\$ (46)	\$ 170	\$ (9)	\$ 161	5%	25%
Home equity	284	(120)	164	(52)	112	32%	61%
Total	<u>\$ 500</u>	<u>\$ (166)</u>	<u>\$ 334</u>	<u>\$ (61)</u>	<u>\$ 273</u>	18%	45%

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

The vast majority of the Company's loans modified as TDRs include an interest rate reduction in combination with another type of concession. The Company prioritizes the interest rate reduction modifications in combination with the other modification categories. Each class is mutually exclusive in that if a modification had an interest rate reduction with an extension and other modification, the modification would only be presented in the extension column in the table below. The following tables provide the number of loans and post-modification balances immediately after being modified by major class during the three and six months ended June 30, 2016 and 2015 (dollars in millions):

Three Months Ended June 30, 2016

	Number of Loans	Interest Rate Reduction			Total
		Re-age/ Extension/ Interest Capitalization	Other with Interest Rate Reduction	Other ⁽¹⁾	
One- to four-family	7	\$ 2	\$ —	\$ 1	\$ 3
Home equity	164	3	2	6	11
Total	171	\$ 5	\$ 2	\$ 7	\$ 14

Three Months Ended June 30, 2015

	Number of Loans	Interest Rate Reduction			Total
		Re-age/ Extension/ Interest Capitalization	Other with Interest Rate Reduction	Other	
One- to four-family	10	\$ 2	\$ —	\$ 1	\$ 3
Home equity	10	1	—	—	1
Total	20	\$ 3	\$ —	\$ 1	\$ 4

Six Months Ended June 30, 2016

	Number of Loans	Interest Rate Reduction			Total
		Re-age/ Extension/ Interest Capitalization	Other with Interest Rate Reduction	Other ⁽¹⁾	
One- to four-family	21	\$ 6	\$ —	\$ 2	\$ 8
Home equity	357	5	3	18	26
Total	378	\$ 11	\$ 3	\$ 20	\$ 34

Six Months Ended June 30, 2015

	Number of Loans	Interest Rate Reduction			Total
		Re-age/ Extension/ Interest Capitalization	Other with Interest Rate Reduction	Other ⁽¹⁾	
One- to four-family	16	\$ 3	\$ —	\$ 1	\$ 4
Home equity	253	2	1	16	19
Total	269	\$ 5	\$ 1	\$ 17	\$ 23

- (1) Includes TDRs that resulted from a loan modification program being offered to a subset of borrowers with home equity lines of credit whose original loan terms provided the borrowers the option to accelerate their date of conversion to amortizing loans. As certain terms of the Company's offer represented economic concessions, such as longer amortization periods than were in the original loan agreements, to certain borrowers experiencing financial difficulty, this program resulted in \$6 million and \$15 million of TDRs during the three and six months ended June 30, 2016, respectively, and \$14 million of TDRs during the six months ended June 30, 2015.

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The Company considers modifications that become 30 days past due to have experienced a payment default. The following table shows the recorded investment in modifications that experienced a payment default within 12 months after the modification for the three and six months ended June 30, 2016 and 2015 (dollars in millions):

	Three Months Ended June 30,			
	2016		2015	
	Number of Loans	Recorded Investment	Number of Loans	Recorded Investment
One- to four-family ⁽¹⁾	2	\$ 1	—	\$ —
Home equity ⁽²⁾	17	1	28	1
Total	19	\$ 2	28	\$ 1

	Six Months Ended June 30,			
	2016		2015	
	Number of Loans	Recorded Investment	Number of Loans	Recorded Investment
One- to four-family ⁽¹⁾	7	\$ 3	2	\$ 1
Home equity ⁽²⁾⁽³⁾	30	2	68	3
Total	37	\$ 5	70	\$ 4

- (1) For both the six months ended June 30, 2016 and 2015, \$1 million of the recorded investment in one- to four-family loans that had a payment default in the trailing 12 months was classified as current.
- (2) For both the three and six months ended June 30, 2016, less than \$1 million of the recorded investment in home equity loans that had a payment default in the trailing 12 months was classified as current, compared to \$1 million and \$2 million for the three and six months ended June 30, 2015, respectively.
- (3) The majority of these home equity modifications during the six months ended June 30, 2015 experienced servicer transfers during this same period.

NOTE 7—DERIVATIVE INSTRUMENTS AND HEDGING ACTIVITIES

The Company enters into derivative transactions primarily to protect against interest rate risk on the value of certain assets, liabilities and future cash flows. Each derivative instrument is recorded on the consolidated balance sheet at fair value as a freestanding asset or liability. The following table summarizes the fair value of derivatives as reported in the consolidated balance sheet at June 30, 2016 and December 31, 2015 (dollars in millions):

	Notional	Fair Value		
		Asset(1)	Liability(2)	Net(3)
<u>June 30, 2016</u>				
Interest rate contracts:				
Fair value hedges	\$ 2,743	\$ —	\$ (193)	\$ (193)
Total derivatives designated as hedging instruments(4)	\$ 2,743	\$ —	\$ (193)	\$ (193)
<u>December 31, 2015</u>				
Interest rate contracts:				
Fair value hedges	\$ 2,204	\$ 10	\$ (55)	\$ (45)
Total derivatives designated as hedging instruments(4)	\$ 2,204	\$ 10	\$ (55)	\$ (45)

- (1) Reflected in the other assets line item on the consolidated balance sheet.
- (2) Reflected in the other liabilities line item on the consolidated balance sheet.
- (3) Represents derivative assets net of derivative liabilities for disclosure purposes only.
- (4) All derivatives were designated as hedging instruments at June 30, 2016 and December 31, 2015.

Fair Value Hedges

Fair value hedges are used to offset exposure to changes in value of certain fixed-rate assets and liabilities. Fair value hedges are accounted for by recording the fair value of the derivative instrument and the fair value of the asset or liability being hedged on the consolidated balance sheet. Changes in the fair value of both the derivative instruments and the underlying assets or liabilities are recognized in the gains (losses) on securities and other line item

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in the consolidated statement of income. To the extent that the hedge is ineffective, the changes in the fair values will not offset and the difference, or hedge ineffectiveness, is reflected in the gains (losses) on securities and other line item in the consolidated statement of income.

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

The following table summarizes the effect of interest rate contracts designated as fair value hedges and related hedged items on the consolidated statement of income for the three and six months ended June 30, 2016 and 2015 (dollars in millions):

	Three Months Ended June 30,					
	2016			2015		
	Hedging Instrument	Hedged Item	Hedge Ineffectiveness(1)	Hedging Instrument	Hedged Item	Hedge Ineffectiveness(1)
Agency debentures	\$ (43)	\$ 42	\$ (1)	\$ 36	\$ (35)	\$ 1
Agency mortgage-backed securities	(45)	44	(1)	59	(57)	2
Total gains (losses) included in earnings	<u>\$ (88)</u>	<u>\$ 86</u>	<u>\$ (2)</u>	<u>\$ 95</u>	<u>\$ (92)</u>	<u>\$ 3</u>

	Six Months Ended June 30,					
	2016			2015		
	Hedging Instrument	Hedged Item	Hedge Ineffectiveness(1)	Hedging Instrument	Hedged Item	Hedge Ineffectiveness(1)
Agency debentures	\$ (90)	\$ 88	\$ (2)	\$ 15	\$ (15)	\$ —
Agency mortgage-backed securities	(114)	112	(2)	40	(38)	2
Total gains (losses) included in earnings	<u>\$ (204)</u>	<u>\$ 200</u>	<u>\$ (4)</u>	<u>\$ 55</u>	<u>\$ (53)</u>	<u>\$ 2</u>

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

NOTE 8—DEPOSITS

Deposits are summarized as follows (dollars in millions):

	Amount		Weighted-Average Rate	
	June 30, 2016	December 31, 2015	June 30, 2016	December 31, 2015
Sweep deposits ⁽¹⁾	\$ 27,772	\$ 24,018	0.01%	0.01%
Complete savings deposits	3,185	3,357	0.01%	0.01%
Checking deposits	1,208	1,239	0.03%	0.03%
Other money market and savings deposits	764	792	0.01%	0.01%
Time deposits ⁽²⁾	35	39	0.21%	0.38%
Total deposits ⁽³⁾	<u>\$ 32,964</u>	<u>\$ 29,445</u>	0.01%	0.01%

(1) The Company's sweep deposits product transfers brokerage customer balances to bank subsidiaries, which hold these funds as customer deposits in FDIC insured demand deposit and money market deposit accounts.

(2) Time deposits represent certificates of deposit as of June 30, 2016 and December 31, 2015, and include brokered certificates of deposit as of December 31, 2015.

(3) As of June 30, 2016 and December 31, 2015, the Company had \$165 million and \$173 million in non-interest bearing deposits, respectively.

NOTE 9— OTHER BORROWINGS

Other borrowings at June 30, 2016 and December 31, 2015 are summarized as follows (dollars in millions):

	June 30, 2016	December 31, 2015
Trust preferred securities ⁽¹⁾	\$ 409	\$ 409
Repurchase agreements ⁽²⁾	—	82
Total other borrowings	\$ 409	\$ 491

(1) The Company's TRUPs begin maturing in 2031.

(2) The maximum amount at any month end for repurchase agreements was \$3.8 billion for the year ended December 31, 2015.

External Lines of Credit maintained at E*TRADE Clearing

E*TRADE Clearing's external liquidity lines total approximately \$1.1 billion as of June 30, 2016 and include the following:

- a 364-day, \$400 million senior unsecured committed revolving credit facility with a syndicate of banks that matures in June 2017. This revolving credit facility replaced the \$345 million senior unsecured committed revolving credit facility which expired in accordance with its terms;
- secured committed lines of credit with two unaffiliated banks, aggregating to \$175 million and scheduled to mature in June 2017;
- unsecured uncommitted lines of credit with two unaffiliated banks aggregating to \$100 million, of which \$75 million is scheduled to mature in August 2016 and the remaining line has no maturity date; and
- secured uncommitted lines of credit with several unaffiliated banks aggregating to \$375 million that have no maturity dates.

The revolving credit facility contains maintenance covenants relating to E*TRADE Clearing's minimum consolidated tangible net worth and regulatory net capital ratio. There were no outstanding balances for these lines at June 30, 2016.

NOTE 10—CORPORATE DEBT

Corporate debt at June 30, 2016 and December 31, 2015 is outlined in the following table (dollars in millions):

	Face Value	Discount	Net
June 30, 2016			
Interest-bearing notes:			
5 ³ / ₈ % Notes, due 2022	\$ 540	\$ (5)	\$ 535
4 ⁵ / ₈ % Notes, due 2023	460	(5)	455
Total interest-bearing notes	1,000	(10)	990
Non-interest-bearing debt:			
0% Convertible debentures, due 2019	3	—	3
Total corporate debt	\$ 1,003	\$ (10)	\$ 993
December 31, 2015			
Interest-bearing notes:			
5 ³ / ₈ % Notes, due 2022	\$ 540	\$ (6)	\$ 534
4 ⁵ / ₈ % Notes, due 2023	460	(5)	455
Total interest-bearing notes	1,000	(11)	989
Non-interest-bearing debt:			
0% Convertible debentures, due 2019	8	—	8
Total corporate debt	\$ 1,008	\$ (11)	\$ 997

4 ⁵/₈% Notes

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

Credit Facility

In November 2014, the Company entered into a \$200 million senior secured revolving credit facility and in February of 2015, entered into an amendment to increase commitments thereunder by \$50 million. At June 30, 2016, there was no outstanding balance under the revolving credit facility and available capacity for borrowings was \$250 million. The credit facility expires in November 2017. The Company has the ability to borrow against the credit facility for working capital and general corporate purposes. The credit facility contains certain maintenance covenants, including the requirement for the parent company to maintain unrestricted cash of \$100 million.

NOTE 11—INCOME TAXES***Income Tax Expense (Benefit)***

Income tax expense was \$81 million and \$122 million for the three and six months ended June 30, 2016, respectively, compared to an income tax benefit of \$175 million and \$152 million for the same periods in 2015. The effective tax rates were 38% and 30% for the three and six months ended June 30, 2016, respectively, compared to (149)% and (84)% for the same periods in 2015.

The effective tax rate of 30% for the six months ended June 30, 2016 was driven by the release of valuation allowances on certain state deferred tax assets. Effective January 1, 2016, the Company elected to treat its broker-dealers, E*TRADE Securities and E*TRADE Clearing, as single member LLCs for tax purposes. The election to be treated as single member LLCs and future income projections at the broker-dealers will result in the utilization of certain state deferred tax assets, primarily state NOLs, against which the Company had recorded valuation allowances. Accordingly, the Company recognized a tax benefit of \$31 million during the three months ended March 31, 2016.

The effective tax rates for the three and six months ended June 30, 2015 were driven by the settlement of the IRS examination of the Company's 2007, 2009, and 2010 federal tax returns, which resulted in the recognition of a \$220 million income tax benefit in the second quarter of 2015.

Deferred Taxes and Valuation Allowance

Deferred income taxes are recorded when revenues and expenses are recognized in different periods for financial statement and tax return purposes. As of June 30, 2016 and December 31, 2015, the Company had not established a valuation allowance against its federal deferred tax assets, as it believed that it was more likely than not that all of these assets would be realized. The Company continues to maintain valuation allowances against the portion of its state and foreign country deferred tax assets that it does not believe would be realized. The Company's deferred tax asset, valuation allowance, and deferred tax liability balances at June 30, 2016 and December 31, 2015 are summarized in the following table (dollars in millions):

	June 30, 2016	December 31, 2015
Total deferred tax assets	\$ 1,337	\$ 1,548
Valuation allowance	(49)	(82)
Total deferred tax assets, net of valuation allowance	1,288	1,466
Total deferred tax liabilities	(458)	(433)
Net deferred tax assets, net	\$ 830	\$ 1,033

NOTE 12—SHAREHOLDERS' EQUITY

The following tables present after-tax changes in each component of accumulated other comprehensive income (loss) for the three and six months ended June 30, 2016 and 2015 (dollars in millions):

	Available-for-sale Securities	Cash Flow Hedging Instruments	Foreign Currency Translation	Total
Balance, December 31, 2015	\$ (101)	\$ —	\$ 2	\$ (99)
Other comprehensive income before reclassifications	94	—	—	94
Amounts reclassified from accumulated other comprehensive loss	(9)	—	—	(9)
Net change	85	—	—	85
Balance, March 31, 2016	\$ (16)	\$ —	\$ 2	\$ (14)
Other comprehensive income before reclassifications	69	—	—	69
Amounts reclassified from accumulated other comprehensive income	(9)	—	—	(9)
Net change	60	—	—	60
Balance, June 30, 2016 ⁽¹⁾	\$ 44	\$ —	\$ 2	\$ 46

(1) Includes unrealized losses of approximately \$9 million related to available-for-sale securities that were transferred to held-to-maturity during the three months ended June 30, 2016. See *Note 5—Available-for-Sale and Held-to-Maturity Securities* for additional information.

	Available-for-sale Securities	Cash Flow Hedging Instruments	Foreign Currency Translation	Total
Balance, December 31, 2014	\$ 7	\$ (261)	\$ 5	\$ (249)
Other comprehensive income (loss) before reclassifications	39	(11)	—	28
Amounts reclassified from accumulated other comprehensive loss	(6)	16	—	10
Net change	33	5	—	38
Balance, March 31, 2015	\$ 40	\$ (256)	\$ 5	\$ (211)
Other comprehensive income (loss) before reclassifications	(59)	6	—	(53)
Amounts reclassified from accumulated other comprehensive loss	(5)	16	—	11
Net change	(64)	22	—	(42)
Balance, June 30, 2015	\$ (24)	\$ (234)	\$ 5	\$ (253)

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The following tables present other comprehensive income (loss) activity and the related tax effect for the three and six months ended June 30, 2016 and 2015 (dollars in millions):

Three Months Ended June 30,						
	2016			2015		
	Before tax	Tax Effect	After tax	Before tax	Tax Effect	After tax
Available-for-sale securities:						
Unrealized gains (losses)	\$ 112	\$ (43)	\$ 69	\$ (95)	\$ 36	\$ (59)
Reclassification into earnings	(14)	5	(9)	(8)	3	(5)
Net change from available-for-sale securities	98	(38)	60	(103)	39	(64)
Cash flow hedging instruments:						
Unrealized gains (losses)	—	—	—	8	(2)	6
Reclassification into earnings	—	—	—	26	(10)	16
Net change from cash flow hedging instruments	—	—	—	34	(12)	22
Other comprehensive income (loss)	\$ 98	\$ (38)	\$ 60	\$ (69)	\$ 27	\$ (42)

Six Months Ended June 30,						
	2016			2015		
	Before tax	Tax Effect	After tax	Before tax	Tax Effect	After tax
Available-for-sale securities:						
Unrealized gains (losses)	\$ 264	\$ (101)	\$ 163	\$ (32)	\$ 12	\$ (20)
Reclassification into earnings	(29)	11	(18)	(18)	7	(11)
Net change from available-for-sale securities	235	(90)	145	(50)	19	(31)
Cash flow hedging instruments:						
Unrealized gains (losses)	—	—	—	(9)	4	(5)
Reclassification into earnings	—	—	—	52	(20)	32
Net change from cash flow hedging instruments	—	—	—	43	(16)	27
Other comprehensive income (loss)	\$ 235	\$ (90)	\$ 145	\$ (7)	\$ 3	\$ (4)

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The following table presents the income statement line items impacted by reclassifications out of accumulated other comprehensive income (loss) for the three and six months ended June 30, 2016 and 2015 (dollars in millions):

Accumulated Other Comprehensive Income (Loss) Components	Amounts Reclassified from Accumulated Other Comprehensive Income (Loss)				Affected Line Items in the Consolidated Statement of Income
	Three Months Ended June 30,		Six Months Ended June 30,		
	2016	2015	2016	2015	
Available-for-sale securities:					
	\$ 14	\$ 8	\$ 29	\$ 18	Gains (losses) on securities and other
	(5)	(3)	(11)	(7)	Tax expense
	<u>\$ 9</u>	<u>\$ 5</u>	<u>\$ 18</u>	<u>\$ 11</u>	Reclassification into earnings, net
Cash flow hedging instruments:					
	\$ —	\$ (26)	\$ —	\$ (52)	Interest expense
	<u>—</u>	<u>10</u>	<u>—</u>	<u>20</u>	Tax benefit
	<u>\$ —</u>	<u>\$ (16)</u>	<u>\$ —</u>	<u>\$ (32)</u>	Reclassification into earnings, net

Conversions of Convertible Debentures

During the six months ended June 30, 2016 and 2015, \$5 million and \$3 million of the Company's convertible debentures were converted into 0.5 million and 0.3 million shares of common stock, respectively.

Share Repurchases

On November 19, 2015, the Company announced that its Board of Directors authorized the repurchase of up to \$800 million of shares of the Company's common stock through March 31, 2017. During the six months ended June 30, 2016, the Company repurchased a total of \$452 million, or 19.0 million shares, of common stock under this program which brings total repurchases to \$502 million, or 20.6 million shares, since inception. As of June 30, 2016, \$298 million remained available for additional repurchases. The Company accounts for share repurchases retired after repurchase by allocating the excess repurchase price over par to additional paid-in-capital.

NOTE 13—EARNINGS PER SHARE

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

	Three Months Ended June 30,		Six Months Ended June 30,	
	2016	2015	2016	2015
Basic:				
Net income	\$ 133	\$ 292	\$ 286	\$ 332
Basic weighted-average shares outstanding (in thousands)	277,013	290,086	281,141	289,915
Basic earnings per share	\$ 0.48	\$ 1.01	\$ 1.02	\$ 1.15
Diluted:				
Net income	\$ 133	\$ 292	\$ 286	\$ 332
Basic weighted-average shares outstanding (in thousands)	277,013	290,086	281,141	289,915
Effect of dilutive securities:				
Weighted-average convertible debentures (in thousands)	319	3,568	457	3,603
Weighted-average options and restricted stock issued to employees (in thousands) ⁽¹⁾	646	1,282	828	1,394
Diluted weighted-average shares outstanding (in thousands)	277,978	294,936	282,426	294,912
Diluted earnings per share	\$ 0.48	\$ 0.99	\$ 1.01	\$ 1.13

(1) Excludes less than 0.1 million and 0.1 million shares, respectively, of stock options and restricted stock awards and units for both the three and six months ended June 30, 2016 and 2015 as the effect would have been anti-dilutive.

NOTE 14—REGULATORY REQUIREMENTS
Broker-Dealer Capital Requirements

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

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At June 30, 2016 and December 31, 2015, all of the Company's broker-dealer subsidiaries met minimum net capital requirements. The tables below summarize the minimum capital requirements and excess capital for the Company's broker-dealer subsidiaries at June 30, 2016 and December 31, 2015 (dollars in millions):

	Required Net Capital	Net Capital	Excess Net Capital
June 30, 2016:			
E*TRADE Clearing ⁽¹⁾⁽²⁾	\$ 150	\$ 875	\$ 725
E*TRADE Securities ⁽¹⁾⁽³⁾	—	82	82
Other broker-dealer	1	14	13
Total	\$ 151	\$ 971	\$ 820
December 31, 2015:			
E*TRADE Clearing ⁽¹⁾	\$ 161	\$ 1,007	\$ 846
E*TRADE Securities ⁽¹⁾	—	49	49
Other broker-dealers	1	15	14
Total	\$ 162	\$ 1,071	\$ 909

- (1) Elected to use the Alternative method to compute net capital. The net capital requirement was \$250,000 for E*TRADE Securities for both periods presented.
(2) E*TRADE Clearing paid dividends of \$199 million to the parent company during the six months ended June 30, 2016 and \$28 million in July 2016.
(3) E*TRADE Securities paid dividends of \$51 million to the parent company during the six months ended June 30, 2016 and \$57 million in July 2016.

Bank Capital Requirements

E*TRADE Financial and E*TRADE Bank are subject to various regulatory capital requirements administered by federal banking agencies. Beginning January 1, 2015, both E*TRADE Financial and E*TRADE Bank calculate regulatory capital under the Basel III framework using the Standardized Approach, subject to transition provisions. Failure to meet minimum capital requirements can trigger certain mandatory and possibly additional discretionary actions by regulators that, if undertaken, could have a direct material effect on E*TRADE Financial's and E*TRADE Bank's financial condition and results of operations. Under capital adequacy guidelines and the regulatory framework for prompt corrective action, E*TRADE Financial and E*TRADE Bank must meet specific capital guidelines that involve quantitative measures of assets, liabilities and certain off-balance sheet items as calculated under regulatory accounting practices. In addition, E*TRADE Bank may not pay dividends to the parent company without the non-objection, or in certain cases the approval, of its regulators, and any loans by E*TRADE Bank to the parent company and its other non-bank subsidiaries are subject to various quantitative, arm's length, collateralization and other requirements. E*TRADE Financial's and E*TRADE Bank's capital amounts and classification are also subject to qualitative judgments by the regulators about components, risk weightings and other factors.

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

	June 30, 2016					December 31, 2015				
	Actual		Well Capitalized Minimum Capital		Excess Capital	Actual		Well Capitalized Minimum Capital		Excess Capital
	Amount	Ratio	Amount	Ratio	Amount	Amount	Ratio	Amount	Ratio	Amount
E*TRADE Financial:										
Tier 1 leverage	\$ 3,463	7.5%	\$ 2,299	5.0%	\$ 1,164	\$ 3,747	9.0%	\$ 2,093	5.0%	\$ 1,654
Common equity Tier 1 capital	\$ 3,463	35.6%	\$ 632	6.5%	\$ 2,831	\$ 3,747	39.3%	\$ 620	6.5%	\$ 3,127
Tier 1 risk-based capital	\$ 3,463	35.6%	\$ 778	8.0%	\$ 2,685	\$ 3,747	39.3%	\$ 763	8.0%	\$ 2,984
Total risk-based capital	\$ 4,006	41.2%	\$ 973	10.0%	\$ 3,033	\$ 4,186	43.9%	\$ 954	10.0%	\$ 3,232

	June 30, 2016					December 31, 2015				
	Actual		Well Capitalized Minimum Capital		Excess Capital	Actual		Well Capitalized Minimum Capital		Excess Capital
	Amount	Ratio	Amount	Ratio	Amount	Amount	Ratio	Amount	Ratio	Amount
E*TRADE Bank⁽¹⁾										
Tier 1 leverage	\$ 2,940	8.2%	\$ 1,804	5.0%	\$ 1,136	\$ 3,075	9.7%	\$ 1,579	5.0%	\$ 1,496
Common equity Tier 1 capital	\$ 2,940	34.2%	\$ 559	6.5%	\$ 2,381	\$ 3,075	36.5%	\$ 548	6.5%	\$ 2,527
Tier 1 risk-based capital	\$ 2,940	34.2%	\$ 688	8.0%	\$ 2,252	\$ 3,075	36.5%	\$ 674	8.0%	\$ 2,401
Total risk-based capital	\$ 3,052	35.5%	\$ 860	10.0%	\$ 2,192	\$ 3,185	37.8%	\$ 842	10.0%	\$ 2,343

(1) E*TRADE Bank paid dividends of \$333 million to the parent company during the six months ended June 30, 2016.

NOTE 15—COMMITMENTS, CONTINGENCIES AND OTHER REGULATORY MATTERS

Legal Matters

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

Litigation Matters

On October 27, 2000, Ajaxo, Inc. ("Ajaxo") filed a complaint in the Superior Court for the State of California, County of Santa Clara. Ajaxo sought damages and certain non-monetary relief for the Company's alleged breach of a non-disclosure agreement with Ajaxo pertaining to certain wireless technology that Ajaxo offered the Company as well as damages and other relief against the Company for their alleged misappropriation of Ajaxo's trade secrets. Following a jury trial, a judgment was entered in 2003 in favor of Ajaxo against the Company for \$1 million for breach of the Ajaxo non-disclosure agreement. Although the jury found in favor of Ajaxo on its claim against the Company for misappropriation of trade secrets, the trial court subsequently denied Ajaxo's requests for additional damages and relief. On December 21, 2005, the California Court of Appeal affirmed the above-described award against the Company for breach of the nondisclosure agreement but remanded the case to the trial court for the limited purpose of determining what, if any, additional damages Ajaxo may be entitled to as a result of the jury's previous finding in favor of Ajaxo on its claim against the Company for misappropriation of trade secrets. Although the Company paid Ajaxo the full amount due on the above-described judgment, the case was remanded back to the trial court, and on May 30, 2008, a jury returned a verdict in favor of the Company denying all claims raised and demands for damages against the Company. Following the trial court's entry of judgment in favor of the Company on September 5, 2008, Ajaxo filed post-trial motions for vacating this entry of judgment and requesting a new trial. The trial court denied these motions. On December 2, 2008, Ajaxo filed a notice of appeal with the Court of Appeal of the State of California for the Sixth District. On August 30, 2010, the Court of Appeal affirmed the trial court's verdict in part and reversed the verdict in part, remanding the case. The Company petitioned the Supreme Court of California for review of the Court of Appeal.

decision. On December 16, 2010, the California Supreme Court denied the Company's petition for review and remanded for further proceedings to the trial court. The testimonial phase of the third trial in this matter concluded on June 12, 2012. By order dated May 28, 2014, the Court determined to conduct a second phase of this bench trial to allow Ajaxo to attempt to prove entitlement to additional royalties. Hearings in phase two of the trial concluded January 8, 2015. In a Judgment and Statement of Decision filed September 16, 2015, the Court denied all claims for royalties by Ajaxo. Ajaxo's post-trial motions were denied. Ajaxo has appealed to the Court of Appeal, Sixth District. There is no briefing schedule on this appeal. The Company will continue to defend itself vigorously.

On May 16, 2011, Droplets Inc., the holder of two patents pertaining to user interface servers, filed a complaint in the U.S. District Court for the Eastern District of Texas against E*TRADE Financial Corporation, E*TRADE Securities, E*TRADE Bank and multiple other unaffiliated financial services firms. Plaintiff contends that the defendants engaged in patent infringement under federal law. Plaintiff seeks unspecified damages and an injunction against future infringements, plus royalties, costs, interest and attorneys' fees. On March 28, 2012, a change of venue was granted and the case was transferred to the United States District Court for the Southern District of New York. The Company's motion for summary judgment on the grounds of non-infringement was granted by the U.S. District Court in a Decision and Order dated March 9, 2015. All remaining claims are stayed pending resolution of issues on Droplet's remaining patents under review by the Patent Trial and Appeal Board ("PTAB"). On July 6, 2015, the PTAB instituted an inter partes review of plaintiff's '115 patent. A hearing on the inter partes review was conducted on March 14, 2016. On June 23, 2016, the PTAB deemed Droplets' putative '115 patent to be "unpatentable." In a separate proceeding, the PTAB has also separately deemed Droplets' putative '838 patent to be "unpatentable." Droplets has indicated an intent to appeal. The Company will continue to defend itself vigorously in this matter.

Several cases have been filed nationwide involving the April 2007 leveraged buyout ("LBO") of the Tribune Company ("Tribune") by Sam Zell, and the subsequent bankruptcy of Tribune. In William Niese et al. v. A.G. Edwards et al., in Superior Court of Delaware, New Castle County, former Tribune employees and retirees claimed that Tribune was actually insolvent at the time of the LBO and that the LBO constituted a fraudulent transaction that depleted the plaintiffs' retirement plans, rendering them worthless. E*TRADE Clearing, along with numerous other financial institutions, is a named defendant in this case. One of the defendants removed the action to federal district court in Delaware on July 1, 2011. In Deutsche Bank Trust Company Americas et al. v. Adaly Opportunity Fund et al., filed in the Supreme Court of New York, New York County on June 3, 2011, the Trustees of certain notes issued by Tribune allege wrongdoing in connection with the LBO. In particular the Trustees claim that the LBO constituted a constructive fraudulent transfer under various state laws. G1 Execution Services, LLC (formerly known as E*TRADE Capital Markets, LLC), along with numerous other financial institutions, is a named defendant in this case. In Deutsche Bank et al. v. Ohlson et al., filed in the U.S. District Court for the Northern District of Illinois, noteholders of Tribune asserted claims of constructive fraud and G1 Execution Services, LLC is a named defendant in this case. Under the agreement governing the sale of G1 Execution Services, LLC to Susquehanna International Group, LLP, the Company remains responsible for any resulting actions taken against G1 Execution Services, LLC as a result of such investigation. In EGI-TRB LLC et al. v. ABN-AMRO et al., filed in the Circuit Court of Cook County Illinois, creditors of Tribune assert fraudulent conveyance claims against multiple shareholder defendants and E*TRADE Clearing is a named defendant in this case. These cases have been consolidated into a multi-district litigation. The Company's time to answer or otherwise respond to the complaints has been stayed pending further orders of the Court. On September 18, 2013, the Court entered the Fifth Amended Complaint. On September 23, 2013, the Court granted the defendants' motion to dismiss the individual creditors' complaint. The individual creditors filed a notice of appeal. The steering committees for plaintiffs and defendants have submitted a joint plan for the next phase of litigation. The next phase of the action will involve individual motions to dismiss. On April 22, 2014, the Court issued its protocols for dismissal motions for those defendants who were "mere conduits" who facilitated the transactions at issue. The motion to dismiss Count I of the Fifth Amended Complaint for failure to state a cause of action was fully briefed on July 2, 2014, and the parties await decision on that motion. The Litigation Trustee for the Plaintiffs dismissed all claims against E*TRADE Clearing pursuant to a Stipulation confirmed by the Court on June 7, 2016. The only E*TRADE entity remaining in the case is the E*TRADE S&P 500 Fund. The claims against the E*TRADE S&P 500 Fund are not material in amount. Nevertheless, the Company will continue to defend itself vigorously in these matters.

On April 30, 2013, a putative class action was filed by John Scranton, on behalf of himself and a class of persons similarly situated, against E*TRADE Financial Corporation and E*TRADE Securities in the Superior Court of California, County of Santa Clara, pursuant to the California procedures for a private Attorney General action. The complaint alleged that the Company misrepresented through its website that it would always automatically exercise options that were in-the-money by \$0.01 or more on expiration date. Plaintiffs allege violations of the California Unfair Competition Law, the California Consumer Remedies Act, fraud, misrepresentation, negligent misrepresentation and breach of fiduciary duty. The case has been deemed complex within the meaning of the California Rules of Court, and a case management conference was held on September 13, 2013. The Company's

demurrer and motion to strike the complaint were granted by order dated December 20, 2013. The Court granted leave to amend the complaint. A second amended complaint was filed on January 31, 2014. On March 11, 2014, the Company moved to strike and for a demurrer to the second amended complaint. On October 20, 2014, the Court sustained the Company's demurrer, dismissing four counts of the second amended complaint with prejudice and two counts without prejudice. The plaintiffs filed a third amended complaint on November 10, 2014. The Company filed a third demurrer and motion to strike on December 12, 2014. By order dated March 18, 2015, the Superior Court entered a final order sustaining the Company's demurrer on all remaining claims with prejudice. Final judgment was entered in the Company's favor on April 8, 2015. Plaintiff filed a Notice of Appeal April 27, 2015. Briefing is scheduled to continue through 2016. The Company will continue to defend itself vigorously in this matter.

On March 26, 2015, a putative class action was filed in the U.S. District Court for the Northern District of California by Ty Rayner, on behalf of himself and all others similarly situated, naming E*TRADE Financial Corporation and E*TRADE Securities as defendants. The complaint alleges that E*TRADE breached a fiduciary duty and unjustly enriched itself in connection with the routing of its customers' orders to various market-makers and exchanges. Plaintiff seeks unspecified damages, declaratory relief, restitution, disgorgement of payments received by the Company, and attorneys' fees. By stipulation, the parties have agreed to extend indefinitely the due date for a response to the claim. On July 23, 2016, a putative class action was filed in the U.S. District Court for the Southern District of New York by Craig L. Schwab, on behalf of himself and others similarly situated, naming E*TRADE Financial Corporation, E*TRADE Securities LLC, Paul Idzik and David Herbert as defendants. The complaint alleges that E*TRADE violated federal securities laws in connection with the routing of its customers' orders to various market-makers and exchanges. Plaintiff seeks unspecified damages, declaratory relief, restitution, disgorgement of payments received by the Company, and attorneys' fees. The complaint has not been served. The Company will continue to defend itself vigorously in these matters.

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

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

Regulatory Matters

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

During 2012, the Company completed a review of order handling practices and pricing for order flow between E*TRADE Securities and G1 Execution Services, LLC. The Company implemented changes to its practices and procedures that were recommended during the review. Banking regulators and federal securities regulators were regularly updated during the course of the review. Subsequently, on July 11, 2013, FINRA notified E*TRADE Securities and G1 Execution Services, LLC that it was conducting an examination of both firms' order handling practices. On March 19, 2015, the Company received a Wells notice from FINRA's Market Regulation Department relating to the adequacy of E*TRADE Securities' order-routing disclosures and supervisory process for reviewing execution quality during the period covered by the Company's 2012 internal review (July 2011 - June 2012). The Company cooperated fully with FINRA in the examination. In June 2016, E*TRADE Securities entered into a settlement with FINRA whereby it agreed to a censure and paid a \$900,000 fine.

Insurance

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

Commitments

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

The Company's equity method, cost method and other investments are generally limited liability investments in partnerships, companies and other similar entities, including tax credit partnerships and community development entities, which are not required to be consolidated. The Company had \$50 million in unfunded commitments with respect to these investments at June 30, 2016.

At June 30, 2016, the Company had approximately \$25 million of certificates of deposit scheduled to mature in less than one year and approximately \$50 million of unfunded commitments to extend credit.

Guarantees

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

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

During the 30-year period prior to the redemption of the TRUPs, 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 June 30, 2016, management estimated that the maximum potential liability under this arrangement, including the current carrying value of the trusts, was equal to approximately \$418 million or the total face value of these securities plus accrued interest payable, which may be unpaid at the termination of the trust arrangement.

NOTE 16—SUBSEQUENT EVENTS

OptionsHouse Acquisition

On July 25, 2016, the Company announced an agreement to acquire Aperture New Holdings, Inc., the ultimate parent company of OptionsHouse, an online brokerage, for \$725 million in cash. The Company intends to finance the transaction through the issuance of up to \$400 million of non-cumulative perpetual preferred stock and corporate cash. The acquisition is expected to close in the fourth quarter of 2016, subject to customary closing conditions and regulatory approvals.

ITEM 4. CONTROLS AND PROCEDURES

- (a) Based on an evaluation under the supervision and with the participation of our management, our Chief Executive Officer and our Chief Financial Officer have concluded that the Company's disclosure controls and procedures, as defined in Rules 13a-15(e) under the Securities Exchange Act of 1934, as amended (the "Exchange Act"), were effective as of the end of the period covered by this report to provide reasonable assurance that information required to be disclosed by the Company in reports that it files or submits under the Exchange Act is (i) recorded, processed, summarized and reported within the time periods specified in the Securities and Exchange Commission rules and forms and (ii) accumulated and communicated to the Company's management, including our Chief Executive Officer and Chief Financial Officer, as appropriate to allow timely decisions regarding required disclosure.
- (b) There were no changes in the Company's internal control over financial reporting during the quarter ended June 30, 2016, identified in connection with management's evaluation required by paragraph (d) of Exchange Act Rules 13a-15 and 15d-15, that have materially affected, or are reasonably likely to materially affect, the Company's internal control over financial reporting.

PART II

ITEM 1. LEGAL PROCEEDINGS

Information in response to this item can be found under the heading *Legal Matters* in *Note 15—Commitments, Contingencies and Other Regulatory Matters to Part I. Item 1. Consolidated Financial Statements (Unaudited)* in this Quarterly Report and is incorporated by reference into this item.

ITEM 1A. RISK FACTORS

There have been no material changes in the Company's risk factors from those disclosed in its Annual Report on Form 10-K for the year ended December 31, 2015.

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

Share Repurchases

The table below shows the timing and impact of our share repurchases during the three months ended June 30, 2016 (dollars in millions, except share data and per share amounts):

Period	Total Number of Shares Purchased ⁽¹⁾	Average Price Paid per Share ⁽²⁾	Total Number of Shares Purchased as Part of the Publicly Announced Plan ⁽³⁾	Maximum Dollar Value of Shares That May Yet Be Purchased Under the Plan ⁽³⁾
April 1, 2016 - April 30, 2016	800,342	\$ 25.79	800,000	\$ 428.6
May 1, 2016 - May 31, 2016	3,900,479	25.30	3,900,000	329.9
June 1, 2016 - June 30, 2016	1,207,777	26.65	1,200,000	297.9
Total	<u>5,908,598</u>	<u>25.64</u>	<u>5,900,000</u>	

(1) Includes 8,598 shares withheld to satisfy tax withholding obligations associated with restricted shares.

(2) Excludes commission paid.

(3) On November 19, 2015, the Company publicly announced that its Board of Directors authorized the repurchase of up to \$800 million of shares of the Company's common stock through March 31, 2017. The timing and exact amount of any common stock repurchases will depend on various factors, including market conditions and the Company's capital position. The Company's share repurchase program does not include specific price targets, may be executed through open market purchases or privately negotiated transactions, may utilize Rule 10b5-1 plans, and may be suspended or terminated at any time at the Company's discretion.

ITEM 3. DEFAULTS UPON SENIOR SECURITIES

None.

ITEM 4. MINE SAFETY DISCLOSURES

Not applicable.

ITEM 5. OTHER INFORMATION

None.

ITEM 6. EXHIBITS

Exhibit Number	Description
*10.1	364-Day Credit Agreement, dated as of June 24, 2016, among E*TRADE Clearing LLC, the Lenders party thereto, JPMorgan Chase Bank, N.A., as Administrative Agent, U.S. Bank National Association, Industrial and Commercial Bank of China Limited, New York Branch, Merrill Lynch, Pierce, Fenner & Smith Incorporated and Wells Fargo Bank, National Association, as Syndication Agents, and J.P. Morgan Securities LLC, U.S. Bank National Association, Industrial and Commercial Bank of China Limited, New York Branch, Merrill Lynch, Pierce, Fenner & Smith Incorporated and Wells Fargo Bank, National Association, as Joint Bookrunners and Joint Lead Arrangers
*31.1	Certification—Section 302 of the Sarbanes-Oxley Act of 2002
*31.2	Certification—Section 302 of the Sarbanes-Oxley Act of 2002
*32.1	Certification—Section 906 of the Sarbanes-Oxley Act of 2002
*101.INS	XBRL Instance Document
*101.SCH	XBRL Taxonomy Extension Schema Document
*101.CAL	XBRL Taxonomy Extension Calculation Linkbase Document
*101.DEF	XBRL Taxonomy Extension Definition Linkbase Document
*101.LAB	XBRL Taxonomy Extension Label Linkbase Document
*101.PRE	XBRL Taxonomy Extension Presentation Linkbase Document

* Filed herein.

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: August 4, 2016

E*TRADE Financial Corporation
(Registrant)

By _____ /S/ PAUL T. IDZIK
Paul T. Idzik
Chief Executive Officer
(Principal Executive Officer)

By /S/ MICHAEL A. PIZZI
Michael A. Pizzi
Chief Financial Officer
(Principal Financial Officer)

By _____ /S/ BRENT B. SIMONICH
Brent B. Simonich
Corporate Controller
(Principal Accounting Officer)

\$400,000,000

364-DAY CREDIT AGREEMENT

dated as of

June 24, 2016,

among

E*TRADE CLEARING LLC,
as Borrower,

The Lenders Party Hereto, and
JPMORGAN CHASE BANK, N.A.,
as Administrative Agent,

U.S. BANK NATIONAL ASSOCIATION
INDUSTRIAL AND COMMERCIAL BANK OF CHINA LIMITED, NEW YORK BRANCH
MERRILL LYNCH, PIERCE, FENNER & SMITH INCORPORATED and
WELLS FARGO BANK, NATIONAL ASSOCIATION,

as Syndication Agents, and

JPMORGAN CHASE BANK, N.A.
U.S. BANK NATIONAL ASSOCIATION
INDUSTRIAL AND COMMERCIAL BANK OF CHINA LIMITED, NEW YORK BRANCH
MERRILL LYNCH, PIERCE, FENNER & SMITH INCORPORATED and
WELLS FARGO BANK, NATIONAL ASSOCIATION,

as Joint Bookrunners and Joint Lead Arrangers

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364-DAY CREDIT AGREEMENT dated as of June 24, 2016 (this "Agreement"), among E*TRADE CLEARING LLC, the LENDERS party hereto and JPMORGAN CHASE BANK, N.A., as Administrative Agent.

The Borrower has requested that the Lenders (such term and each other term used but not defined in this preamble having the meaning assigned to such term in Article I below) extend credit in the form of Loans at any time and from time to time during the Availability Period such that the aggregate principal amount of outstanding Loans will not exceed the aggregate Commitments of the Lenders at any time.

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

ARTICLE I

Definitions

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

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

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

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

“Affiliate” means, with respect to a specified Person, another Person that directly, or indirectly through one or more intermediaries, Controls or is Controlled by or is under common Control with the Person specified.

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

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

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

“Applicable Committed Swingline Exposure” means, with respect to any Lender at any time, the sum of (x) its Applicable Percentage of the total Committed Swingline Exposure at such time related to Committed Swingline Loans other than any Committed Swingline Loan made by such Lender in its capacity as Committed Swingline Lender, if any and (y) the aggregate principal amount of all Committed Swingline Loans made and held by such Lender in its capacity as Committed Swingline Lender then outstanding (for the avoidance of doubt, without duplication of any participation interest in such Committed Swingline Loan held by such Committed Swingline Lender), if any.

“Applicable Margin” means 1.75% *per annum*.

“Applicable Percentage” means, with respect to any Lender, the percentage of the total Commitments represented by such Lender’s Commitment. If the Commitments have terminated or expired, the Applicable Percentages shall be determined based upon the Commitments most recently in effect, giving effect to any assignments.

“Applicable Revolving Credit Exposure” means, with respect to any Lender at any time, the sum of the outstanding principal amount of such Lender’s Revolving Loans, Applicable Committed Swingline Exposure and Uncommitted Swingline Exposure at such time.

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

“Assignment and Assumption” means an assignment and assumption entered into by a Lender and an assignee (with the consent of any party whose consent is required by Section 9.04), and accepted by the Administrative Agent, in the form of Exhibit A or any other form approved by the Administrative Agent.

“Assumption Agreement” means an assumption agreement in substantially the form of Exhibit D or in a form otherwise agreed between the Borrower and the Administrative Agent.

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

“Bail-In Action” means the exercise of any Write-Down and Conversion Powers by the applicable EEA Resolution Authority in respect of any liability of an EEA Financial Institution.

“Bail-In Legislation” means, with respect to any EEA Member Country implementing Article 55 of Directive 2014/59/EU of the European Parliament and of the Council of the European Union, the implementing law for such EEA Member Country from time to time which is described in the EU Bail-In Legislation Schedule.

“Bank Regulated Subsidiary” means (a) ETB Holdings, Inc., a Delaware corporation and a direct wholly owned subsidiary of Parent (provided that such Person is a savings and loan holding company, as defined under the Home Owners’ Loan Act, as amended, or a bank holding company, as defined under the Bank Holding Company Act, as amended), (b) any direct or indirect insured depository institution subsidiary of Parent that is regulated by foreign, Federal or state banking regulators, including without limitation, the Board, the United States Office of the Comptroller of the Currency and the Federal Deposit Insurance Corporation, or (c) any subsidiary of a Bank Regulated Subsidiary of Parent all of the common Equity Interests of which are owned by such Bank Regulated Subsidiary and the sole purpose of which is to issue trust preferred or similar securities where the proceeds of the sale of such securities are invested in such Bank Regulated Subsidiary and where such proceeds would be treated as Tier I capital were such Bank Regulated Subsidiary a bank holding company regulated by the Board.

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

“Borrower” means E*TRADE Clearing LLC, a Delaware limited liability company (and its permitted successors and assigns pursuant to Section 6.03(a)).

“Borrowing” means (a) Revolving Loans of the same Type, made, converted or continued on the same date and, in the case of Eurodollar Loans, as to which a single Interest Period is in effect, (b) a Committed Swingline Loan or (c) an Uncommitted Swingline Loan.

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

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

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

“Capital Lease Obligations” of any Person means the obligations of such Person to pay rent or other amounts under any lease of (or other arrangement conveying the right to use) real or personal property, or a combination thereof, which obligations are required to be classified and accounted for as

capital leases on a balance sheet of such Person under GAAP, and the amount of such obligations shall be the capitalized amount thereof determined in accordance with GAAP. Notwithstanding any changes in GAAP after the Effective Date, any lease of the Borrower and its Subsidiaries that would be characterized as an operating lease under GAAP in effect on the Effective Date (whether such lease is entered into before or after the Effective Date) shall not constitute Indebtedness or a Capital Lease Obligation under this Agreement or any other Loan Document as a result of such changes in GAAP.

“Change in Control” means (a) Parent shall cease, directly or indirectly, to own and control legally and beneficially all of the Equity Interests in the Borrower, (b) the acquisition of ownership, directly or indirectly, beneficially or of record, by any Person or group (within the meaning of the Exchange Act and the rules of the SEC thereunder as in effect from time to time) of Equity Interests representing more than 35% of the aggregate ordinary voting power represented by the issued and outstanding Equity Interests in Parent, (c) the consummation of any merger or business combination if, after such transaction, holders of Parent’s ordinary voting power represented by the issued and outstanding Equity Interests before the transaction do not hold a majority of the voting power of Parent’s issued and outstanding Equity Interests immediately after the transaction or (d) the occurrence of a “Change of Control” (or similar event, however denominated) under any indenture or agreement governing Material Indebtedness or any certificate of designations (or other provision of the organizational documents of the Borrower) relating to, or any other agreement governing the rights of the holders of, any Equity Interests of the Borrower; provided that the Specified Merger shall not constitute a Change in Control pursuant to clauses (b), (c) or (d) above.

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

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

“Class,” when used in reference to any Loan or Borrowing, refers to whether such Loan, or the Loans comprising such Borrowing, are Revolving Loans, Committed Swingline Loans or Uncommitted Swingline Loans.

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

“Commitment” means, with respect to each Lender, the commitment, if any, of such Lender to make Revolving Loans and to acquire participations in Committed Swingline Loans and Uncommitted Swingline Loans hereunder, expressed as an amount representing the maximum possible aggregate principal amount of such Lender’s Revolving Credit Exposure hereunder, as such commitment may be (a) reduced from time to time pursuant to Section 2.06 and increased from time to time pursuant to Section

2.18 and (b) reduced or increased from time to time pursuant to assignments by or to such Lender pursuant to Section 9.04. The initial amount of each Lender's Commitment is set forth on Schedule 2.01, or in the Assignment and Assumption pursuant to which such Lender shall have assumed its Commitment, as the case may be. The initial aggregate amount of the Lenders' Commitments is \$400,000,000. Unless the context shall otherwise require, "Commitments" shall include any Incremental Commitments.

"Committed Swingline Exposure" means, at any time, the aggregate principal amount of all Committed Swingline Loans outstanding at such time. The Committed Swingline Exposure of any Lender at any time shall be its Applicable Percentage of the total Committed Swingline Exposure at such time.

"Committed Swingline Lender" means each of JPMorgan Chase Bank, N.A., U.S. Bank National Association, Industrial and Commercial Bank of China Limited, New York Branch, Bank of America, N.A., and Wells Fargo Bank, National Association in its capacity as lender of Committed Swingline Loans hereunder.

"Committed Swingline Loan" means a loan made pursuant to Section 2.19.

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

"Consolidated Tangible Net Worth" means, at any date of determination, stockholders' equity as set forth on the most recent quarterly or annual consolidated balance sheet of the Borrower and its Subsidiaries delivered pursuant to Section 5.01(a) or (b) *less* the amount of all intangible items included therein, including, without limitation, goodwill, franchises, licenses, patents, trademarks, trade names, copyrights, service marks, brand names and write-ups of intangible assets (other than non-cash gains resulting from mark to market adjustments of securities positions made in the ordinary course of business) (but only to the extent that such items would be included on a consolidated balance sheet of the Borrower and its Subsidiaries in accordance with GAAP); provided that, other than on dates which financial statements and regulatory reports are required to be delivered under Sections 5.01(a) and (b), Consolidated Tangible Net Worth shall be calculated based on the good faith estimates of the Borrower.

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

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

"Defaulting Lender" means any Lender that (a) has failed to fund any portion of its Loans required to be funded by it hereunder, within three (3) Business Days of the date required to be funded by it hereunder, unless such Lender notifies the Administrative Agent and the Borrower in writing that such failure is the result of such Lender's determination that one or more conditions precedent to funding (each of which conditions precedent, together with any applicable default, shall be specifically identified in such writing) has not been satisfied, (b) to fund any portion of its participations in Committed Swingline Loans or Uncommitted Swingline Loans, within one (1) Business Day of the date required to be funded by it hereunder or (c) has notified the Borrower or the Administrative Agent that it does not intend to comply with any of its funding obligations under this Agreement (unless such notification relates to such Lenders' obligation to fund a Loan hereunder and states that such position is based on such Lender's determination that a condition precedent to funding (which condition precedent, together with any applicable default, shall be specifically identified in such writing or public statement) cannot be

satisfied), (d) has otherwise failed to pay over to the Administrative Agent or any other Lender any other amount required to be paid by it hereunder within three (3) Business Days of the date when due, unless the subject of a good faith dispute, (e) in the case of a Lender with a Commitment, is insolvent or has become the subject of (A) a bankruptcy or insolvency proceeding or (B) a Bail-In Action or (f) has any Affiliate that has Control of such Lender that is insolvent or that has become the subject of a bankruptcy or insolvency proceeding; provided that a Lender shall not qualify as a “Defaulting Lender” solely as the result of the acquisition or maintenance of an ownership interest in such Lender or any Person controlling such Lender, or the exercise of control over such Lender or any Person controlling such Lender, by a governmental authority or an instrumentality thereof so long as such ownership interest does not result in or provide such Lender with immunity from the jurisdiction of courts within the United States or from the enforcement of judgments or writs of attachment on its assets or permit such Lender (or such governmental authority or instrumentality thereof) to reject, repudiate, disavow or disaffirm any contracts or agreements made with such Lender.

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

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

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

“EEA Financial Institution” means (a) any institution established in any EEA Member Country which is subject to the supervision of an EEA Resolution Authority, (b) any entity established in an EEA Member Country which is a parent of an institution described in clause (a) of this definition, or (c) any institution established in an EEA Member Country which is a subsidiary of an institution described in clauses (a) or (b) of this definition and is subject to consolidated supervision with its parent.

“EEA Member Country” means any of the member states of the European Union, Iceland, Liechtenstein, and Norway.

“EEA Resolution Authority” means any public administrative authority or any Person entrusted with public administrative authority of any EEA Member Country (including any delegee) having responsibility for the resolution of any EEA Financial Institution.

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

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

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

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

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

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

“Environmental Liability” means any liability, contingent or otherwise (including any liability for damages, costs of environmental remediation, administrative oversight costs, consultants’ fees, fines, penalties or indemnities), of the Borrower or any Subsidiary directly or indirectly resulting from or based upon (a) any violation of any Environmental Law, (b) the generation, use, handling, transportation, storage, treatment or disposal of any Hazardous Materials, (c) exposure to any Hazardous Materials, (d) the release or threatened release of any Hazardous Materials into the environment or (e) any contract, agreement or other consensual arrangement pursuant to which liability is assumed or imposed with respect to any of the foregoing.

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

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

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

“ERISA Event” means (a) any “reportable event”, as defined in Section 4043 of ERISA or the regulations issued thereunder with respect to a Plan (other than an event for which the 30-day notice period is waived), (b) the failure by any Plan to satisfy any “minimum funding standard” (as defined in Sections 412 and 430 of the Code or Section 302 of ERISA), whether or not waived, (c) the filing pursuant to Section 412(c) of the Code or Section 302(c) of ERISA of an application for a waiver of the minimum funding standard with respect to any Plan, (d) the incurrence by the Borrower or any of its ERISA Affiliates of any liability under Title IV of ERISA with respect to the termination of any Plan, (e) a determination that any Plan is, or is expected to be, in “at risk” status (as defined in Section 430 of the Code or Section 303 of ERISA), (f) the receipt by the Borrower or any ERISA Affiliate from the PBGC or a plan administrator of any notice relating to an intention to terminate any Plan or Plans or to appoint a trustee to administer any Plan, (g) the incurrence by the Borrower or any of its ERISA Affiliates of any liability with respect to the withdrawal or partial withdrawal (including under Section 4062(e) of ERISA) from any Plan or Multiemployer Plan or (h) the receipt by the Borrower or any ERISA Affiliate of any notice, or the receipt by any Multiemployer Plan from the Borrower or any ERISA Affiliate of any notice, concerning the imposition of Withdrawal Liability or a determination that a Multiemployer Plan is, or is expected to be, insolvent or in reorganization, within the meaning of Title IV of ERISA, or in endangered or critical status, within the meaning of Section 432 of the Code or Section 305 of ERISA.

“EU Bail-In Legislation Schedule” means the EU Bail-In Legislation Schedule published by the Loan Market Association (or any successor Person), as in effect from time to time.

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

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

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

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

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

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

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

“Federal Funds Effective Rate” means, for any day, the rate calculated by the Federal Reserve Bank of New York based on such day’s federal funds transactions by depository institutions (as determined in such manner as the Federal Reserve Bank of New York shall set forth on its public website from time to time) and published on the next succeeding Business Day by the Federal Reserve Bank of New York as the federal funds effective rate); provided that in no case shall the rate be less than 0%.

“Federal Funds Rate” means, for any day, a rate per annum equal to the greatest of (a) the rate of interest per annum which is the average of the rates on the offered side of the Federal funds market quoted by an interbank Federal funds broker selected by the Administrative Agent at the approximate time of the relevant borrowing (for the first day of such borrowing and until the next business day) and 12:00 noon (New York City time) (for each subsequent business day on which such borrowing is outstanding), for Federal funds in an amount comparable to the portion of such borrowing made available by JPMorgan Chase, (b) the Adjusted LIBO Rate for a one-month interest period commencing two business days after such day, (c) the Federal Funds Effective Rate and (d) the rate comprised of both overnight federal funds and overnight Eurodollar borrowings by U.S.-managed banking offices of

depository institutions (as such composite rate shall be determined by the Federal Reserve Bank of New York as set forth on its public website from time to time) and published on the next succeeding Business Day by the Federal Reserve Bank of New York as an overnight bank funding rate (from and after such date as the Federal Reserve Bank of New York shall commence to publish such composite rate); provided that in no case shall the rate be less than 0%.

“Fee Letter” means that certain Fee Letter among the Borrower and JPMorgan Chase Bank, N.A., dated as of May 23, 2016.

“Financial Covenants” means the covenants contained in Sections 6.04(a) and 6.04(b) of this Agreement.

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

“FOCUS-II Report” means the Financial and Operational Combined Uniform Single Report on Form X-17A-5 Part II (including profit and loss statements and regulatory calculations).

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

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

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

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

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

“Guarantee” of or by any Person (the “guarantor”) means any obligation, contingent or otherwise, of the guarantor guaranteeing or having the economic effect of guaranteeing any Indebtedness or other obligation of any other Person (the “primary obligor”) in any manner, whether directly or indirectly, and including any obligation of the guarantor, direct or indirect, (a) to purchase or pay (or advance or supply funds for the purchase or payment of) such Indebtedness or other obligation or to purchase (or to advance or supply funds for the purchase of) any security for the payment thereof, (b) to purchase or lease property, securities or services for the purpose of assuring the owner of such Indebtedness or other obligation of the payment thereof, (c) to maintain working capital, equity capital or any other financial statement condition or liquidity of the primary obligor so as to enable the primary obligor to pay such Indebtedness or other obligation or (d) as an account party in respect of any letter of credit or letter of guaranty issued to support such Indebtedness or obligation, provided that the term “Guarantee” shall not include endorsements for collection or deposit in the ordinary course of business or STAMP or other signature guarantees made by a Broker Dealer Regulated Subsidiary in the ordinary course of its business.

“Hazardous Materials” means all explosive or radioactive substances, materials or wastes and all hazardous or toxic substances, materials, wastes or other pollutants, including petroleum or petroleum distillates, asbestos or asbestos containing materials, polychlorinated biphenyls, radon gas,

infectious or medical wastes and all other substances, materials or wastes of any nature regulated pursuant to any Requirements of Law pertaining to the environment.

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

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

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

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

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

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

by the Borrower or any Subsidiary in connection with such disposition and (D) the amount of Indebtedness of the Borrower or any Subsidiary in respect of any Swap Agreement at any time shall be the maximum aggregate amount (giving effect to any netting agreements) that the Borrower or such Subsidiary would be required to pay if such Swap Agreement were terminated at such time.

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

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

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

“Information Memorandum” means the Confidential Information Memorandum dated May 2016, relating to the Borrower and the Transactions.

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

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

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

“Interest Payment Date” means (a) with respect to any Federal Funds Rate Loan (other than a Committed Swingline Loan or an Uncommitted Swingline Loan), the last day of each calendar month, (b) with respect to any Eurodollar Loan, the last day of the Interest Period applicable to the Borrowing of which such Loan is a part and (c) with respect to any Committed Swingline Loan or any Uncommitted Swingline Loan, the day that such Loan is required to be repaid.

“Interest Period” means, with respect to any Eurodollar Borrowing, the period commencing on the date of such Borrowing and ending on the numerically corresponding day in the calendar month that is one month thereafter, provided that (a) if any Interest Period would end on a day other than a Business Day, such Interest Period shall be extended to the next succeeding Business Day unless such next succeeding Business Day would fall in the next calendar month, in which case such Interest Period shall end on the next preceding Business Day and (b) any Interest Period that commences on the last Business Day of a calendar month (or on a day for which there is no numerically corresponding day in the last calendar month of such Interest Period) shall end on the last Business Day of the last calendar month of such Interest Period. For purposes hereof, the date of a Borrowing initially shall be the date on which such Borrowing is made and, in the case of a Revolving Borrowing, thereafter shall be the effective date of the most recent conversion or continuation of such Borrowing.

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

“Intraday Committed Swingline Loan” has the meaning assigned to such term in Section 2.19(d).

“Intraday Uncommitted Swingline Loan” has the meaning assigned to such term in Section 2.20(e).

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

“Joint Bookrunners” means JPMorgan Chase Bank, N.A., U.S. Bank National Association, Industrial and Commercial Bank of China Limited, New York Branch, Merrill Lynch, Pierce, Fenner & Smith Incorporated (or any other registered broker-dealer wholly-owned by Bank of America Corporation to which all or substantially all of Bank of America Corporation’s or any of its subsidiaries’ investment banking, commercial lending services or related businesses may be transferred following the date of this Agreement) and Wells Fargo Bank, National Association, in their capacity as joint bookrunners.

“Joint Lead Arrangers” means JPMorgan Chase Bank, N.A., U.S. Bank National Association, Industrial and Commercial Bank of China Limited, New York Branch, Merrill Lynch, Pierce, Fenner & Smith Incorporated (or any other registered broker-dealer wholly-owned by Bank of America Corporation to which all or substantially all of Bank of America Corporation’s or any of its subsidiaries’ investment banking, commercial lending services or related businesses may be transferred following the date of this Agreement) and Wells Fargo Bank, National Association, in their capacity as joint lead arrangers.

“Lender Parent” means, with respect to any Lender, any Person of which such Lender is, directly or indirectly, a subsidiary.

“Lenders” means the Persons listed on Schedule 2.01 and any other Person that shall have become a party hereto pursuant to Section 9.04 or pursuant to an Incremental Assumption Agreement, other than any such Person that ceases to be a party hereto pursuant to Section 9.04. Unless the context otherwise requires, the term “Lenders” includes the Committed Swingline Lenders and the Uncommitted Swingline Lenders.

“LIBO Rate” means, with respect to any Eurodollar Borrowing for any Interest Period, the London interbank offered rate as administered by ICE Benchmark Administration (or any other Person that takes over the administration of such rate for U.S. Dollars for a period equal in length to such Interest Period as displayed on pages LIBOR01 or LIBOR02 of the Reuters screen that displays such rate (or, in the event such rate does not appear on a Reuters page or screen, on any successor or substitute page on such screen that displays such rate, or on the appropriate page of such other information service that publishes such rate from time to time as selected by the Administrative Agent in its reasonable discretion; in each case the “LIBO Screen Rate”) at approximately 11:00 a.m., London time, two Business Days prior to the commencement of such Interest Period; provided that if the LIBO Screen Rate shall be less than zero, such rate shall be deemed to be zero for the purposes of this Agreement; provided further that if the LIBO Screen Rate shall not be available at such time for such Interest Period (an “Impacted Interest Period”) then the LIBO Rate shall be the Interpolated Rate; provided that if any Interpolated Rate shall be less than zero, such rate shall be deemed to be zero for purposes of this Agreement.

“LIBO Screen Rate” has the meaning assigned to it in the definition of “LIBO Rate.”

“Lien” means, with respect to any asset, (a) any mortgage, deed of trust, lien, pledge, hypothecation, encumbrance, charge or security interest in, on or of such asset, (b) the interest of a vendor or a lessor under any conditional sale agreement, capital lease or title retention agreement (or any financing lease having substantially the same economic effect as any of the foregoing) relating to such asset and (c) in the case of securities, any purchase option, call or similar right of a third party with respect to such securities.

“Loan Documents” means this Agreement, including schedules and exhibits, each Note and each Incremental Assumption Agreement.

“Loans” means the loans made by the Lenders to the Borrower pursuant to this Agreement.

“Material Adverse Effect” means a material adverse effect on (a) the business, operations, or financial condition of the Borrower and its Subsidiaries, taken as a whole, (b) the ability of the Borrower to perform any of its payment obligations under any Loan Document or (c) the rights and benefits available to the Lenders under the Loan Documents.

“Material Indebtedness” means Indebtedness (other than the Loans) or obligations in respect of one or more Swap Agreements that is outstanding in an aggregate principal amount exceeding \$50,000,000. For purposes of determining Material Indebtedness, (a) the amount of Indebtedness under any Swap Agreement shall be calculated net of any cash or cash equivalents pledged to secure the obligations under such Swap Agreement (as calculated by the Borrower in good faith) and (b) the “principal amount” of any Specified Regulated Subsidiary Indebtedness shall be calculated net of collateral posted with the lender thereof to secure such Indebtedness (as determined in good faith by the Borrower). Unless otherwise specified, Material Indebtedness shall relate to Indebtedness of any one or more of the Borrower and its Subsidiaries.

“Maturity Date” means June 23, 2017.

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

“Minimum TNW” means, at any time, \$635,929,023.80; provided that such amount shall be increased on a dollar-for-dollar basis by an amount equal to 50% of consolidated net income of the Borrower for each fiscal quarter of the Borrower ended after March 31, 2016 for which such consolidated net income is positive (excluding any consolidated net income (if such amount is positive) for the month of April, 2016).

“Multiemployer Plan” means a multiemployer plan as defined in Section 4001(a)(3) of ERISA.

“Non-Consenting Lender” has the meaning assigned to such term in Section 9.02(b).

“Note” has the meaning assigned to such term in Section 2.07(b).

“Obligations” means the due and punctual payment by the Borrower of (i) the principal of and interest (including interest accruing during the pendency of any bankruptcy, insolvency, receivership or other similar proceeding, regardless of whether allowed or allowable in such proceeding) on the Loans, when and as due, whether at maturity, by acceleration or otherwise and (ii) all other monetary obligations of the Borrower under this Agreement and each of the other Loan Documents, including obligations to pay fees, expense reimbursement obligations and indemnification obligations, whether primary, secondary, direct, contingent, fixed or otherwise (including monetary obligations incurred during the

pendency of any bankruptcy, insolvency, receivership or other similar proceeding, regardless of whether allowed or allowable in such proceeding).

“Organizational Documents” means, with respect to any Person, the charter, articles or certificate of organization or incorporation and bylaws or other organizational or governing documents of such Person.

“Other Taxes” means any and all present or future recording, stamp, documentary or similar taxes, charges or levies arising from any payment made under any Loan Document or from the execution, delivery or enforcement of, or otherwise with respect to, any Loan Document.

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

“Participant” has the meaning assigned to such term in Section 9.04(c).

“Participant Register” has the meaning assigned to such term in Section 9.04(c).

“PBGC” means the Pension Benefit Guaranty Corporation referred to and defined in ERISA and any successor entity performing similar functions.

“Permitted Encumbrances” means:

(a) Liens imposed by law for taxes, assessments or other governmental charges that are not yet due or are being contested in compliance with Section 5.05;

(b) carriers’, warehousemen’s, mechanics’, materialmen’s, repairmen’s, landlords’ and other like Liens imposed by law, arising in the ordinary course of business and securing obligations that are not overdue by more than 30 days or are being contested in compliance with Section 5.05;

(c) pledges and deposits made in the ordinary course of business in compliance with workers’ compensation, unemployment insurance and other social security laws or regulations;

(d) Liens incurred or deposits made to secure the performance of tenders, bids, trade contracts, leases, statutory or regulatory obligations, bankers’ acceptances, surety and appeal bonds, government contracts, performance and return-of-money bonds and other obligations of a like nature, in each case in the ordinary course of business;

(e) judgment liens in respect of judgments that do not constitute an Event of Default under clause (k) of Section 7.01; and

(f) easements, zoning restrictions, rights-of-way and similar encumbrances on real property imposed by law or that do not materially interfere with the ordinary conduct of business of the Borrower or any Subsidiary; provided that the term “Permitted Encumbrances” shall not include any Lien securing Indebtedness.

“Person” means any natural person, corporation, limited liability company, trust, joint venture, association, company, partnership, Governmental Authority or other entity.

“Plan” means any employee pension benefit plan (other than a Multiemployer Plan) subject to the provisions of Title IV of ERISA or Section 412 of the Code or Section 302 of ERISA, and in respect

of which the Borrower or any ERISA Affiliate is (or, if such plan were terminated, would under Section 4069 of ERISA be deemed to be) an “employer” as defined in Section 3(5) of ERISA.

“Proposed Change” has the meaning assigned to such term in Section 9.02(b).

“Removal Effective Date” has the meaning assigned to such term in Article VIII.

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

“Regulatory Net Capital” of any Person means the amount of net capital held by such Person as a broker-dealer under Section 15c3-1 of the Exchange Act and regulations promulgated thereunder (or under comparable statutes and regulations of the applicable jurisdiction); provided that, other than on dates which financial statements and regulatory reports are required to be delivered under Sections 5.01(a) and (b), Regulatory Net Capital shall be calculated based on the good faith estimates of the Borrower.

“Regulated Subsidiary” means a Broker Dealer Regulated Subsidiary of Parent, a Bank Regulated Subsidiary or an Insurance Regulated Subsidiary or any other subsidiary of Parent subject to minimum capital requirements or other similar material regulatory requirements imposed by applicable Governmental Authorities.

“Regulatory Supervising Organization” shall mean, as applicable, FINRA, the SEC or any governmental or self-regulatory organization, exchange, clearing house or financial regulatory authority of which the Borrower or a Broker Dealer Regulated Subsidiary is a member or to whose rules it is subject.

“Related Parties” means, with respect to any specified Person, such Person’s Affiliates and the respective directors, officers, employees, agents and advisors of such Person and such Person’s Affiliates.

“Required Lenders” means, at any time, the holders of more than 50% of the Commitments then in effect or, if the Commitments have been terminated, the Revolving Extensions of Credit then outstanding.

“Requirement of Law” means, with respect to any Person, any statute, law, treaty, rule, regulation, order, decree, writ, injunction or determination of any arbitrator or court or other Governmental Authority, including rules and regulations of and agreements with or required by any Governmental Authority or Regulatory Supervising Organization having jurisdiction over the Borrower or any Subsidiary, including the Board, the SEC and any self-regulatory organization of which such Subsidiary is a member, or the imposition of conditions or requirements by cease and desist orders, regulatory agreements or otherwise, pursuant to the enforcement authority of any such regulatory authority, in each case applicable to or binding upon such Person or any of its property or to which such Person or any of its property is subject.

“Revolving Credit Exposure” means, with respect to any Lender at any time, the sum of the outstanding principal amount of such Lender’s Revolving Loans, Committed Swingline Exposure and Uncommitted Swingline Exposure at such time.

“Revolving Extensions of Credit” means as to any Lender at any time, an amount equal to the sum of (a) the aggregate principal amount of all Revolving Loans held by such Lender then outstanding, (b) such Lender’s Applicable Percentage of the aggregate principal amount of Committed Swingline Loans then outstanding and (c) such Lender’s Applicable Percentage of the aggregate principal amount of Uncommitted Swingline Loans then outstanding.

“Revolving Loan” means a Loan made pursuant to Section 2.03.

“Sanctions” means all economic or financial sanctions or trade embargoes imposed, administered or enforced from time to time by (a) the Office of Foreign Assets Control of the U.S. Department of the Treasury or the U.S. Department of State or (b) the United Nations Security Council, the European Union or Her Majesty’s Treasury of the United Kingdom.

“Sanctioned Country” means, at any time, a country, region or territory which is itself the subject or target of any Sanctions (at the time of this Agreement, Crimea, Cuba, Iran, North Korea, Sudan and Syria).

“Sanctioned Person” means, at any time, (a) any Person listed in any Sanctions-related list of designated Persons maintained by the Office of Foreign Assets Control of the U.S. Department of the Treasury, the U.S. Department of State, or by the United Nations Security Council or the European Union or Her Majesty’s Treasury of the United Kingdom, (b) any Person located, organized or resident in a Sanctioned Country or (c) any Person owned 50% or more by one or more Persons listed on one of the U.S. Sanctions-related lists.

“SEC” means the Securities and Exchange Commission or any Governmental Authority succeeding to any of its principal functions.

“Specified Merger” means the merger of Borrower, or consolidation of Borrower, with E*TRADE Securities LLC in a transaction as a result of which E*TRADE Securities LLC is the surviving entity; provided that (i) E*TRADE Securities LLC shall expressly assume the obligations of the Borrower pursuant to an Assumption Agreement, (ii) the Borrower shall cause to be delivered to the Administrative Agent a legal opinion of outside counsel to the Borrower addressed to the Administrative Agent and the Lenders regarding the due execution of the Assumption Agreement and the due authorization and validity of the Assumption Agreement or the obligations under the Credit Agreement, (iii) the Borrower shall be in compliance with the Financial Covenants at the time of the Specified Merger and on a pro forma basis after giving effect to the Specified Merger and (iv) no Default or Event of Default would result therefrom.

“Specified Regulated Subsidiary Indebtedness” means, with respect to any subsidiary of the Parent any of the following (i) Indebtedness or other obligations arising from products and services offered by Bank Regulated Subsidiaries, Broker Dealer Regulated Subsidiaries of the Parent or Insurance Regulated Subsidiaries in the ordinary course including, but not limited to, deposits, CDs, prepaid forward contracts, swaps, exchangeable debt securities, foreign currency purchases or sales and letters of credit, customer activities and clearing and clearing-related activities (including, in each case, Indebtedness to finance such activities), (ii) Indebtedness or other obligations incurred in the ordinary course arising from margin lending, Stock Loan activities, customer activities, clearing and clearing-related activities or foreign currency settlement obligations of a Broker Dealer Regulated Subsidiary of the Parent (including, in each case, Indebtedness to finance such activities), (iii) advances from a Federal Home Loan Bank, a Federal Reserve Bank, Fannie Mae or another institution similar to any of the foregoing, repurchase and reverse repurchase agreements relating to Investment Securities, medium term notes, treasury tax and loan balances, special direct investment balances, bank notes, commercial paper, term investment option balances, brokered certificates of deposit, dollar rolls and federal funds purchased, in each case incurred in the ordinary course of a Regulated Subsidiary’s business and (iv) Indebtedness of a Bank Regulated Subsidiary of Parent consisting of trust preferred or similar securities, in each case under this clause (iv), outstanding on November 10, 2014; *provided* that, the term “Specified Regulated Subsidiary Indebtedness”, as it applies to the Borrower and its Subsidiaries, shall not include (X) Indebtedness of the Borrower and its Subsidiaries evidenced by bonds, debentures, notes, indentures,

credit agreements, committed and uncommitted lines of credit available for loans and/or letters of credit or other similar instruments or (Y) Indebtedness or other obligations of the Borrower and its Subsidiaries incurred in the ordinary course arising from Stock Loan activities, which “principal amount” of such Indebtedness shall be calculated net of collateral posted with the lender thereof to secure such Indebtedness (as determined in good faith by the Borrower).

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

“Statutory Reserve Rate” means a fraction (expressed as a decimal), the numerator of which is the number one and the denominator of which is the number one minus the aggregate of the maximum reserve percentages (including any marginal, special, emergency or supplemental reserves) expressed as a decimal established by the Board to which the Administrative Agent is subject with respect to the Adjusted LIBO Rate, for eurocurrency funding (currently referred to as “Eurocurrency Liabilities” in Regulation D of the Board). Such reserve percentages shall include those imposed pursuant to such Regulation D. Eurodollar Loans shall be deemed to constitute eurocurrency funding and to be subject to such reserve requirements without benefit of or credit for proration, exemptions or offsets that may be available from time to time to any Lender under such Regulation D or any comparable regulation. The Statutory Reserve Rate shall be adjusted automatically on and as of the effective date of any change in any reserve percentage.

“Stock Loan” means a “Loan” as used in the Master Securities Loan Agreement published from time to time by the Bond Market Association.

“subsidiary” means, with respect to any Person (the “parent”) at any date, any corporation, limited liability company, partnership, association or other entity the accounts of which would be consolidated with those of the parent in the parent’s consolidated financial statements if such financial statements were prepared in accordance with GAAP, as well as any other corporation, limited liability company, partnership, association or other entity (a) of which securities or other ownership interests representing more than 50% of the equity or more than 50% of the ordinary voting power or, in the case of a partnership, more than 50% of the general partnership interests are, as of such date, owned, controlled or held, or (b) that is, as of such date, otherwise Controlled, by the parent or one or more subsidiaries of the parent or by the parent and one or more subsidiaries of the parent.

“Subsidiary” means any subsidiary of the Borrower.

“Swap Agreement” means any agreement with respect to any (i) currency exchange, interest rate, commodity, credit or equity swap, forward or futures agreements, currency exchange, interest rate, commodity, credit or equity cap agreements, currency exchange, interest rate, commodity, credit or equity collar agreements, or currency exchange, interest rate, commodity, credit or equity puts or call, and (ii) other agreements or arrangements designed to protect such Person, directly or indirectly, against fluctuations in currency exchange, interest rate, commodity or equity prices.

“Syndication Agents” means U.S. Bank National Association, Industrial and Commercial Bank of China Limited, New York Branch, Merrill Lynch, Pierce, Fenner & Smith Incorporated (or any other registered broker-dealer wholly-owned by Bank of America Corporation to which all or substantially all of Bank of America Corporation’s or any of its subsidiaries’ investment banking, commercial lending services or related businesses may be transferred following the date of this Agreement) and Wells Fargo Bank, National Association.

“Synthetic Lease” means, as to any Person, any lease (including leases that may be terminated by the lessee at any time) of any property (whether real, personal or mixed) that is designed to permit the lessee (a) to treat such lease as an operating lease, or not to reflect the leased property on the lessee’s balance sheet, under GAAP and (b) to claim depreciation on such property for U.S. Federal income tax purposes, other than any such lease under which such Person is the lessor.

“Synthetic Lease Obligations” of any Person means the obligations of such Person to pay rent or other amounts under any Synthetic Lease, and the amount of such obligations shall be equal to the sum (without duplication) of (a) the capitalized amount thereof that would appear on a balance sheet of such Person in accordance with GAAP if such obligations were accounted for as Capital Lease Obligations and
(b) the amount payable by such Person as the purchase price for the property subject to such lease assuming the lessee exercises the option to purchase such property at the end of the term of such lease.

“Taxes” means any and all present or future taxes, levies, imposts, duties, deductions, charges or withholdings (including backup withholding) imposed by any Governmental Authority, including any interest, additions to tax or penalties applicable thereto.

“Transactions” means (a) the execution, delivery and performance by the Borrower of the Loan Documents, the borrowing of Loans after the Effective Date and (b) the payment of the Transaction Costs.

“Transaction Costs” means all fees, costs and expense incurred or payable by the Borrower or any Subsidiary in connection with the Transactions.

“Type,” when used in reference to any Loan or Borrowing, refers to whether the rate of interest on such Loan, or on the Loans comprising such Borrowing, is determined by reference to the Adjusted LIBO Rate or the Federal Funds Rate.

“Uncommitted Swingline Exposure” means, at any time, the aggregate principal amount of all Uncommitted Swingline Loans outstanding at such time. The Uncommitted Swingline Exposure of any Lender at any time shall be its Applicable Percentage of the total Uncommitted Swingline Exposure at such time.

“Uncommitted Swingline Lender” means any Lender that has made an Uncommitted Swingline Loan which remains outstanding, in its capacity as a lender of Uncommitted Swingline Loans hereunder.

“Uncommitted Swingline Loan” means a Loan made pursuant to Section 2.20.

“U.S. Tax Compliance Certificate” has the meaning assigned to such term in Section 2.14(e)(ii).

“USA Patriot Act” has the meaning assigned to such term in Section 4.01(j).

“wholly owned Subsidiary” means, with respect to any Person at any date, a subsidiary of such Person of which securities or other ownership interests representing 100% of the Equity Interests (other than directors’ qualifying shares) are, as of such date, owned, controlled or held by such Person or one or more wholly owned Subsidiaries of such Person or by such Person and one or more wholly owned Subsidiaries of such Person. “wholly owned Broker Dealer Regulated Subsidiary” and “wholly owned Subsidiary” shall have the correlative meanings hereunder.

“Withdrawal Liability” means liability to a Multiemployer Plan as a result of a complete or partial withdrawal from such Multiemployer Plan, as such terms are defined in Part I of Subtitle E of Title IV of ERISA.

“Write-Down and Conversion Powers” means, with respect to any EEA Resolution Authority, the write-down and conversion powers of such EEA Resolution Authority from time to time under the Bail-In Legislation for the applicable EEA Member Country, which write-down and conversion powers are described in the EU Bail-In Legislation Schedule.

SECTION 1.02. Classification of Loans and Borrowings. For purposes of this Agreement, Loans may be classified and referred to by Class (e.g., a “Revolving Loan”) or by Type (e.g., a “Eurodollar Loan”) or by Class and Type (e.g., a “Eurodollar Loan”). Borrowings also may be classified and referred to by Class (e.g., a “Revolving Borrowing”) or by Type (e.g., a “Eurodollar Borrowing”) or by Class and Type (e.g., a “Eurodollar Borrowing”).

SECTION 1.03. Terms Generally. The definitions of terms herein shall apply equally to the singular and plural forms of the terms defined. Whenever the context may require, any pronoun shall include the corresponding masculine, feminine and neuter forms. The words “include,” “includes” and “including” shall be deemed to be followed by the phrase “without limitation.” The word “will” shall be construed to have the same meaning and effect as the word “shall.” Unless the context requires otherwise, (a) any definition of or reference to any agreement, instrument or other document herein shall be construed as referring to such agreement, instrument or other document as from time to time amended, amended and restated, supplemented or otherwise modified (subject to any restrictions on such amendments, supplements or modifications set forth herein), (b) any reference herein to any Person shall be construed to include such Person’s successors and assigns, (c) the words “herein,” “hereof” and “hereunder,” and words of similar import, shall be construed to refer to this Agreement in its entirety and not to any particular provision hereof, (d) all references herein to Articles, Sections, Exhibits and Schedules shall be construed to refer to Articles and Sections of, and Exhibits and Schedules to, this Agreement and (e) the words “asset” and “property” shall be construed to have the same meaning and effect and to refer to any and all tangible and intangible assets and properties, including cash, securities, accounts and contract rights.

SECTION 1.04. Accounting Terms; GAAP. Except as otherwise expressly provided herein, all terms of an accounting or financial nature shall be construed in accordance with GAAP, as in effect from time to time, provided that, if the Borrower notifies the Administrative Agent that the Borrower requests an amendment to any provision (including any definition) hereof to eliminate the effect of any change occurring after the date hereof in GAAP or in the application thereof on the operation of such provision (or if the Administrative Agent notifies the Borrower that the Required Lenders request an amendment to any provision hereof for such purpose), regardless of whether any such notice is given before or after such change in GAAP or in the application thereof, then such provision shall be interpreted on the basis of GAAP as in effect and applied immediately before such change shall have become effective until such notice shall have been withdrawn or such provision amended in accordance herewith. Notwithstanding any other provision contained herein, (i) all terms of an accounting or financial nature used herein shall be construed, and all computations of amounts and ratios referred to herein shall be made, without giving effect to any election under Financial Accounting Standards Board Accounting Standards Codification 825 (or any other Financial Accounting Standard having a similar result or effect) to value any Indebtedness or other liabilities of the Borrower or any Subsidiary at “fair value”, as defined therein and (ii) with respect to Indebtedness that is convertible into, or exchangeable for, Equity Interests, notwithstanding the treatment of such Indebtedness on the balance sheet of the Borrower or any Subsidiary under GAAP, for all purposes under this Agreement such Indebtedness shall be treated as Indebtedness equal to 100% of the aggregate principal amount at maturity.

ARTICLE II

The Credits

SECTION 2.01. Commitments. Subject to the terms and conditions set forth herein, each Lender severally agrees to make Revolving Loans in US Dollars to the Borrower from time to time during the Availability Period in an aggregate principal amount that will not result (after giving effect to any application of the proceeds of such Borrowing pursuant to Section 2.07) in (a) such Lender's Applicable Revolving Credit Exposure exceeding such Lender's Commitment or (b) the sum of the total Revolving Credit Exposures exceeding the total Commitments. Within the foregoing limits and subject to the terms and conditions set forth herein, the Borrower may borrow, prepay and reborrow Revolving Loans. Each Lender having an Incremental Commitment agrees, subject to the terms and conditions and relying upon the representations and warranties set forth herein and in the applicable Incremental Assumption Agreement, to make Revolving Loans to the Borrower, in an aggregate principal amount that will not result (after giving effect to any application of the proceeds of such Borrowing pursuant to Section 2.07) in (a) such Lender's Applicable Revolving Credit Exposure exceeding such Lender's Commitment or (b) the sum of the total Revolving Credit Exposures exceeding the total Commitments.

SECTION 2.02. Loans and Borrowings.

(a) Each Revolving Loan shall be made as part of a Borrowing consisting of Loans of the same Type made by the Lenders ratably in accordance with their respective Commitments. The failure of any Lender to make any Loan required to be made by it shall not relieve any other Lender of its obligations hereunder, provided that the Commitments of the Lenders are several and no Lender shall be responsible for any other Lender's failure to make Loans as required.

(b) Subject to Section 2.11, each Borrowing of Revolving Loans shall be comprised entirely of Federal Funds Rate Loans or Eurodollar Loans as the Borrower may request in accordance herewith. Each Committed Swingline Loan (other than an Intraday Committed Swingline Loan) and each Uncommitted Swingline Loan (other than an Intraday Uncommitted Swingline Loan) shall be a Federal Funds Rate Loan. Each Lender at its option may make any Eurodollar Loan by causing any domestic or foreign branch or Affiliate of such Lender to make such Loan, provided that any exercise of such option shall not affect the obligation of the Borrower to repay such Loan in accordance with the terms of this Agreement.

(c) At the commencement of each Interest Period for any Eurodollar Borrowing, such Borrowing shall be in an aggregate amount that is an integral multiple of \$1,000,000 and not less than \$5,000,000. At the time that each Federal Funds Rate Borrowing is made, such Borrowing shall be in an aggregate amount that is an integral multiple of \$500,000 and not less than \$1,000,000. Borrowings of more than one Type may be outstanding at the same time, provided that there shall not at any time be more than a total of ten Eurodollar Borrowings outstanding. Notwithstanding anything to the contrary herein, a Federal Funds Rate Borrowing may be in an aggregate amount that is equal to the entire unused balance of the aggregate Commitment.

(d) Notwithstanding any other provision of this Agreement, the Borrower shall not be entitled to request, or to elect to convert or continue, any Borrowing if the Interest Period requested with respect thereto would end after the Maturity Date.

SECTION 2.03. Requests for Revolving Borrowings. To request a Revolving Borrowing, the Borrower shall notify the Administrative Agent of such request by telephone (a) in the case of a Eurodollar Borrowing, not later than 3:00 p.m., New York City time three (3) Business Days before the date of the proposed Borrowing or (b) in the case of a Federal Funds Rate Borrowing, not later than 4:00 p.m., New York City time, on the date of the proposed Borrowing. Each such telephonic Borrowing Request shall be irrevocable and shall be confirmed promptly by hand delivery or electronic communication in PDF format or facsimile to the Administrative Agent of a written Borrowing Request in a form approved by the Administrative Agent and signed by the Borrower. Each such telephonic and written Borrowing Request shall specify the following information:

- (i) the aggregate amount of such Borrowing;
- (ii) the date of such Borrowing, which shall be a Business Day;
- (iii) whether such Borrowing is to be a Federal Funds Rate Borrowing or a Eurodollar Borrowing;
- (iv) in the case of a Eurodollar Borrowing, the initial Interest Period to be applicable thereto, which shall be a period contemplated by the definition of the term "Interest Period";
- (v) the location and number of the Borrower's account to which funds are to be disbursed, which shall comply with the requirements of Section 2.04; and
- (vi) that as of such date Sections 4.02(a) and (b) are satisfied.

If no election as to the Type of Borrowing is specified, then the requested Borrowing shall be a Federal Funds Rate Borrowing. If no Interest Period is specified with respect to any requested Eurodollar Borrowing, then the Borrower shall be deemed to have selected an Interest Period of one month's duration. Promptly following receipt of a Borrowing Request in accordance with this Section, the Administrative Agent shall advise each Lender of the details thereof and of the amount of such Lender's Loan to be made as part of the requested Borrowing.

SECTION 2.04. Funding of Borrowings.

(a) Each Lender shall make each Loan to be made by it hereunder on the proposed date thereof by wire transfer of immediately available funds by 12:00 noon, New York City time, or, if later in the case of a Federal Funds Rate Borrowing, by 2 hours after the Administrative Agent advises such Lender pursuant to the last sentence of Section 2.03, of the details of a Borrowing Request made by the Borrower to the account of the Administrative Agent most recently designated by it for such purpose by notice to the Lenders; provided that Committed Swingline Loans and Uncommitted Swingline Loans shall be made as provided in Sections 2.19 and 2.20, respectively. The Administrative Agent will, subject to the proviso set forth in Section 2.07(a), make such Loans available to the Borrower by promptly crediting the amounts so received, in like funds, to an account of the Borrower maintained with the Administrative Agent in New York City or such other account of the Borrower designated by the Borrower in the applicable Borrowing Request.

(b) Unless the Administrative Agent shall have received notice from a Lender not later than one (1) Business Day prior to the proposed date of any Borrowing that such Lender will not make available to the Administrative Agent such Lender's share of such Borrowing, the Administrative Agent may assume that such Lender has made such share available on such date in accordance with paragraph

(a) of this Section and may, in reliance upon such assumption and in its sole discretion, make available to the Borrower a corresponding amount. In such event, if a Lender has not in fact made its share of the applicable Borrowing available to the Administrative Agent, then the applicable Lender and the Borrower severally agree to pay to the Administrative Agent forthwith on demand such corresponding amount with interest thereon, for each day from and including the date such amount is made available to the Borrower to but excluding the date of payment to the Administrative Agent, at (i) in the case of such Lender, the greater of the Federal Funds Effective Rate and a rate determined by the Administrative Agent in accordance with banking industry rules on interbank compensation or (ii) in the case of the Borrower, the interest rate applicable to Federal Funds Rate Loans. If such Lender pays such amount to the Administrative Agent, then such amount shall constitute such Lender's Loan included in such Borrowing.

SECTION 2.05. Interest Elections.

(a) Each Borrowing initially shall be of the Type specified in the applicable Borrowing Request or designated by Section 2.03 and, in the case of a Eurodollar Borrowing, shall have an initial Interest Period as specified in such Borrowing Request or designated by Section 2.03. Thereafter, the Borrower may elect to convert such Borrowing to a different Type or to continue such Borrowing and, in the case of a Eurodollar Borrowing, may elect Interest Periods therefor, all as provided in this Section. The Borrower may elect different options with respect to different portions of the affected Borrowing, in which case each such portion shall be allocated ratably among the Lenders holding the Loans comprising such Borrowing, and the Loans comprising each such portion shall be considered a separate Borrowing. This Section shall not apply to Committed Swingline Borrowings or Uncommitted Swingline Borrowings, which may not be converted or continued.

(b) To make an election pursuant to this Section, the Borrower shall notify the Administrative Agent of such election by telephone by the time that a Borrowing Request would be required under Section 2.03 if the Borrower were requesting a Borrowing of the Type resulting from such election to be made on the effective date of such election. Each such telephonic Interest Election Request shall be irrevocable and shall be confirmed promptly by hand delivery or facsimile to the Administrative Agent of a written Interest Election Request in a form approved by the Administrative Agent and signed by the Borrower.

(c) Each telephonic and written Interest Election Request shall specify the following information in compliance with Section 2.02:

(i) the Borrowing to which such Interest Election Request applies and, if different options are being elected with respect to different portions thereof, the portions thereof to be allocated to each resulting Borrowing (in which case the information to be specified pursuant to clauses (iii) and (iv) below shall be specified for each resulting Borrowing);

(ii) the effective date of the election made pursuant to such Interest Election Request, which shall be a Business Day;

(iii) whether the resulting Borrowing is to be a Federal Funds Rate Borrowing or a Eurodollar Borrowing; and

(iv) if the resulting Borrowing is a Eurodollar Borrowing, the Interest Period to be applicable thereto after giving effect to such election, which shall be a period contemplated by the definition of the term "Interest Period".

If any such Interest Election Request requests a Eurodollar Borrowing but does not specify an Interest Period, then the Borrower shall be deemed to have selected an Interest Period of one month's duration.

(d) Promptly following receipt of an Interest Election Request, the Administrative Agent shall advise each Lender of the details thereof and of such Lender's portion of each resulting Borrowing.

(e) If the Borrower fails to deliver a timely Interest Election Request with respect to a Eurodollar Borrowing prior to the end of the Interest Period applicable thereto, then, unless such Borrowing is repaid as provided herein, at the end of such Interest Period such Borrowing shall be converted to a Federal Funds Rate Borrowing. Notwithstanding any contrary provision hereof, if an

Event of Default has occurred and is continuing and the Administrative Agent, at the request of the Required Lenders, so notifies the Borrower, then, so long as an Event of Default is continuing (i) no outstanding Borrowing may be converted to or continued as a Eurodollar Borrowing and (ii) unless repaid, each Eurodollar Borrowing shall be converted to a Federal Funds Rate Borrowing at the end of the Interest Period applicable thereto.

SECTION 2.06. Termination and Reduction of Commitments.

(a) Unless previously terminated, the Commitments shall terminate on the Maturity Date.

(b) The Borrower may at any time terminate, or from time to time reduce, the Commitments, provided that (i) each reduction of the Commitments shall be in an amount that is an integral multiple of \$1,000,000 and not less than \$5,000,000 and (ii) the Borrower shall not terminate or reduce the Commitments if, after giving effect to any concurrent prepayment of the Loans in accordance with Section 2.08, (x) the sum of the Revolving Credit Exposures would exceed the total Commitments or (y) any Lender's Applicable Revolving Credit Exposure would exceed such Lender's Commitment.

(c) The Borrower shall notify the Administrative Agent of any election to terminate or reduce the Commitments under paragraph (b) of this Section at least three Business Days prior to the effective date of such termination or reduction, specifying such election and the effective date thereof. Promptly following receipt of any such notice, the Administrative Agent shall advise the Lenders of the contents thereof. Each notice delivered by the Borrower pursuant to this Section shall be irrevocable, provided that a notice of termination of the Commitments delivered by the Borrower may state that such notice is conditioned upon the effectiveness of other credit facilities or the receipt of the proceeds from the issuance of other Indebtedness, in which case such notice may be revoked by the Borrower (by notice to the Administrative Agent on or prior to the specified effective date) if such condition is not satisfied. Any termination or reduction of the Commitments shall be permanent.

SECTION 2.07. Repayment of Loans; Evidence of Debt.

(a) The Borrower hereby unconditionally promises to pay (i) to the Administrative Agent for the account of each Lender the then unpaid principal amount of each Revolving Loan of such Lender on the earlier of (x) the Maturity Date and (y) the date that is 40 days following the date of Borrowing of such Revolving Loan, (ii) to the Committed Swingline Lenders, the then unpaid principal amount of the Committed Swingline Loans three (3) Business Days after such Committed Swingline Loans are made and (iii) to the Uncommitted Swingline Lenders, the then unpaid principal amount of the Uncommitted Swingline Loans three (3) Business Days after such Uncommitted Swingline Loans are made; provided that on each date that a Revolving Borrowing is made, the Borrower shall repay all Committed Swingline Loans and Uncommitted Swingline Loans then outstanding.

(b) Any Lender may request that Loans made by it be evidenced by a promissory note (each a "Note"). In such event, the Borrower shall prepare, execute and deliver to such Lender a Note payable to such Lender and its registered assigns and in a form approved by the Administrative Agent. Thereafter, the Loans evidenced by such Note and interest thereon shall at all times (including after assignment pursuant to Section 9.04) be represented by one or more Notes in such form payable to such payee and its registered assigns.

SECTION 2.08. Prepayment of Loans.

(a) The Borrower shall have the right at any time and from time to time up to 3:00 p.m., New York City time on any Business Day to prepay any Loan in whole or in part, subject to prior notice in accordance with paragraph (b) of this Section; provided that interest will accrue on such amount being prepaid until the next business day if such payment is received after 3:00 p.m., New York City time.

(b) The Borrower shall notify the Administrative Agent (and, in the case of prepayment of a Committed Swingline Loan or an Uncommitted Swingline Loan, the Committed Swingline Lenders or the applicable Uncommitted Swingline Lenders, as the case may be) by telephone (confirmed by electronic communication or facsimile) of any prepayment hereunder not later than 12:00 noon, New York City time, on the date of prepayment. Each such notice shall be irrevocable and shall specify the prepayment date and the principal amount of each Borrowing or portion thereof to be prepaid; provided that, if a notice of prepayment is given in connection with a conditional notice of termination of the Commitments as contemplated by Section 2.06, then such notice of prepayment may be revoked if such notice of termination is revoked in accordance with Section 2.06. Promptly following receipt of any such notice relating to a Revolving Borrowing, the Administrative Agent shall advise the Lenders of the contents thereof. Each partial prepayment of any Revolving Borrowing shall be in an amount that would be permitted in the case of an advance of a Revolving Borrowing of the same Type as provided in Section 2.02. Each prepayment of a Revolving Borrowing shall be applied ratably to the Loans included in the prepaid Borrowing. Prepayments shall be accompanied by accrued interest to the extent required by Section 2.10.

(c) Prior to any optional prepayment of Borrowings hereunder, the Borrower shall select the Borrowing or Borrowings to be prepaid and shall specify such selection in the notice of such prepayment pursuant to paragraph (b) of this Section.

SECTION 2.09. Fees.

(a) The Borrower agrees to pay to the Administrative Agent for the account of each Lender a commitment fee, equal to 0.375% per annum on the average daily unused amount of the Commitment of such Lender during the period from and including the Effective Date to but excluding the date on which such Commitment terminates (it being understood that Committed Swingline Loans and Uncommitted Swingline Loans shall not constitute utilization of the Commitment for purposes of calculating the commitment fees under this Section). If any Lender becomes a defaulting Lender, the commitment fee that would otherwise accrue and be payable for the accounts of such Lender for the period during which such Lender is a defaulting Lender will not be required to be paid. Accrued commitment fees shall be payable in arrears on the last Business Day of March, June, September and December of each year and on the date on which the Commitments terminate, commencing September 30, 2016. All commitment fees shall be computed on the basis of a year of 360 days and shall be payable for the actual number of days elapsed (including the first day but excluding the last day).

(b) The Borrower agrees to pay to the Administrative Agent, for the account of each Lender, upfront fees of a percentage, in an amount set forth in the Fee Letter, of the stated principal amount of each Lender's Commitments, at the Effective Date.

(c) The Borrower agrees to pay to the Administrative Agent, for its own account, fees payable in the amounts and at the times separately agreed upon between the Borrower and the Administrative Agent in the Fee Letter.

(d) The Borrower agrees to pay to (i) the Administrative Agent for the account of each Committed Swingline Lender, a fee in an amount equal to 1.00% per annum on the amount of any outstanding Intraday Committed Swingline Loans made by such Lender, payable on the Interest Payment Date for such Loans and (ii) each Uncommitted Swingline Lender, a fee in an amount equal to 1.00% per annum on the amount of any outstanding Intraday Uncommitted Swingline Loans made by such Lender, payable on the Interest Payment Date for such Loans.

(e) All fees payable hereunder shall be paid on the dates due, in immediately available funds, to the Administrative Agent for distribution, in the case of commitment fees, to the Lenders entitled thereto. Fees paid shall not be refundable under any circumstances.

SECTION 2.10. Interest.

(a) The Loans comprising each Federal Funds Rate Borrowing (including each Committed Swingline Loan (other than an Intraday Committed Swingline Loan) and each Uncommitted Swingline Loan (other than an Intraday Uncommitted Swingline Loan)) shall bear interest at the Federal Funds Rate plus the Applicable Margin; provided that, to the extent requested by the Borrower, any Uncommitted Swingline Loan may bear interest at such other rate as mutually agreed between the Borrower and any Uncommitted Swingline Lender upon written notice to the Administrative Agent; provided further, that any participations in such Uncommitted Swingline Loan purchased by Lenders pursuant to Section 2.20 shall accrue interest at the Federal Funds Rate plus the Applicable Margin.

(b) The Loans comprising each Eurodollar Borrowing shall bear interest at the Adjusted LIBO Rate for the Interest Period in effect for such Borrowing plus the Applicable Margin.

(c) Notwithstanding the foregoing, if any principal of or interest on any Loan or any fee or other amount payable by the Borrower hereunder is not paid when due, whether at stated maturity, upon acceleration or otherwise, such overdue amount shall bear interest, after as well as before judgment, at a rate per annum equal to (i) in the case of overdue principal of any Loan (other than any Intraday Committed Swingline Loan and Intraday Uncommitted Swingline Loan), 2.00% plus the rate otherwise applicable to such Loan as provided in the preceding paragraphs of this Section, (ii) in the case of any overdue Intraday Committed Swingline Loan and Intraday Uncommitted Swingline Loan, 2.00% plus the rate applicable to Committed Swingline Loans pursuant to clause (a) above or (iii) in the case of any other amount, 2.00% plus the rate applicable to Federal Funds Rate Loans as provided in paragraph (a) of this Section.

(d) Accrued interest on each Loan shall be payable in arrears on each Interest Payment Date for such Loan and upon termination of the Commitments, provided that (i) interest accrued pursuant to paragraph (c) of this Section shall be payable on demand, (ii) in the event of any repayment or prepayment of any Loan (other than a prepayment of a Federal Funds Rate Revolving Loan prior to the end of the Availability Period), accrued interest on the principal amount repaid or prepaid shall be payable on the date of such repayment or prepayment and (iii) in the event of any conversion of any Eurodollar Loan prior to the end of the current Interest Period therefor, accrued interest on such Loan shall be payable on the effective date of such conversion.

(e) All interest hereunder shall be computed on the basis of a year of 360 days and shall be payable for the actual number of days elapsed (including the first day but excluding the last day). The Federal Funds Rate or Adjusted LIBO Rate shall be determined by the Administrative Agent, and such determination shall be conclusive absent manifest error.

(f) For the avoidance of doubt, Intraday Committed Swingline Loans and Intraday Uncommitted Swingline Loans shall not bear interest (but the fees described in Section 2.09(d) with respect thereto shall be subject to clause (c) above if not paid when due).

SECTION 2.11. Alternate Rate of Interest. If prior to the commencement of any Interest Period for a Eurodollar Borrowing:

- (a) the Administrative Agent determines (which determination shall be conclusive absent manifest error) that adequate and reasonable means do not exist for ascertaining the Adjusted LIBO Rate for such Interest Period or
- (b) the Administrative Agent is advised by the Required Lenders that the Adjusted LIBO Rate for such Interest Period will not adequately and fairly reflect the cost to such Lenders of making, continuing or converting or maintaining their Loans included in such Borrowing for such Interest Period,

then the Administrative Agent shall give notice thereof to the Borrower and the Lenders by telephone or facsimile as promptly as practicable thereafter and, until the Administrative Agent notifies the Borrower and the Lenders that the circumstances giving rise to such notice no longer exist, (i) any Interest Election Request that requests the conversion of any Revolving Borrowing to, or continuation of any Revolving Borrowing as, a Eurodollar Borrowing shall be ineffective and (ii) if any Borrowing Request requests a Eurodollar Borrowing, such Borrowing shall be made as a Federal Funds Rate Borrowing; provided that if the circumstances giving rise to such notice affect only one Type of Borrowings, then the other Type of Borrowings shall be permitted.

SECTION 2.12. Increased Costs.

(a) If any Change in Law shall:

(i) impose, modify or deem applicable any reserve, special deposit, compulsory loan, insurance charge or similar requirement against assets of, deposits with or for the account of, or credit extended by, any Lender (except any such reserve requirement reflected in the Adjusted LIBO Rate);

(ii) impose on such Lender (or its applicable lending office) any additional Tax (other than any Indemnified Taxes or Other Taxes indemnified under Section 2.14 or any Excluded Tax) with respect to its loans, letters of credit, commitments, or other obligations, or its deposits, reserves, other liabilities or capital attributable thereto; or

(iii) impose on any Lender or the London interbank market any other condition, cost or expense (other than Taxes) affecting this Agreement or Eurodollar Loans made by such Lender;

and the result of any of the foregoing shall be to increase the cost to such Lender of making or maintaining any Eurodollar Loan (or of maintaining its obligation to make any such Loan), then the Borrower will pay to such Lender such additional amount or amounts as will compensate such Lender for such additional costs incurred or reduction suffered.

(b) If any Lender determines that any Change in Law regarding capital or liquidity requirements has or would have the effect of reducing the rate of return on such Lender's capital or on the capital of such Lender's holding company, if any, as a consequence of this Agreement or the Loans made by such Lender to a level below that which such Lender or such Lender's holding company could have achieved but for such Change in Law (taking into consideration such Lender's policies and the policies of such Lender's holding company with respect to capital adequacy), then from time to time the

Borrower will pay to such Lender such additional amount or amounts as will compensate such Lender or such Lender's holding company for any such reduction suffered.

(c) A certificate of a Lender setting forth the amount or amounts necessary to compensate such Lender or its holding company, as the case may be, as specified in paragraph (a) or (b) of this Section shall be delivered to the Borrower and shall be conclusive absent manifest error. The Borrower shall pay such Lender, as the case may be, the amount shown as due on any such certificate within 10 days after receipt thereof.

(d) Failure or delay on the part of any Lender to demand compensation pursuant to this Section shall not constitute a waiver of such Lender's right to demand such compensation, provided that the Borrower shall not be required to compensate a Lender pursuant to this Section for any increased costs or reductions incurred more than 180 days prior to the date that such Lender notifies the Borrower of the Change in Law giving rise to such increased costs or reductions and of such Lender's intention to claim compensation therefor, and provided, further, that, if the Change in Law giving rise to such increased costs or reductions is retroactive, then the 180-day period referred to above shall be extended to include the period of retroactive effect thereof.

SECTION 2.13. Break Funding Payments. In the event of (a) the payment of any principal of any Eurodollar Loan other than on the last day of an Interest Period applicable thereto (including as a result of an Event of Default), (b) the conversion of any Eurodollar Loan other than on the last day of the Interest Period applicable thereto, (c) the failure to borrow, convert, continue or prepay any Loan on the date specified in any notice delivered pursuant hereto (regardless of whether such notice may be revoked under Section 2.09(d) and is revoked in accordance therewith) or (d) the assignment of any Eurodollar Loan other than on the last day of the Interest Period applicable thereto as a result of a request by the Borrower pursuant to Section 2.16 or Section 9.02(c), then, in any such event, the Borrower shall compensate each Lender for the loss, cost and expense attributable to such event. In the case of a Eurodollar Loan, such loss, cost or expense to any Lender shall be deemed to include an amount determined by such Lender to be the excess, if any, of (i) the amount of interest that would have accrued on the principal amount of such Loan had such event not occurred, at the Adjusted LIBO Rate that would have been applicable to such Loan, for the period from the date of such event to the last day of the then current Interest Period therefor (or, in the case of a failure to borrow, convert or continue, for the period that would have been the Interest Period for such Loan), over (ii) the amount of interest that would accrue on such principal amount for such period at the interest rate that such Lender would bid were it to bid, at the commencement of such period, for dollar deposits of a comparable amount and period from other banks in the eurodollar market. A certificate of any Lender setting forth any amount or amounts that such Lender is entitled to receive pursuant to this Section shall be delivered to the Borrower and shall be conclusive absent manifest error. The Borrower shall pay such Lender the amount shown as due on any such certificate within 10 days after receipt thereof.

SECTION 2.14. Taxes.

(a) Any and all payments by or on account of any obligation of the Borrower under any Loan Document shall be made free and clear of and without deduction for any Taxes unless required by applicable law. If an applicable withholding agent is required by applicable law (as determined in good faith by the applicable withholding agent) to deduct any Tax from any payments made under any Loan Document, then (i) if such Tax is an Indemnified Tax or Other Tax, the sum payable by the Borrower shall be increased as necessary so that after such deduction (including such deductions applicable to additional sums payable under this Section) have been made the Lender or the Administrative Agent (in the case of any payments made to the Administrative Agent for its own account), as the case may be, receives an amount equal to the sum it would have received had no such deductions been made, (ii) the applicable withholding agent shall make such deductions and (iii) the applicable withholding agent shall pay the full amount deducted to the relevant Governmental Authority in accordance with applicable law.

(b) Without limiting the provisions of paragraph (a) above, the Borrower shall timely pay any Other Taxes to the relevant Governmental Authority in accordance with applicable law.

(c) The Borrower shall indemnify the Administrative Agent and each Lender within 10 days after written demand therefor, for the full amount of any Indemnified Taxes or Other Taxes (including Indemnified Taxes or Other Taxes imposed or asserted on or attributable to amounts payable under this Section) paid or payable by the Administrative Agent or such Lender, as the case may be, and any reasonable expenses arising therefrom or with respect thereto, whether or not such Indemnified Taxes or Other Taxes were correctly or legally imposed or asserted by the relevant Governmental Authority, provided that the Borrower shall not be obligated to make payment to the Administrative Agent or such Lender pursuant to this Section 2.14 in respect of penalties, interest and other liabilities attributable to any Indemnified Taxes or Other Taxes if such penalties, interest and other liabilities result from gross negligence or willful misconduct of the Administrative Agent or such Lender, as determined by a court of competent jurisdiction in a final non-appealable judgment. A certificate as to the amount of such payment

or liability delivered to the Borrower by a Lender or by the Administrative Agent on its own behalf or on behalf of a Lender shall be promptly delivered to the Borrower and such certificate shall be conclusive absent manifest error.

(d) As soon as practicable after any payment of Indemnified Taxes or Other Taxes by the Borrower to a Governmental Authority, the Borrower shall deliver to the Administrative Agent the original or a certified copy of a receipt issued by such Governmental Authority evidencing such payment, a copy of the return reporting such payment or other evidence of such payment reasonably satisfactory to the Administrative Agent.

(e) Any Lender that is entitled to an exemption from or reduction of withholding tax with respect to payments made under any Loan Documents shall deliver to the Borrower and the Administrative Agent, at the time or times reasonably requested by the Borrower or the Administrative Agent, such properly completed and executed documentation reasonably requested by the Borrower or the Administrative Agent as will permit such payments to be made without withholding or at a reduced rate of withholding. In addition, any Lender, if reasonably requested by the Borrower or the Administrative Agent, shall deliver such other documentation prescribed by applicable law or reasonably requested by the Borrower or the Administrative Agent as will enable the Borrower or the Administrative Agent to determine whether or not such Lender is subject to backup withholding or information reporting requirements. Notwithstanding anything to the contrary in the preceding two sentences, the completion, execution and submission of such documentation shall not be required if in the Lender's reasonable judgment such completion, execution or submission would subject such Lender to any material unreimbursed cost or expense or would materially prejudice the legal or commercial position of such Lender.

Without limiting the generality of the foregoing,

(A)) any Lender that is not a Foreign Lender shall deliver to the Borrower and the Administrative Agent on or prior to the date on which such Lender becomes a Lender under this Agreement (and from time to time thereafter upon the reasonable request of the Borrower or the Administrative Agent), executed copies of IRS Form W-9 certifying that such Lender is exempt from U.S. federal backup withholding tax;

(B)) any Foreign Lender shall, to the extent it is legally entitled to do so, deliver to the Borrower and the Administrative Agent (in such number of copies as shall be requested by the recipient) on or prior to the date on which such Foreign Lender becomes a Lender under this Agreement (and from time to time thereafter upon the reasonable request of the Borrower or the Administrative Agent), whichever of the following is applicable:

(i) in the case of a Foreign Lender claiming the benefits of an income tax treaty to which the United States is a party (x) with respect to payments of interest under any Loan Document, executed copies of IRS Form W-8BEN or W-8BEN-E establishing an exemption from, or reduction of, U.S. federal withholding Tax pursuant to the “interest” article of such tax treaty and (y) with respect to any other applicable payments under any Loan Document, IRS Form W-8BEN or W-8BEN-E establishing an exemption from, or reduction of, U.S. federal withholding Tax pursuant to the “business profits” or “other income” article of such tax treaty; (ii) executed copies of IRS Form W-8ECI; (iii) in the case of a Foreign Lender claiming the benefits of the exemption for portfolio interest under Section 881(c) of the Code, (x) a certificate substantially in the form of Exhibit C-1 to the effect that such Foreign Lender is not a “bank” within the meaning of Section 881(c)(3)(A) of the Code, a “10 percent shareholder” of the Borrower within the meaning of Section 881(c)(3)(B) of the Code, or a “controlled foreign corporation” described in Section 881(c)(3)(C) of the Code (a “U.S. Tax Compliance Certificate”) and (y) executed copies of IRS Form W-8BEN or W-8BEN-E; or (iv) to the extent a Foreign Lender is not the beneficial owner, executed copies of IRS Form W-8IMY, accompanied by IRS Form W-8ECI, IRS Form W-8BEN or W-8BEN-E, a U.S. Tax Compliance Certificate substantially in the form of Exhibit C-2 or Exhibit C-3, IRS Form W-9, and/or other certification documents from each beneficial owner as applicable provided that if the Foreign Lender is a partnership and one or more direct or indirect partners of such Foreign Lender are claiming the portfolio interest exemption, such Foreign Lender may provide a U.S. Tax Compliance Certificate substantially in the form of Exhibit C-4 on behalf of each such direct and indirect partner;

(C)) any Foreign Lender shall, to the extent it is legally entitled to do so, deliver to the Borrower and the Administrative Agent (in such number of copies as shall be requested by the recipient) on or prior to the date on which such Foreign Lender becomes a Lender under this Agreement (and from time to time thereafter upon the reasonable request of the Borrower or the Administrative Agent), executed copies of any other form prescribed by applicable law as a basis for claiming exemption from or a reduction in U.S. federal withholding Tax, duly completed, together with such supplementary documentation as may be prescribed by applicable law to permit the Borrower or the Administrative Agent to determine the withholding or deduction required to be made; and

(D) if a payment made to a Lender under any Loan Document would be subject to U.S. federal withholding Tax imposed by FATCA if such Lender were to fail to comply with the applicable reporting requirements of FATCA (including those contained in Section 1471(b) or 1472(b) of the Code, as applicable), such Lender shall deliver to the Borrower and the Administrative Agent at the time or times prescribed by law and at such time or times reasonably requested by the Borrower or the Administrative

Agent such documentation prescribed by applicable law (including as prescribed by Section 1471(b)(3)(C)(i) of the Code) and such additional documentation reasonably requested by the Borrower or the Administrative Agent as may be necessary for the Borrower and the Administrative Agent to comply with their obligations under FATCA and to determine whether such Lender has complied with such Lender's obligations under FATCA or to determine the amount, if any, to deduct and withhold from such payment. Solely for purposes of this clause (D), "FATCA" shall include any amendments made to FATCA after the date of this Agreement.

Each Lender agrees that if any form or certification it previously delivered expires or becomes obsolete or inaccurate in any respect, it shall update such form or certification or promptly notify the Borrower and the Administrative Agent in writing of its legal inability to do so.

(f) If the Administrative Agent or a Lender determines, in its sole discretion exercised in good faith, that it has received a refund from a Governmental Authority in respect of Indemnified Taxes or Other Taxes as to which it has been indemnified by the Borrower pursuant to this Section 2.14, or with respect to which the Borrower has paid additional amounts pursuant to this Section 2.14, it shall pay over such refund to the Borrower (but only to the extent of indemnity payments made, or additional amounts paid, by the Borrower under this Section with respect to the Indemnified Taxes or Other Taxes giving rise to such refund), net of all out-of-pocket expenses (including Taxes) of the Administrative Agent or such Lender and without interest (other than any interest paid by the relevant Governmental Authority with respect to such refund), provided that the Borrower, upon the request of the Administrative Agent or such Lender, agrees to repay to the Administrative Agent or Lender the amount paid over pursuant to this paragraph (f) (plus any penalties, interest or other charges imposed by the relevant Governmental Authority) in the event that the Administrative Agent or Lender is required to repay such refund to such Governmental Authority. Notwithstanding anything to the contrary in this paragraph (f), in no event will the Administrative Agent or Lender be required to pay any amount to the Borrower pursuant to this paragraph (f) the payment of which would place the Administrative Agent or Lender in a less favorable net after-Tax position than the indemnified party would have been in if the Tax subject to indemnification and giving rise to such refund had not been deducted, withheld or otherwise imposed and the indemnification payments or additional amounts giving rise to such refund had never been paid. This paragraph shall not be construed to require the Administrative Agent or Lender to make available its Tax returns (or any other information relating to its Taxes that it deems confidential) to the Borrower or any other Person.

(g) Each Party's obligations under this Section 2.14 shall survive the resignation or replacement of the Administrative Agent or any assignment of rights by, or the replacement of, a Lender, the termination of the Commitments and the repayment, satisfaction or discharge of all obligations under any Loan Document.

(h) The Administrative Agent shall deliver to the Borrower on or before the date on which it becomes a party to any Loan Document (and from time to time thereafter upon the reasonable request of the Borrower) executed originals of IRS Form W-9.

- (i) For purposes of this Section 2.14 the term “applicable law” includes FATCA.

SECTION 2.15. Payments Generally; Pro Rata Treatment; Sharing of Setoffs.

(a) The Borrower shall make each payment required to be made by it under any Loan Document (whether of principal, interest or fees, or of amounts payable under Section 2.12, 2.13 or 2.14, or otherwise) prior to the time expressly required hereunder or under such other Loan Document for such payment (or, if no such time is expressly required, prior to 12:00 noon, New York City time), on the date when due, in immediately available funds, without setoff or counterclaim. Any amounts received after such time on any date may, in the discretion of the Administrative Agent, be deemed to have been received on the next succeeding Business Day for purposes of calculating interest thereon. All such payments shall be made to the Administrative Agent at its offices at 383 Madison Avenue, New York, New York, except that payments pursuant to Sections 2.12, 2.13, 2.14 and 9.03 shall be made directly to the Persons entitled thereto and payments pursuant to other Loan Documents shall be made to the Persons specified therein. The Administrative Agent shall distribute any such payments received by it for the account of any other Person to the appropriate recipient promptly following receipt thereof. If any payment under any Loan Document shall be due on a day that is not a Business Day, the date for payment shall be extended to the next succeeding Business Day and, in the case of any payment accruing interest, interest thereon shall be payable for the period of such extension. All payments under each Loan Document shall be made in dollars.

(b) If at any time insufficient funds are received by and available to the Administrative Agent to pay fully all amounts of principal, interest and fees then due hereunder, such funds shall be applied (i) first, towards payment of interest and fees then due hereunder, ratably among the parties entitled thereto in accordance with the amounts of interest and fees then due to such parties and (ii) second, towards payment of principal then due hereunder, ratably among the parties entitled thereto in accordance with the amounts of principal then due to such parties.

(c) If any Lender shall, by exercising any right of setoff or counterclaim or otherwise, obtain payment in respect of any principal of or interest on any of its Revolving Loans, Committed Swingline Loans or Uncommitted Swingline Loans resulting in such Lender receiving payment of a greater proportion of the aggregate amount of its Revolving Loans, Committed Swingline Loans or Uncommitted Swingline Loans and accrued interest thereon than the proportion received by any other Lender, then the Lender receiving such greater proportion shall purchase (for cash at face value) participations in the Revolving Loans, Committed Swingline Loans or Uncommitted Swingline Loans of other Lenders to the extent necessary so that the benefit of all such payments shall be shared by the Lenders ratably in accordance with the aggregate amount of principal of and accrued interest on their respective Revolving Loans, Committed Swingline Loans or Uncommitted Swingline Loans, provided that (i) if any such participations are purchased and all or any portion of the payment giving rise thereto is recovered, such participations shall be rescinded and the purchase price restored to the extent of such recovery, without interest, and (ii) the provisions of this paragraph shall not be construed to apply to any payment made by the Borrower pursuant to and in accordance with the express terms of this Agreement or any payment obtained by a Lender as consideration for the assignment of or sale of a participation in any of its Loans to any assignee or participant, other than to the Borrower or any Subsidiary or other Affiliate thereof (as to which the provisions of this paragraph shall apply). The Borrower consents to the foregoing and agrees, to the extent it may effectively do so under applicable law, that any Lender acquiring a participation pursuant to the foregoing arrangements may exercise against the Borrower rights of setoff and counterclaim with respect to such participation as fully as if such Lender were a direct creditor of the Borrower in the amount of such participation.

(d) Unless the Administrative Agent shall have received notice from the Borrower prior to the date on which any payment is due to the Administrative Agent for the account of the Lenders hereunder that the Borrower will not make such payment, the Administrative Agent may assume that the Borrower has made such payment on such date in accordance herewith and may, in reliance upon such assumption and in its sole discretion, distribute to the Lenders the amount due. In such event, if the Borrower has not in fact made such payment, then each of the Lenders severally agrees to repay to the Administrative Agent forthwith on demand the amount so distributed to such Lender with interest thereon, for each day from and including the date such amount is distributed to it to but excluding the date of payment to the Administrative Agent, at the greater of the Federal Funds Effective Rate and a rate determined by the Administrative Agent in accordance with banking industry rules on interbank compensation.

(e) If any Lender shall fail to make any payment required to be made by it pursuant to Section 2.04(a) or (b), 2.15(d), 2.19(c), 2.20(c) or 9.03(c), then the Administrative Agent may, in its discretion (notwithstanding any contrary provision hereof), apply any amounts thereafter received by the Administrative Agent for the account of such Lender to satisfy such Lender's obligations under such Sections until all such unsatisfied obligations are fully paid.

Notwithstanding anything to the contrary contained herein, the provisions of this Section 2.15 shall be subject to the express provisions of this Agreement which require, or permit, differing payments to be made to non-Defaulting Lenders as opposed to Defaulting Lenders.

SECTION 2.16. Mitigation Obligations; Replacement of Lenders.

(a) If any Lender requests compensation under Section 2.12, or if the Borrower is required to pay any Indemnified Taxes or additional amount to any Lender or any Governmental Authority for the account of any Lender pursuant to Section 2.14, then such Lender shall use reasonable efforts to designate a different lending office for funding or booking its Loans hereunder or to assign its rights and obligations hereunder to another of its offices, branches or affiliates, if, in the judgment of such Lender, such designation or assignment (i) would eliminate or reduce amounts payable pursuant to Section 2.12 or 2.14, as the case may be, in the future and (ii) would not subject such Lender to any unreimbursed cost or expense or otherwise be disadvantageous to such Lender. The Borrower hereby agrees to pay all reasonable costs and expenses incurred by any Lender in connection with any such designation or assignment.

(b) If any Lender requests compensation under Section 2.12, or if the Borrower is required to pay any Indemnified Taxes or additional amount to any Lender or any Governmental Authority for the account of any Lender pursuant to Section 2.14, or if any Lender becomes a Defaulting Lender, then the Borrower may, at its sole expense and effort, upon notice to such Lender and the Administrative Agent, require such Lender to assign and delegate, without recourse (in accordance with and subject to the restrictions contained in Section 9.04), all its interests, rights and obligations under this Agreement to an assignee that shall assume such obligations (which assignee may be another Lender, if a Lender accepts such assignment), provided that (i) to the extent an assignment to such Lender would require the consent of the Administrative Agent under Section 9.04, the Borrower shall have received the prior written consent of the Administrative Agent, which consent shall not unreasonably be withheld, (ii) such Lender shall have received payment of an amount equal to the outstanding principal of its Loans accrued interest thereon, accrued fees and all other amounts payable to it hereunder from the assignee (to the extent of such outstanding principal and accrued interest and fees) or the Borrower (in the case of all other amounts), (iii) the Borrower or such assignee shall have paid to the Administrative Agent the processing and recordation fee specified in Section 9.04(b) and (iv) in the case of any such assignment resulting from a claim for compensation under Section 2.12 or payments required to be made pursuant to Section 2.14, such assignment will result in a reduction in such compensation or payments. A Lender shall not be required to make any such assignment and delegation if, prior thereto, as a result of a waiver by such Lender or otherwise (including as a result of any action taken by such Lender under paragraph (a) above), the circumstances entitling the Borrower to require such assignment and delegation cease to apply.

SECTION 2.17. Defaulting Lenders.

Notwithstanding any provision of this Agreement to the contrary, if any Lender becomes a Defaulting Lender hereunder (as determined by the Administrative Agent), then the following provisions shall apply for so long as such Defaulting Lender is a Defaulting Lender:

(a) the Administrative Agent shall promptly notify the Borrower and each Lender that such Lender is a Defaulting Lender for purposes of this Agreement;

(b) fees under Section 2.09(a) shall cease to accrue on the Commitment of such Defaulting Lender;

(c) the Commitments and Revolving Credit Exposure of such Defaulting Lender shall be disregarded for all purposes of any determination of whether the Required Lenders have taken or may

take any action hereunder (including any consent to any amendment or waiver pursuant to Section 9.02); provided, that this clause (c) shall not apply to the vote of a Defaulting Lender in the case of an amendment, waiver or other modification requiring the consent of such Lender or each Lender affected thereby;

(d) for purposes of determining the amount of the total Commitments, the Commitment of each Defaulting Lender shall be excluded therefrom (other than any portion of such Commitment pursuant to which there is then outstanding a Loan from such Defaulting Lender);

(e) if any Committed Swingline Exposure or Uncommitted Swingline Exposure exists at the time such Lender becomes a Defaulting Lender then:

(i) all or any part of the Committed Swingline Exposure and Uncommitted Swingline Exposure of such Defaulting Lender shall be reallocated among the non-Defaulting Lenders in accordance with their respective Commitments but only to the extent that the sum of all non-Defaulting Lenders' Revolving Credit Exposures plus such Defaulting Lender's Committed Swingline Exposure and Uncommitted Swingline Exposure does not exceed the total of all non-Defaulting Lenders' Commitments;

(ii) if the reallocation described in clause (i) above cannot, or can only partially, be effected, the Borrower shall within one (1) Business Day following notice by the Administrative Agent prepay such Committed Swingline Exposure and Uncommitted Swingline Exposure;

(f) so long as such Lender is a Defaulting Lender, no Committed Swingline Lender shall be required to fund any Committed Swingline Loan, unless it is satisfied that the related exposure will be 100% covered by the Commitments of the non-Defaulting Lenders and Committed Swingline Exposure related to any newly made Committed Swingline Loan shall be allocated among non-Defaulting Lenders in a manner consistent with Section 2.20(e)(i) (and such Defaulting Lender shall not participate therein);

(g) in the Administrative Agent's sole discretion:

(i) any prepayment of the principal amount of any Loans shall be applied solely to prepay the Loans of all non-Defaulting Lenders pro rata prior to being applied to the prepayment of any Loans of any Defaulting Lender; and

(ii) any amount payable to such Defaulting Lender pursuant to this Agreement (whether on account of principal, interest, fees or otherwise and including any amount that would otherwise be payable to such Defaulting Lender pursuant to Section 2.12 or Section 2.15) may, in lieu of being distributed to such Defaulting Lender, be retained by the Administrative Agent in a segregated non-interest bearing account and, subject to any applicable requirements of law, be applied at such time or times as may be determined by the Administrative Agent (i) first, pro rata, to the payment of any amounts owing by such Defaulting Lender to the Administrative Agent, (ii) second, pro rata, to the payment of any amounts owing to the Borrowers or the Lenders as a result of any judgment of a court of competent jurisdiction obtained by any Borrower or any Lender against such Defaulting Lender as a result of such Defaulting Lender's breach of its obligations under this Agreement and (iii) third, to such Defaulting Lender or as otherwise directed by a court of competent jurisdiction.

In the event that the Administrative Agent, the Borrower, the Committed Swingline Lenders and the Uncommitted Swingline Lenders, if any, each agree that a Defaulting Lender has adequately

remedied all matters that caused such Lender to be a Defaulting Lender, then the Committed Swingline Exposure and the Uncommitted Swingline Exposure of the Lenders shall be readjusted to reflect the inclusion of such Lender's Commitment and on such date such Lender shall purchase at par such of the Loans of the other Lenders (other than Committed Swingline Loans and Uncommitted Swingline Loans) as the Administrative Agent shall determine may be necessary in order for such Lender to hold such Loans in accordance with its Applicable Percentage.

SECTION 2.18. Incremental Commitments.

(a) The Borrower may, by written notice to the Administrative Agent from time to time, request an increase in the aggregate amount of the Commitments (each such increase, an “Incremental Commitment”), as applicable, in an aggregate amount not to exceed \$200,000,000, from one or more Incremental Lenders, all of which must be permitted to become assignees of Commitments or Loans under Section 9.04. Such notice shall set forth (i) the amount of the Incremental Commitments being requested (which shall be in minimum increments of \$5,000,000 (or such lesser amount as the Administrative Agent may agree) and a minimum amount of \$10,000,000 (or such lesser amount as the Administrative Agent may agree) or such lesser amount equal to the remaining unused amount) and (ii) the date on which such Incremental Commitments are requested to become effective.

(b) The Borrower may seek Incremental Commitments from existing Lenders (each of which shall be entitled to agree or decline to participate in its sole discretion) and, subject to the prior written consent of the Administrative Agent (such consent not to be unreasonably delayed or withheld), additional banks, financial institutions and other institutional lenders who will become Incremental Lenders in connection therewith, in each case, solely to the extent such consent, if any, would be required under Section 9.04 for an assignment of Loans or Commitments, as applicable, to additional banks, financial institutions and other institutional lenders. The Borrower and each Incremental Lender shall execute and deliver to the Administrative Agent an Incremental Assumption Agreement and such other documentation as the Administrative Agent shall reasonably specify to evidence the Incremental Commitment of such Person. The terms and provisions of the Incremental Commitments shall be identical to those of the Commitments. The Incremental Commitments shall rank *pari passu* in right of payment and security with the Commitments. The Administrative Agent shall promptly notify each Lender as to the effectiveness of each Incremental Assumption Agreement. Each of the parties hereto hereby agrees that, upon the effectiveness of any Incremental Assumption Agreement, this Agreement shall be deemed amended to the extent (but only to the extent) necessary to reflect the existence and terms of the Incremental Commitments evidenced thereby, and the Administrative Agent and the Borrower may revise this Agreement to evidence such amendments.

(c) Notwithstanding the foregoing, no Incremental Commitment shall become effective under this Section 2.18 unless (i) on the date of such effectiveness, the conditions set forth in paragraphs (a) and (b) of Section 4.02 shall be satisfied, a certificate to that effect dated such date and executed by a Financial Officer of the Borrower, (ii) except as otherwise specified in the applicable Incremental Assumption Agreement, the Administrative Agent shall have received legal opinions, board resolutions and other closing certificates reasonably requested by the Administrative Agent and consistent with those delivered on the Closing Date under Section 4.01 and (iii) all fees and expenses owing in respect of such Incremental Commitment to the Administrative Agent and the Lenders shall have been paid in full.

(d) On the date of effectiveness of any Incremental Commitments, the Borrower shall

(A) prepay the outstanding Loans (if any) in full, (B) simultaneously borrow new Loans hereunder in an amount equal to such prepayment (in the case of Eurodollar Borrowings, with Adjusted LIBO Rates equal to the outstanding Adjusted LIBO Rate and with Interest Period(s) ending on the date(s) of any then outstanding Interest Period(s)); provided that with respect to subclauses (A) and (B), (x) the prepayment to, and borrowing from, any existing Lender shall be effected by book entry to the extent that any portion of the amount prepaid to such Lender will be subsequently borrowed from such Lender and (y) the existing Lenders, the Incremental Lenders and the existing Lenders shall make and receive payments among themselves, in a manner acceptable to the Administrative Agent, so that, after giving effect thereto, the Loans are held ratably by the Lenders in accordance with the respective Commitments of

such Lenders (after giving effect to such Incremental Commitments) and (C) pay to the Lenders the amounts, if any, payable under Section 2.13 as a result of any such prepayment.

SECTION 2.19. Committed Swingline Loans.

(a) Subject to the terms and conditions set forth herein, the Committed Swingline Lenders severally agree to make Committed Swingline Loans to the Borrower from time to time during the Availability Period, in an aggregate principal amount at any time outstanding that will not result in (i) the aggregate principal amount of outstanding Committed Swingline Loans exceeding the aggregate amount of the Committed Swingline Lenders' total Commitments (in their respective capacities as Lenders), (ii) the Applicable Revolving Credit Exposure of any Committed Swingline Lender (in its capacity as Lender) exceeding such Lender's Commitment or (iii) the sum of the total Revolving Credit Exposures exceeding the total Commitments; provided that the Committed Swingline Lenders shall not be required to make a Committed Swingline Loan to refinance an outstanding Committed Swingline Loan. Within the foregoing limits and subject to the terms and conditions set forth herein, the Borrower may borrow, prepay and reborrow Committed Swingline Loans.

(b) To request Committed Swingline Loans, the Borrower shall notify the Administrative Agent of such request by telephone (confirmed by electronic communication in PDF format or facsimile), not earlier than 8:30 a.m., New York City time, and not later than 4:00 p.m., New York City time, on the day of the proposed Committed Swingline Loans. Each such notice shall be irrevocable and shall specify the requested date (which shall be a Business Day) and amount of the requested Committed Swingline Loans. The Administrative Agent will promptly advise each Committed Swingline Lender of any such notice received from the Borrower. Each Committed Swingline Lender shall fund its ratable portion of the requested Committed Swingline Loans (such ratable portion to be calculated based upon the amounts of the Committed Swingline Lenders' respective Commitments) by wire transfer of immediately available funds to the account of the Administrative Agent most recently designated by it for such purpose by notice to the Committed Swingline Lenders by 5:00 p.m., New York City time, on the requested date of such Committed Swingline Loan; provided that if the Borrower notifies the Administrative Agent of such request between 9:00 a.m., New York City time, and 4:00 p.m., New York City time, on any applicable Business Day, each Committed Swingline Lender will use commercially reasonable efforts to fund its ratable portion of the requested Committed Swingline Loan in the manner described above within one hour of such notice. The Administrative Agent will make such Committed Swingline Loans available to the Borrower by promptly crediting the amounts so received, in like funds, to an account of the Borrower designated by the Borrower in the applicable Borrower's request.

(c) Each Committed Swingline Lender may by written notice given to the Administrative Agent not later than 2 p.m., New York City time, on any Business Day require the Lenders to acquire participations on such Business Day in all or a portion of the Committed Swingline Loans outstanding. Such notice shall specify the aggregate amount of Committed Swingline Loans in which Lenders will participate. Promptly upon receipt of such notice, the Administrative Agent will give notice thereof to each Lender, specifying in such notice such Lender's Applicable Percentage of such Committed Swingline Loan or Loans. Each Lender hereby absolutely and unconditionally agrees, upon receipt of notice as provided above, to pay to the Administrative Agent, for the account of the Committed Swingline Lenders, such Lender's Applicable Percentage of such Committed Swingline Loans. Each Lender acknowledges and agrees that its obligation to acquire participations in Committed Swingline Loans pursuant to this paragraph is absolute and unconditional and shall not be affected by any circumstance whatsoever, including the occurrence and continuance of a Default or reduction or termination of the Commitments, and that each such payment shall be made without any offset, abatement, withholding or reduction whatsoever. Each Lender shall comply with its obligation under this paragraph by wire transfer of immediately available funds, in the same manner as provided in Section 2.04 with respect to Loans

made by such Lender (and Section 2.04 shall apply, mutatis mutandis, to the payment obligations of the Lenders), and the Administrative Agent shall promptly pay to the Committed Swingline Lenders, ratably as among them, the amounts so received by it from the Lenders. Any amounts received by the Administrative Agent from the Borrower (or other party on behalf of the Borrower) in respect of Committed Swingline Loans after receipt by the Committed Swingline Lenders of the proceeds of a sale of participations therein shall be promptly remitted by the Administrative Agent to the Lenders that shall have made their payments pursuant to this paragraph and to the Committed Swingline Lenders, as their interests may appear; provided that any such payment so remitted shall be repaid to the Committed Swingline Lenders or to the Administrative Agent, as applicable, if and to the extent such payment is required to be refunded to the Borrower for any reason. The purchase of participations in a Committed Swingline Loan pursuant to this paragraph shall not relieve the Borrower of any default in the payment thereof.

(d) The Borrower may, at its option, elect to repay any such Committed Swingline Loans on the date of borrowing thereof upon notice to the Administrative Agent at the time of borrowing, either with cash on hand or with proceeds of Revolving Borrowings made on the same day (any such Committed Swingline Loans, the “Intraday Committed Swingline Loans”).

SECTION 2.20. Uncommitted Swingline Loans.

(a) Subject to the terms and conditions set forth herein, Lenders are permitted, but are under no obligation, to make Uncommitted Swingline Loans to the Borrower from time to time during the Availability Period, in an aggregate principal amount at any time outstanding that will not result in the sum of the total Revolving Credit Exposures exceeding the total Commitments. Within the foregoing limits and subject to the terms and conditions set forth herein, the Borrower may borrow, prepay and reborrow Uncommitted Swingline Loans.

(b) To request Uncommitted Swingline Loans from any Lender, the Borrower shall notify the Administrative Agent and the applicable Lender of such request by telephone (confirmed by electronic communication in PDF format or facsimile), not later than 4:00 p.m., New York City time (or such later time as is agreed upon by the Administrative Agent and the Uncommitted Swingline Lender) on the day of the proposed Uncommitted Swingline Loans. Each such notice shall be irrevocable and shall specify the requested date (which shall be a Business Day) and amount of the requested Uncommitted Swingline Loans. Such Lender shall fund the requested Uncommitted Swingline Loan by wire transfer of immediately available funds to the account of the Borrower designated by the Borrower in the applicable Borrower’s request by 5:00 p.m., New York City time, on the requested date of such Uncommitted Swingline Loan. Such Lender will promptly notify the Administrative Agent, which will thereafter promptly advise each Lender thereof.

(c) Each Uncommitted Swingline Lender may by written notice given to the Administrative Agent not later than 2:00 p.m., New York City time, on any Business Day require the Lenders to acquire participations on such Business Day in all or a portion of the Uncommitted Swingline Loans outstanding. Such notice shall specify the aggregate amount of Uncommitted Swingline Loans in which Lenders will participate. Promptly upon receipt of such notice, the Administrative Agent will give notice thereof to each Lender, specifying in such notice such Lender’s Applicable Percentage of such Uncommitted Swingline Loan or Loans. Each Lender hereby absolutely and unconditionally agrees, upon receipt of notice as provided above, to pay to the Administrative Agent, for the account of the applicable Uncommitted Swingline Lender, such Lender’s Applicable Percentage of such Uncommitted Swingline Loans. Each Lender acknowledges and agrees that its obligation to acquire participations in Uncommitted Swingline Loans pursuant to this paragraph is absolute and unconditional and shall not be

affected by any circumstance whatsoever, including the occurrence and continuance of a Default or reduction or termination of the Commitments, and that each such payment shall be made without any offset, abatement, withholding or reduction whatsoever. Each Lender shall comply with its obligation under this paragraph by wire transfer of immediately available funds, in the same manner as provided in Section 2.04 with respect to Loans made by such Lender (and Section 2.04 shall apply, mutatis mutandis, to the payment obligations of the Lenders), and the Administrative Agent shall promptly pay to the applicable Uncommitted Swingline Lender the amounts so received by it from the Lenders. Any amounts received by an Uncommitted Swingline Lender from the Borrower (or other party on behalf of the Borrower) in respect of Uncommitted Swingline Loans after receipt by such Uncommitted Swingline Lender of the proceeds of a sale of participations therein shall be promptly remitted by such Uncommitted Swingline Lender to the Administrative Agent for the account of the Lenders that shall have made their payments pursuant to this paragraph; provided that any such payment so remitted shall be repaid to the applicable Uncommitted Swingline Lenders if and to the extent such payment is required to be refunded to the Borrower for any reason. The purchase of participations in an Uncommitted Swingline Loan pursuant to this paragraph shall not relieve the Borrower of any default in the payment thereof.

(d) Any Uncommitted Swingline Loans will reduce the amount of the Revolving Borrowings available during such time such Uncommitted Swingline Loans are outstanding on a dollar-for-dollar basis. For the avoidance of doubt, the Commitments of the applicable Uncommitted Swingline Lenders will not be reduced as a result thereof.

(e) The Borrower may, at its option, elect to repay any such Uncommitted Swingline Loans on the date of borrowing thereof upon notice to the Administrative Agent and the applicable Uncommitted Swingline Lender at the time of borrowing, either with cash on hand or with proceeds of Revolving Borrowings made on the same day (any such Uncommitted Swingline Loans, the "Intraday Uncommitted Swingline Loans").

ARTICLE III

Representations and Warranties

The Borrower represents and warrants to the Administrative Agent and the Lenders that: SECTION 3.01. Organization:

Powers. Each of the Borrower and its Subsidiaries is duly

organized, validly existing and in good standing under the laws of the jurisdiction of its organization, has all requisite power and authority to carry on its business as now conducted and, except where the failure to do so, individually or in the aggregate, could not reasonably be expected to result in a Material Adverse Effect, is qualified to do business in, and is in good standing in, every jurisdiction where such qualification is required. The Borrower has all requisite power and authority to execute, deliver and perform its obligations under each Loan Document and to effect the Transactions.

SECTION 3.02. Authorization; Enforceability. The Transactions have been duly authorized by all necessary corporate or other action. This Agreement has been duly executed and delivered by the Borrower and constitutes, and each other Loan Document, when executed and delivered by the Borrower, will constitute, a legal, valid and binding obligation of the Borrower, enforceable in accordance with its terms, subject to applicable bankruptcy, insolvency, reorganization, moratorium or other laws affecting creditors' rights generally and subject to general principles of equity, regardless of whether considered in a proceeding in equity or at law.

SECTION 3.03. Governmental Approvals; No Conflicts. The Transactions (a) do not require any consent or approval of, registration or filing with, or any other action by, any Governmental Authority, except (i) such as have been obtained or made and are in full force and effect and (ii) filings with the SEC in connection with the Transactions that will be made when required, (b) will not violate the Organizational Documents of the Borrower or any Subsidiary, (c) will not violate any Requirement of Law applicable to the Borrower or any Subsidiary, (d) will not violate or result in a default under any indenture, agreement or other instrument binding upon the Borrower or any Subsidiary or their respective assets, or give rise to a right thereunder to require any payment to be made by the Borrower or any Subsidiary or give rise to a right of, or result in, termination, cancellation or acceleration of any obligation thereunder, and (e) will not result in the creation or imposition of any Lien on any asset of the Borrower or any Subsidiary, except Liens created under the Loan Documents, except in the case of clauses (c) and (d) above where such violations, individually or in the aggregate, could not reasonably be expected to result in a Material Adverse Effect.

SECTION 3.04. Financial Condition; No Material Adverse Change.

(a) The Borrower has heretofore furnished to the Lenders its (i) consolidated balance sheet and consolidated statements of income, stockholders' equity and cash flows as of and for the fiscal years ended December 31, 2014 and 2015, reported on by Deloitte & Touche LLP, independent public accountants, (ii) FOCUS-II Reports for the fiscal quarter ended March 31, 2016, and (iii) a FOCUS-II Report for the period beginning April 1, 2016 and ended April 30, 2016. Such financial statements present fairly, in all material respects, the financial position and results of operations and cash flows of the Borrower and its Subsidiaries as of such dates and for such periods in accordance with GAAP consistently applied, subject to year-end audit adjustments and the absence of footnotes in the case of the statements referred to in clause (ii) above.

(b) Except as disclosed in the financial statements referred to above or the notes thereto or in the Information Memorandum and except for the Disclosed Matters, after giving effect to the

Transactions, none of the Borrower or the Subsidiaries has, as of the Effective Date, any material direct or contingent liabilities, long-term commitments or unrealized losses.

(c) No event, change or condition has occurred and is continuing that has had, or could reasonably be expected to have, a material adverse effect on the business, operations or financial condition of the Borrower and its Subsidiaries, taken as a whole, since December 31, 2015.

SECTION 3.05. Properties.

(a) Each of the Borrower and its Subsidiaries has good title to, or valid leasehold interests in, all its real and personal property material to its business, except for minor defects in title that do not interfere with its ability to conduct its business as currently conducted or to utilize such properties for their intended purposes or as could not, individually or in the aggregate, reasonably be expected to result in a Material Adverse Effect.

(b) Each of the Borrower and its Subsidiaries owns, or is licensed to use, all trademarks, tradenames, service marks, trade dress, domain names, copyrights, software, data, patents and other intellectual property material to its business, and the operation of their respective businesses by the Borrower and its Subsidiaries does not infringe upon or violate the rights of any other Person, except for any such infringements or violations that, individually or in the aggregate, could not reasonably be expected to result in a Material Adverse Effect.

SECTION 3.06. Litigation and Environmental Matters.

(a) There are no actions, suits or proceedings by or before any arbitrator or Governmental Authority pending against or, to the knowledge of the Borrower or any Subsidiary, threatened against or affecting the Borrower or any Subsidiary (i) that could reasonably be expected, individually or in the aggregate, to result in a Material Adverse Effect (other than the Disclosed Matters) or (ii) that involve any of the Loan Documents or the Transactions.

(b) Except for the Disclosed Matters and except with respect to any other matters that, individually or in the aggregate, could not reasonably be expected to result in a Material Adverse Effect, neither the Borrower nor any Subsidiary (i) has failed to comply with any Environmental Law or to obtain, maintain or comply with any permit, license or other approval required under any Environmental Law, (ii) has become subject to any Environmental Liability, (iii) has received notice of any claim with respect to any Environmental Liability or (iv) knows of any basis for any Environmental Liability.

SECTION 3.07. Compliance with Laws and Agreements. Each of the Borrower and its Subsidiaries is in compliance with (a) all Requirements of Law applicable to it or its property and (b) all indentures, agreements and other instruments binding upon it or its property, except, in each case, where the failure to do so, individually or in the aggregate, could not reasonably be expected to result in a Material Adverse Effect.

SECTION 3.08. Investment and Holding Company Status. The Borrower is not registered, and is not required to register, as an “investment company” as such term is defined in the Investment Company Act of 1940.

SECTION 3.09. Taxes. Each of the Borrower and its Subsidiaries (a) has timely filed or caused to be filed all Tax returns and reports required to have been filed and (b) has paid or caused to be paid all Taxes required to have been paid by it, except in each case (i) any Taxes that are being contested in good faith by appropriate proceedings and for which the Borrower or such Subsidiary, as the case may be, has set aside on its books adequate reserves therefor or (ii) to the extent that the failure to make such filings or to pay such Taxes would not reasonably be expected to result in a Material Adverse Effect. No tax deficiency, assessment or claim has been determined with respect to the Borrower or any of the Subsidiaries which has had (nor does the Borrower have any knowledge of any tax deficiency, assessment or claim which, if determined adversely to the Borrower or any of the Subsidiaries, would have) a Material Adverse Effect.

SECTION 3.10. ERISA. No ERISA Event has occurred and is continuing or is reasonably expected to occur that, when taken together with all other such ERISA Events for which liability is reasonably expected to occur, could reasonably be expected to result in a Material Adverse Effect. The present value of all accumulated benefit obligations under all underfunded Plans (determined for each Plan based on the assumptions used for purposes of Accounting Standards Codification Topic 715) did not, as of the date of the most recent financial statements reflecting such amounts, exceed the fair market value of the assets of all such underfunded Plans by an amount that, if required to be paid by the Borrower and its Subsidiaries, could reasonably be expected to have a Material Adverse Effect. The minimum funding standards of ERISA and the Code with respect to each Plan have been satisfied except to the extent the failure to satisfy such standards could not reasonably be expected to result in a Material Adverse Effect.

SECTION 3.11. Disclosure. Neither the Information Memorandum nor any of the other reports, financial statements, certificates or other information furnished by or on behalf of the Borrower

to the Administrative Agent or any Lender on or prior to the Effective Date in connection with the negotiation of any Loan Document or delivered thereunder (as modified or supplemented by other information so furnished) contains any material misstatement of fact or omits to state any material fact necessary to make the statements therein, in the light of the circumstances under which they were made, not misleading, provided that, with respect to projected financial information, the Borrower represents only that such information was prepared in good faith based upon assumptions believed by it to be reasonable at the time delivered and, if such projected financial information was delivered prior to the Effective Date, as of the Effective Date.

SECTION 3.12. Subsidiaries. Schedule 3.12 sets forth the name of, and the ownership interest of the Borrower and each Subsidiary in, each Subsidiary as of the Effective Date.

SECTION 3.13. Insurance. The Borrower believes that the insurance maintained by or on behalf of the Borrower and the Subsidiaries is in such amounts (with no greater risk retention) and against such risks as is (a) customarily maintained by companies of established repute engaged in the same or similar businesses operating in the same or similar locations and (b) adequate.

SECTION 3.14. [Reserved].

SECTION 3.15. Broker Dealer Regulated Subsidiaries.

(a) The Borrower and each Broker Dealer Regulated Subsidiary which is required to be registered as a broker or dealer with the SEC under the Exchange Act is duly so registered, is a member of FINRA or another self-regulatory organization of which it is required to be a member, and is duly registered and licensed under any applicable state laws, is in compliance in all material respects with the applicable provisions of the Exchange Act, and is in compliance in all material respects with all applicable rules of FINRA or such self-regulatory organization except as would not reasonably be expected to have a Material Adverse Effect. All natural persons associated with the Borrower or any Broker Dealer Regulated Subsidiary required to be registered or licensed with FINRA or with any other self-regulatory organization or other governmental entity are duly registered or licensed except where any failure to be so registered or licensed individually, or in the aggregate, would not reasonably be expected to have a Material Adverse Effect. No proceeding is pending or threatened in writing with respect to the suspension, revocation, or termination of any such registrations and the termination or withdrawal of any such registrations is not contemplated by the Borrower or any Subsidiary except as would not reasonably be expected to have a Material Adverse Effect.

(b) To the knowledge of the Borrower and each Subsidiary, neither the Borrower or any Broker Dealer Regulated Subsidiary or its "associated persons" (as defined in the Exchange Act) is currently ineligible or disqualified pursuant to Section 15, Section 15B or Section 15C of the Exchange Act to serve as a broker or dealer or "associated person" of a broker or dealer except as would not reasonably be expected to have a Material Adverse Effect.

(c) The information contained in the currently effective Form BD of the Borrower and each Broker Dealer Regulated Subsidiary and any amendments thereto filed with the SEC and FINRA by the Borrower and each Broker Dealer Regulated Subsidiary, was, at the time of filing, complete and accurate in all material respects.

(d) Neither the Borrower or any Broker Dealer Regulated Subsidiary has received a notice from the SEC, FINRA, or any other government authority, self-regulatory organization or securities exchange of any alleged rule violation or other circumstance which could reasonably be expected to have a Material Adverse Effect.

(e) No governmental authorization, and no notice to or filing with, any governmental authority or any other third party is required for the exercise by any Lender of its rights under the Loan Documents, except as would not otherwise be expected to have a Material Adverse Effect.

SECTION 3.16. [Reserved].

SECTION 3.17. No Default. No Default has occurred and is continuing or would result from the consummation of the transactions contemplated by this Agreement or any other Loan Document.

SECTION 3.18. Anti-Corruption Laws and Sanctions. The Borrower has implemented and maintains in effect policies and procedures reasonably designed to promote compliance by the Borrower, its Subsidiaries and their respective directors, officers, employees and agents with Anti-Corruption Laws and applicable Sanctions, and the Borrower, its Subsidiaries and, to the knowledge of the Borrower, their respective officers, employees, directors and agents, are in compliance with Anti-Corruption Laws and applicable Sanctions in all material respects. None of the Borrower, any Subsidiary, any of their respective directors or officers or, to the knowledge of the Borrower, any of their respective employees or any agent of the Borrower or any Subsidiary that will act in any capacity in connection with or benefit from the credit facility established hereby, is a Sanctioned Person.

SECTION 3.19. Use of Proceeds. The proceeds of the Loans will be used for (i) funding needs resulting from Exchange Act Rule 15c3-3 timing differences, (ii) funding National Securities Clearing Corporation and other clearing agency margin deposits and (iii) other short-term operational needs. No part of the proceeds of any Loan will be used, whether directly or indirectly, for any purpose that entails a violation of any of the Regulations of the Board, including Regulations T, U and X.

SECTION 3.20. EEA Financial Institutions. The Borrower is not an EEA Financial Institution.

ARTICLE IV

Conditions

SECTION 4.01. Effective Date. The obligations of the Lenders to make Loans hereunder shall not become effective until the date on which each of the following conditions is satisfied (or waived in accordance with Section 9.02):

(a) The Administrative Agent (or its counsel) shall have received from each party hereto either (i) a counterpart of this Agreement signed on behalf of such party or (ii) written evidence satisfactory to the Administrative Agent (which may include facsimile transmission of a signed signature page of this Agreement) that such party has signed a counterpart of this Agreement.

(b) The Administrative Agent shall have received a favorable written opinion (addressed to the Administrative Agent and the Lenders and dated the Effective Date) of Davis Polk & Wardwell LLP, counsel for the Borrower, and of the Deputy General Counsel of the Parent, in each case in form and substance reasonably satisfactory to the Administrative Agent and its counsel. The Borrower hereby requests such counsel to deliver such opinion.

(c) The Administrative Agent shall have received such documents and certificates as the Administrative Agent or its counsel may reasonably request relating to the organization, existence and good standing of the Borrower, the authorization of the Transactions and any other legal matters relating to the Borrower, the Loan Documents or the Transactions, all in form and substance satisfactory to the Administrative Agent and its counsel.

(d) The Administrative Agent shall have received a certificate, dated the Effective Date and signed by a Financial Officer or the President or a Vice President of the Borrower, confirming compliance with the conditions set forth in Sections 4.02(a) and (b).

(e) The Lenders, the Administrative Agent and its Affiliates shall have received all fees and other amounts due and payable on or prior to the Effective Date, including under the Fee Letter and including, to the extent invoiced at least two Business Days prior to the Effective Date, reimbursement or payment of all out-of-pocket expenses of the Administrative Agent and its Affiliates (including fees, charges and disbursements of counsel to the extent required under the Fee Letter or Section 9.03(a)) required to be reimbursed or paid by the Borrower under any Loan Document.

(f) [Reserved].

(g) [Reserved].

(h) To the extent requested at least five business days prior to the Effective Date, the Lenders shall have received at least three business days prior to the Effective Date all documentation and other information required by regulatory authorities under applicable “know your customer” and anti-money laundering rules and regulations, including without limitation the PATRIOT Act. (Title III of Pub. L. 107-56 (signed into law October 26, 2001)) (the “USA PATRIOT Act”)

(i) The Lenders shall have received the financial statements, calculations and reports set forth in Section 3.04(a).

(j) Since December 31, 2015, there shall not have occurred any event, change or condition that has had, or could reasonably be expected to have, a material adverse effect on the business, operations or financial condition of the Borrower and its Subsidiaries, taken as a whole.

The Administrative Agent shall notify the Borrower and the Lenders of the Effective Date, and such notice shall be conclusive and binding.

SECTION 4.02. Each Credit Event. The obligation of each Lender to make a Loan on the occasion of any Borrowing (including, for the avoidance of doubt, on the Effective Date) is subject to receipt of the request therefor in accordance herewith and to the satisfaction of the following conditions:

(a) The representations and warranties of the Borrower set forth in the Loan Documents that are qualified by materiality shall be true and correct, and the representations and warranties that are not so qualified shall be true and correct in all material respects, in each case on and as of the date of such Borrowing (other than, with respect to any Borrowing after the Effective Date, the representations and warranties contained in Section 3.04(c) and Section 3.06(a) (in each case except for such representations and warranties that expressly relate to an earlier date, in which case such representations and warranties that are qualified by materiality shall have been true and correct (and such representations and warranties that are not so qualified shall have been true and correct in all material respects) as of such earlier date).

(b) At the time of and immediately after giving effect to such Borrowing no Default or Event of Default shall have occurred and be continuing.

(c) Receipt of a Borrowing Request by the Administrative Agent.

Each Borrowing (provided that a conversion or a continuation of a Borrowing shall not constitute a “Borrowing” for purposes of this Section) shall be deemed to constitute a representation and warranty by the Borrower on the date thereof as to the matters specified in paragraphs (a) and (b) of this Section.

ARTICLE V

Affirmative Covenants

Until the Commitments have expired or been terminated and the principal of and interest on each Loan and all fees, expenses and other amounts (other than contingent amounts not yet due) payable under any Loan Document shall have been paid in full, the Borrower covenants and agrees with the Administrative Agent and the Lenders that:

SECTION 5.01. Financial Statements and Other Information. The Borrower will furnish to the Administrative Agent on behalf of each Lender:

(a) within 75 days after the end of each fiscal year of the Borrower, its audited consolidated balance sheet and audited consolidated statements of operations and comprehensive income, stockholders' equity and cash flows as of the end of and for such year, and related notes thereto, setting forth in each case in comparative form the figures for the previous fiscal year, all reported on by Deloitte & Touche LLP or other independent public accountants of recognized national standing (without a "going concern" or like qualification or exception and without any qualification or exception as to the scope of such audit) to the effect that such consolidated financial statements present fairly in all material respects the financial condition and results of operations of the Borrower and its Subsidiaries on a consolidated basis in accordance with GAAP consistently applied;

(b) within 45 days after the end of each fiscal quarter of the Borrower, a copy of the Borrower's FOCUS-II Report, which report shall be true and complete in all material respects, and duly certified by a Financial Officer;

(c) concurrently with any delivery of financial statements under paragraph (a) or (b) above (other than with respect to any FOCUS-II Report delivered at the end of the fourth fiscal quarter of the Borrower pursuant to paragraph (b) above), a certificate of a Financial Officer (A) certifying as to whether a Default has occurred and, if a Default has occurred, specifying the details thereof and any action taken or proposed to be taken with respect thereto and (B) setting forth reasonably detailed calculations demonstrating compliance with the Financial Covenants substantially in the form of Exhibit B;

(d) (i) a written notice to the Administrative Agent if, as a result of any change in GAAP or in the application thereof from those in effect on the Effective Date, the financial statements delivered pursuant to paragraph (a) above will differ in any material respect from the financial statements that would have been delivered pursuant to such clauses had no such change in GAAP or the application thereof been made, and (ii) if reasonably requested by the Administrative Agent after consultation with the Borrower, together with the first delivery of financial statements pursuant to paragraph (a) above following such change, a schedule prepared by a Financial Officer on behalf of the Borrower reconciling such changes to what the financial statements would have been without giving effect to such change;

(e) [Reserved];

(f) [Reserved];

(g) concurrently with any delivery of financial statements under paragraph (a) or (b) above, (i) to the extent permitted to be disclosed by the applicable Regulatory Supervising

Organization or any Governmental Authority, audit reports relating to such financial statements that have been prepared by the Borrower or any Subsidiary pursuant to any rules or requirements of any Regulatory Supervising Organization or any governmental authority, including without limitation FINRA and comparable organizations in foreign jurisdictions, to the extent any such report described in this paragraph discloses any violation of applicable rules or regulations which would reasonably be expected to have a Material Adverse Effect;

(h) promptly after the same become publicly available, copies of all periodic and other reports and other materials filed by the Borrower or any Subsidiary with the SEC, any national securities exchange or any other United States Governmental Authority that regulates the Borrower or a Broker Dealer Regulated Subsidiary, as the case may be; and

(i) promptly following any request therefor, such other information regarding the operations, business affairs and financial condition of the Borrower or any Subsidiary, or compliance with the terms of any Loan Document, as the Administrative Agent or any Lender may reasonably request.

SECTION 5.02. Notices of Material Events. The Borrower will furnish to the Administrative Agent (for distribution to each Lender through the Administrative Agent) prompt written notice of the following:

- (a) the occurrence of any Default;
- (b) the occurrence of any ERISA Event or any fact or circumstance that gives rise to a reasonable expectation that any ERISA Event will occur that, in either case, alone or together with any other ERISA Events that have occurred or are reasonably expected to occur, could reasonably be expected to result in a Material Adverse Effect; and
- (c) any other development (including notice of any claim or condition arising under or relating to any Environmental Law) that results in, or could reasonably be expected to result in, a Material Adverse Effect.

Each notice delivered under Section 5.02(a) shall be accompanied by a written statement of a Financial Officer or other executive officer of the Borrower setting forth the details of the event or development requiring such notice and any action taken or proposed to be taken with respect thereto. Notwithstanding any other provision of this Section 5.02, the Borrower shall not be required to provide notice of any of the foregoing where the information provided would include confidential supervisory information or would otherwise contravene any applicable Requirement of Law or regulatory guidance.

SECTION 5.03. [Reserved].

SECTION 5.04. Existence; Conduct of Business. The Borrower will, and will cause each Subsidiary to, do or cause to be done all things necessary to preserve, renew and keep in full force and effect its legal existence and the rights, licenses, permits, privileges, franchises, patents, copyrights, trademarks and trade names material to the conduct of its business, except as could not, individually or in the aggregate, reasonably be expected to result in a Material Adverse Effect; provided that the foregoing shall not prohibit any merger, consolidation, liquidation or dissolution permitted under Section 6.03.

SECTION 5.05. Payment of Taxes. The Borrower will, and will cause each Subsidiary to, pay its material Tax liabilities, before the same shall become delinquent or in default, except where (a) (i) the validity or amount thereof is being contested in good faith by appropriate proceedings, (ii) the Borrower or such Subsidiary has set aside on its books adequate reserves with respect thereto in accordance with GAAP and (iii) such contest effectively suspends collection of the contested obligation and the enforcement of any Lien securing such obligation or (b) the failure to make payment could not reasonably be expected to result in a Material Adverse Effect.

SECTION 5.06. Maintenance of Properties. The Borrower will, and will cause each Subsidiary to, keep and maintain all property material to the conduct of its business in good working order and condition, ordinary wear and tear excepted.

SECTION 5.07. Insurance. The Borrower will, and will cause each Subsidiary to, maintain, with financially sound and reputable insurance companies, (a) insurance in such amounts (with no greater risk retention) and against such risks as is customarily maintained by companies of established repute engaged in the same or similar businesses operating in the same or similar locations and (b) all insurance as may be required by law or any other Loan Document.

SECTION 5.08. Books and Records; Inspection and Audit Rights. The Borrower will, and will cause each Subsidiary to, keep proper books of record and account in which full, true and correct entries are made of all dealings and transactions in relation to its business and activities. To the extent permitted under any applicable Requirement of Law or regulatory guidance, the Borrower will, and will cause each Subsidiary to, permit any representatives designated by the Administrative Agent or any Lender, upon reasonable prior notice, to visit and inspect its properties, to examine and make extracts from its books and records, and to discuss its affairs, finances and condition with its officers and independent accountants (provided that a representative of the Borrower is given the opportunity to be present), all at such reasonable times and as often as reasonably requested (provided that unless an Event of Default shall have occurred and be continuing, such visits shall be limited to once per year and coordinated through the Administrative Agent).

SECTION 5.09. Compliance with Laws. The Borrower will, and will cause each Subsidiary to, comply with all Requirements of Law with respect to it or its property, except where the failure to do so, individually or in the aggregate, could not reasonably be expected to result in a Material Adverse Effect. The Borrower will maintain in effect and enforce, and cause each of its Subsidiaries to maintain in effect and enforce, policies and procedures designed to ensure compliance by the Borrower, its Subsidiaries and their respective directors, officers, employees and agents with any applicable Anti-Corruption/Anti-Money Laundering Laws and applicable Sanctions.

SECTION 5.10. Use of Proceeds. The proceeds of the Loans will be used for (i) funding needs resulting from Exchange Act Rule 15c3-3 timing differences, (ii) funding National Securities Clearing Corporation and other clearing agency margin deposits and (iii) other short-term operational needs. No part of the proceeds of any Loan will be used, whether directly or indirectly, for any purpose that entails a violation of any of the Regulations of the Board, including Regulations T, U and X. The Borrower will not request any Borrowing, and the Borrower shall not use the proceeds of any Borrowing (A) in furtherance of an offer, payment, promise to pay, or authorization of the payment or giving of money, or anything else of value, to any Person in violation of any Anti-Corruption Laws, (B) for the purpose of funding, financing or facilitating any activities, business or transaction of or with any Sanctioned Person, or in any Sanctioned Country, except to the extent licensed by OFAC or otherwise authorized under U.S. law or (C) in any manner that would result in the violation of any Sanctions applicable to any party hereto.

SECTION 5.11. [Reserved].

SECTION 5.12. Registration Status. The Borrower and its Subsidiaries shall maintain the Borrower's and each Broker Dealer Regulated Subsidiary's (i) registration as registered "broker-dealers" under the Exchange Act and under the laws of each state in which such registration is required in connection and where a failure to obtain such registration would be likely to have a Material Adverse Effect, and (ii) to maintain its membership with FINRA, except where the failure to maintain such membership would not be reasonably likely to have a Material Adverse Effect.

SECTION 5.13. Regulatory Matters. The Borrower shall and shall cause (i) the Borrower and the Broker Dealer Regulated Subsidiaries to take all reasonable action to maintain all rights, privileges, broker-dealer licenses and memberships, broker-dealer registrations necessary or desirable in the normal conduct of its business, except, in each case, to the extent that failure to do so (x) would not reasonably be expected to have a Material Adverse Effect or (y) is a result of E*TRADE Clearing LLC ceasing to exist as a separate legal entity as a result of the Specified Merger (provided that, after giving effect to the Specified Merger, E*TRADE Securities LLC shall be in compliance with this clause (i)) and (ii) the Borrower and all Broker Dealer Regulated Subsidiaries to comply with all material rules and regulations

of the SEC and FINRA applicable to it (including such rules and regulations dealing with net capital requirements) and, to the extent applicable to the Borrower and any Broker Dealer Regulated Subsidiary, all similar, equivalent or comparable foreign statutes, rules, regulations and other regulatory requirements, except, in each case, where the failure to so comply would not reasonably be expected to have a Material Adverse Effect.

ARTICLE VI

Negative Covenants

Until the Commitments have expired or been terminated and the principal of and interest on each Loan and all fees, expenses and other amounts payable (other than contingent amounts not yet due) under any Loan Document have been paid in full, the Borrower covenants and agrees with the Lenders that:

SECTION 6.01. Indebtedness; Certain Equity Securities.

(a) The Borrower will not, and will not permit any Subsidiary to, create, incur, assume or permit to exist any Indebtedness, except:

(i) Indebtedness created under the Loan Documents;

(ii) purchase money indebtedness and Capital Lease Obligations in an amount not to exceed \$10,000,000 in the aggregate at any one time outstanding, and any refinancing indebtedness issued or incurred to refinance any such Indebtedness;

(iii) Indebtedness (x) of the Borrower to any Subsidiary, (y) of any Subsidiary to the Borrower or any other Subsidiary and (z) of the Borrower to the Parent or any of its bank regulated subsidiaries; provided that Indebtedness of the Borrower to any of its Subsidiary shall be subordinated to the Obligations on terms reasonably satisfactory to the Administrative Agent;

(iv) [Reserved];

(v) [Reserved];

(vi) other unsecured Indebtedness of the Borrower or any Subsidiary in an aggregate amount not to exceed \$10,000,000 at any one time so long as no Default or Event of Default has occurred and is continuing or would occur as a result of the incurrence of such Indebtedness;

(vii) Indebtedness owed to any Person (including obligations in respect of letters of credit for the benefit of such Person) providing workers' compensation, health, disability or other employee benefits or property, casualty or liability insurance, pursuant to reimbursement or indemnification obligations to such Person, in each case incurred in the ordinary course of business;

(viii) Indebtedness of the Borrower or any Subsidiary in respect of performance bonds, bid bonds, appeal bonds, surety bonds, performance and completion guarantees and similar obligations (other than in respect of other Indebtedness), in each case provided in the ordinary course of business;

(ix) Indebtedness in respect of Swap Agreements not entered into for speculative purposes;

(x) any obligation arising from agreements providing for the indemnification, adjustment of purchase price, earn outs or similar obligations, in each case incurred or assumed in connection with the disposition or acquisition of any business, assets or equity interests in a transaction permitted under this Agreement; and

(xi) (a) Indebtedness incurred for operational liquidity needs pursuant to lines of credit, (b) secured and unsecured Indebtedness in connection with the financing of securities and other financial instruments borrowed, bought or sold in the normal day to day conduct of Borrower or any Subsidiary's business, (c) liabilities payable to brokers, dealers, clearing organizations, clients and correspondents, in each case incurred in the ordinary course of the Borrower or any Subsidiary's business, including Indebtedness incurred in the ordinary course of business to finance or secure the purchase or carrying of securities, clearing and clearing-related activities, the provision of margin for forward, futures, repurchase or similar transactions, Indebtedness constituting credit balances in accounts carried by the Borrower or any Subsidiary, the making of advances to customers, the establishment of performance or surety bonds or guarantees, or in the nature of a letter of credit or letter of guaranty to support or secure trading and other obligations incurred in the ordinary course of business, (d) accounts payable and accrued liabilities in the ordinary course of business of the Borrower and its Subsidiaries, (e) notes, bills and checks presented in the ordinary course of business by such Person to banks for collection or deposit, (f) all obligations of the Borrower and its Subsidiaries of the character referred to in this clause (xi) to the extent owing to the Borrower or any of its Subsidiaries and (g) Guarantees entered into in connection with the ordinary course business of the Borrower or any Subsidiary.

Notwithstanding any other provision of this Section 6.01(a), neither the Borrower nor any Broker Dealer Regulated Subsidiary shall incur any Indebtedness that is incurred for the purpose of contributing to or meeting any capital requirements applicable to itself or any other Broker Dealer Regulated Subsidiary.

- (b) The Borrower will not, and will not permit any Subsidiary to, issue any preferred Equity Interests.
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SECTION 6.02. Liens. The Borrower will not, and will not permit any Subsidiary to, create, incur, assume or permit to exist any Lien on any property or asset now owned or hereafter acquired by it, or assign or sell any income or revenues (including accounts receivable) or rights in respect of any there- of, except:

(a) [Reserved];

(b) Permitted Encumbrances;

(c) any Lien on any property or asset of the Borrower or any Subsidiary existing on the date hereof and set forth on Schedule 6.02, provided that (A) such Lien shall not apply to any other property or asset of the Borrower or any Subsidiary and (B) such Lien shall secure only those obligations that it secures on the date hereof and extensions, renewals and replacements thereof so long as the principal amount of such extensions, renewals and replacements does not exceed the principal amount of the obligations being extended, renewed or replaced (plus any accrued but unpaid interest and premium payable by the terms of such obligations thereon);

(d) any Lien existing on any property or asset prior to the acquisition thereof by the Borrower or any Subsidiary or existing on any property or asset of any Person that becomes a Subsidiary after the date hereof prior to the time such Person becomes a Subsidiary (other than any Lien created after such Person was designated as a Subsidiary), provided that (A) such Lien is not created in contemplation of or in connection with such acquisition or such Person becoming a Subsidiary, as the case may be, (B) such Lien shall not apply to any other property or asset of the Borrower or any Subsidiary and (C) such Lien shall secure only those obligations that it secures on the date of such acquisition or the date such Person becomes a Subsidiary, as the case may be, and extensions, renewals and replacements thereof so long as the principal amount of such extensions, renewals and replacements does not exceed the principal amount of the obligations being extended, renewed or replaced (plus any accrued but unpaid interest and premium payable by the terms of such obligations thereon);

(e) [Reserved];

(f) Liens created, incurred, assumed or suffered to exist in the ordinary course of business upon assets owned by the Borrower or any Subsidiary or as to which the Borrower or any Subsidiary has rights to create Liens thereon or held for its account to secure liabilities or obligations, actual or contingent, incurred in the ordinary course of business, including Liens in favor of clearing houses, clearing brokers or other entities providing clearing services and borrowings collateralized by client assets in the ordinary course of business (it being understood that the following voluntary Liens on the following items shall not be permitted by this clause (f): (x) any assets carried in or credited to an account for the exclusive benefit of customers of Borrower pursuant to Exchange Act Rule 15c3-3, (y) the right to receive back either (i) funds from a program bank to which funds had previously been transferred for credit to an account for the benefit of a customer of the Borrower in connection with the Borrower's bank cash sweep program or (ii) proceeds from the sale of money market funds, not otherwise included in the reserve formula, previously purchased for credit to customer's account at the Borrower in connection with the Borrower's money market sweep program, in either the case of (i) or (ii), in connection with funds advanced to customer by the Borrower to settle transactions in advance of the return of such funds or sale proceeds, as applicable, and (z) the right to any return of any funds, financial instruments or other collateral provided to a clearing agency registered under

the Exchange Act to secure the Borrower's obligations to such clearing agency, other than those liens arising out of membership in any such clearing agency);

(g) Liens representing any interest or title of a licensor, lessor or sublicensor or sublessor under any lease or license permitted by this Agreement;

(h) Liens (x) of a collecting bank arising under Section 4-210 of the Uniform Commercial Code on items in the course of collection, (ii) attaching to commodity trading accounts or other commodity brokerage accounts incurred in the ordinary course of business, and (iii) in favor of a banking institution arising as a matter of law encumbering deposits (including the right of set-off);

(i) [Reserved];

(j) Liens granted by (A) a Subsidiary in favor of the Borrower in respect of Indebtedness or other obligations owed by such Subsidiary to the Borrower and (B) the Borrower or any of its Subsidiaries in favor of any Bank Regulated Subsidiary of Parent in respect of Indebtedness or other obligations owed by the Borrower or such Subsidiary to such Bank Regulated Subsidiary (it being understood that the following voluntary Liens on the following items shall not be permitted by this clause (j): (x) any assets carried in or credited to an account for the exclusive benefit of customers of Borrower pursuant to Exchange Act Rule 15c3-3, (y) the right to receive back either (i) funds from a program bank to which funds had previously been transferred for credit to an account for the benefit of a customer of the Borrower in connection with the Borrower's bank cash sweep program or (ii) proceeds from the sale of money market funds, not otherwise included in the reserve formula, previously purchased for credit to customer's account at the Borrower in connection with the Borrower's money market sweep program, in either the case of (i) or (ii), in connection with funds advanced to customer by the Borrower to settle transactions in advance of the return of such funds or sale proceeds, as applicable, and (z) the right to any return of any funds, financial instruments or other collateral provided to a clearing agency registered under the Exchange Act to secure the Borrower's obligations to such clearing agency, other than those liens arising out of membership in any such clearing agency);

(k) Liens arising from filing Uniform Commercial Code financing statements regarding leases;

(l) Liens securing reimbursement obligations with respect to letters of credit permitted by Section 6.01 that encumber documents and other property relating to such letters of credit and the products and proceeds thereof;

(m) Liens in favor of customs and revenue authorities arising as a matter of law to secure payment of customs duties in connection with the importation of goods;

(n) other Liens securing obligations not to exceed \$10,000,000 in the aggregate; and

(o) Liens arising out of conditional sale, title retention, consignment or similar arrangements for the sale of goods entered into by the Borrower or any of the Subsidiaries in the ordinary course of business in accordance with the past practices of the Borrower and its Subsidiaries prior to the Effective Date.

SECTION 6.03. Mergers; Change in Nature of Business.

(a) The Borrower will not, and will not permit any Subsidiary to, merge into or consolidate with any other Person, or permit any other Person to merge into or consolidate with it, or liquidate or dissolve, except that (1) if at the time thereof no Event of Default shall have occurred and be continuing and immediately after giving effect thereto no Default or Event of Default shall result therefrom (i) any Person (other than the Borrower) may merge into any Subsidiary in a transaction in which the surviving entity is a Subsidiary and (ii) any Subsidiary may liquidate or dissolve if the Borrower (including through its officers' authority) determines in good faith that such liquidation or dissolution is in the best interests of the Borrower and is not materially disadvantageous to the Lenders, provided that any such merger involving a Person that is not a wholly-owned Subsidiary immediately prior to such merger shall not be permitted, (2) any direct or indirect subsidiary of Parent, other than E*TRADE Bank or any holding company of E*TRADE Bank, may merge into or otherwise consolidate with the Borrower in a transaction in which the surviving entity is the Borrower; provided that (w) no Default or Event of Default would result therefrom, (x) such subsidiary is in the same line of business as the Borrower, (y) after giving effect to such merger or consolidation, the Borrower (i) continues to be a registered broker-dealer pursuant to Section 15 of the Exchange Act and (ii) does not become regulated as a bank or bank holding company (as defined under the Bank Holding Company Act, as amended) and (z) the Borrower is in compliance with the Financial Covenants on a pro forma basis after giving effect to such merger or consolidation and (3) the Borrower may effect the Specified Merger.

(b) The Borrower will not, and will not permit any Subsidiary to, (i) engage to any material extent in any line of business other than businesses of the type conducted by the Borrower and its Subsidiaries on the Effective Date and businesses reasonably related thereto, (ii) engage in any proprietary trading (other than proprietary trading transactions entered into with the intention of hedging any credit, interest rate, foreign currency or similar risk incurred by Borrower or any Subsidiary in the conduct of its business in the ordinary course) or (iii) provide clearing and clearing-related services to any Person other than itself or an Affiliate of the Borrower.

SECTION 6.04. Financial Covenants.

(a) Minimum Consolidated Tangible Net Worth. The Borrower will maintain at all times a Consolidated Tangible Net Worth of not less than the Minimum TNW.

(b) Regulatory Net Capital. The Borrower will maintain at all times Regulatory Net Capital in compliance with applicable law but in no event less than six percent (6%) of its aggregate debit items calculated using the alternative standard for net capital calculation in accordance with Section 15c3-1(a)(1)(ii) of the Exchange Act.

ARTICLE VII
Events of Default

SECTION 7.01. Events of Default. If any of the following events (any such event, an “Event of Default”) shall occur:

- (a) the Borrower shall fail to pay any principal of any Loan when and as the same shall become due and payable, whether at the due date thereof or otherwise;
 - (b) the Borrower shall fail to pay any interest on any Loan or any fee or any other amount (other than an amount referred to in paragraph (a) of this Article) payable under any Loan Document, when and as the same shall become due and payable, and such failure shall continue unremedied for a period of five Business Days;
 - (c) any representation or warranty made or deemed made by or on behalf of the Borrower or any Subsidiary in or in connection with any Loan Document or any amendment or modification thereof or waiver thereunder, or in any report, certificate, financial statement or other document furnished pursuant to or in connection with any Loan Document or any amendment or modification thereof or waiver thereunder, shall, if qualified by materiality, prove to have been incorrect or, if not so qualified, prove to have been incorrect in any material respect, in each case when made or deemed made;
 - (d) the Borrower or any of its Subsidiaries shall fail to observe or perform any covenant, condition or agreement contained in Sections 5.02(a), 5.04 (with respect to the Borrower), 5.10 or in Article VI;
 - (e) the Borrower or any of its Subsidiaries shall fail to observe or perform any covenant, condition or agreement contained in any Loan Document (other than those specified in paragraph (a), (b) or (d) of this Article), and such failure shall continue unremedied for a period of 30 days after notice thereof from the Administrative Agent to the Borrower (which notice will be given at the request of any Lender);
 - (f) the Borrower, the Parent or any of their respective subsidiaries shall fail to make any payment (whether of principal or interest and regardless of amount) in respect of any Material Indebtedness, when and as the same shall become due and payable;
 - (g) (i) any event or condition occurs that results in any Material Indebtedness of the Borrower or any of its Subsidiaries becoming due prior to its scheduled maturity or that enables or permits (with or without the giving of notice, the lapse of time or both) the holder or holders of any Material Indebtedness or any trustee or agent on its or their behalf to cause any Material Indebtedness to become due, or to require the prepayment, repurchase, redemption or defeasance thereof, prior to its scheduled maturity or (ii) any event or condition occurs (A) that results in any Material Indebtedness of the Parent or any of its subsidiaries (other than the Borrower or any of its Subsidiaries) becoming due prior to its scheduled maturity or (B) that enables or permits (with or without the giving of notice, the lapse of time or both) the holder or holders of any Material Indebtedness or any trustee or agent on its or their behalf to cause any Material Indebtedness to become due, or to require the prepayment, repurchase, redemption or defeasance thereof, prior to its scheduled maturity solely, in the case of this clause (B), as the result of the breach of any financial covenant included in such Material Indebtedness; provided that (1) this paragraph (g) shall not apply to secured Indebtedness that becomes due as a result of the sale, transfer or other disposition (including as a result of a casualty or condemnation event) of the property or assets
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securing such Indebtedness (to the extent such sale, transfer or other disposition is not prohibited under this Agreement) and (2) this paragraph (g) shall not apply to any Specified Regulated Subsidiary Indebtedness;

(h) an involuntary proceeding shall be commenced or an involuntary petition shall be filed seeking (i) liquidation, reorganization or other relief in respect of the Borrower, the Parent, or any of their respective subsidiaries or their respective debts, or of a substantial part of their respective assets, under any Federal, state or foreign bankruptcy, insolvency, receivership or similar law now or hereafter in effect or (ii) the appointment of a receiver, trustee, custodian, sequestrator, conservator or similar official for the Borrower, the Parent, or any of their respective subsidiaries or for a substantial part of its assets, and, in any such case, such proceeding or petition shall continue undismissed for 60 days or an order or decree approving or ordering any of the foregoing shall be entered;

(i) the Borrower, the Parent, or any of their respective subsidiaries shall (i) voluntarily commence any proceeding or file any petition seeking liquidation, reorganization or other relief under any Federal, state or foreign bankruptcy, insolvency, receivership or similar law now or hereafter in effect, (ii) consent to the institution of, or fail to contest in a timely and appropriate manner, any proceeding or petition described in paragraph (h) of this Article, (iii) apply for or consent to the appointment of a receiver, trustee, custodian, sequestrator, conservator or similar official for the Borrower, the Parent, or any of their respective subsidiaries or for a substantial part of its assets, (iv) file an answer admitting the material allegations of a petition filed against it in any such proceeding, (v) make a general assignment for the benefit of creditors or (vi) take any action for the purpose of effecting any of the foregoing;

(j) the Borrower or any of its Subsidiaries shall become unable, admit in writing its inability or fail generally to pay its debts as they become due;

(k) one or more judgments for the payment of money in an aggregate amount in excess of \$50,000,000 shall be rendered against the Borrower, any of its Subsidiaries or any combination thereof and the same shall remain undischarged for a period of 30 consecutive days during which execution shall not be effectively stayed, or any action shall be legally taken by a judgment creditor to attach or levy upon any assets of the Borrower or any of its Subsidiaries to enforce any such judgment;

(l) an ERISA Event shall have occurred that, when taken together with all other ERISA Events that have occurred, could reasonably be expected to result in a Material Adverse Effect;

(m) [Reserved];

(n) any Loan Document shall for any reason be asserted by the Borrower not to be a legal, valid and binding obligation of the Borrower and its Subsidiaries;

(o) [Reserved]; or

(p) a Change in Control shall occur;

then, and in every such event (other than an event with respect to the Borrower or the Parent described in paragraph (h) or (i) of this Article), and at any time thereafter during the continuance of such event,

the Administrative Agent may, and at the request of the Required Lenders shall, by notice to the Borrower, take either or both of the following actions, at the same or different times: (i) terminate the Commitments, and thereupon the Commitments shall terminate immediately, and (ii) declare the Loans then outstanding to be due and payable in whole (or in part, in which case any principal not so declared to be due and payable may thereafter be declared to be due and payable), and thereupon the principal of the Loans so declared to be due and payable, together with accrued interest thereon and all fees and other obligations of the Borrower accrued hereunder, shall become due and payable immediately, without presentment, demand, protest or other notice of any kind, all of which are hereby waived by the Borrower; and in case of any event with respect to the Borrower, the Parent, or any of their respective Subsidiaries described in paragraph (h) or (i) of this Article, the Commitments shall automatically terminate and the principal of the Loans then outstanding, together with accrued interest thereon and all fees and other obligations of the Borrower accrued hereunder, shall automatically become due and payable, without presentment, demand, protest or other notice of any kind, all of which are hereby waived by the Borrower.

SECTION 7.02. Exclusion of Certain Subsidiaries. Solely for the purposes of determining whether a Default has occurred under paragraph (h), (i), (j) or (k) of Section 7.01, any reference in any such paragraph to any subsidiary of the Borrower or Parent, as applicable, shall be deemed not to include any subsidiary affected by any event or circumstance referred to in such paragraph that (a) (i), in the case of the Borrower, did not, as of the last day of the fiscal quarter of the Borrower most-recently ended, have assets with a fair market value equal to or greater than 5.0% of the consolidated total assets of the Borrower and its Subsidiaries as of such date and (ii) in the case of the Parent, did not, as of the last day of the fiscal quarter of the Parent most-recently ended, have assets with a fair market value equal to or greater than 5.0% of the consolidated total assets of the Parent and its subsidiaries as of such date and (b)(i) in the case of the Borrower, did not have revenues during the four fiscal quarter period of the Borrower most-recently ended equal to or greater than 7.5% of the consolidated total revenues of the Borrower and its Subsidiaries during such period and (ii) in the case of the Parent, did not have revenues during the four fiscal quarter period of the Parent most-recently ended equal to or greater than 7.5% of the consolidated total revenues of the Parent and its subsidiaries during such period (any such subsidiary, an “Insignificant Subsidiary”), provided that if it is necessary to exclude more than one subsidiary from paragraph (h), (i), (j) or (k) of Section 7.01 pursuant to this paragraph in order to avoid a Default, (i) in the case of the Borrower, the aggregate fair market value of the assets of all such excluded Subsidiaries as of such last day may not exceed 15.0% of the consolidated total assets of the Borrower and its Subsidiaries as of such date and the aggregate revenues of all such excluded Subsidiaries for such four fiscal quarter period may not exceed 15.0% of the consolidated total revenues of the Borrower and its Subsidiaries for such period and (ii) in the case of the Parent, the aggregate fair market value of the assets of all such excluded subsidiaries as of such last day may not exceed 15.0% of the consolidated total assets of the Parent and its subsidiaries as of such date and the aggregate revenues of all such excluded Subsidiaries for such four fiscal quarter period may not exceed 15.0% of the consolidated total revenues of the Parent and its subsidiaries for such period.

ARTICLE VIII

The Administrative Agent

Each of the Lenders hereby irrevocably appoints the Administrative Agent as its agent and authorizes the Administrative Agent to take such actions on its behalf and to exercise such powers as are delegated to the Administrative Agent by the terms of the Loan Documents, together with such actions and powers as are reasonably incidental thereto. The provisions of this Article are solely for the benefit of the Administrative Agent and the Lenders, and the Borrower shall not have rights as a third party beneficiary of any such provisions. The bank serving as the Administrative Agent hereunder shall have the same rights and powers in its capacity as a Lender as any other Lender and may exercise the same as though it were not the Administrative Agent, and such bank and its Affiliates may accept deposits from, lend money to and generally engage in any kind of business with the Borrower or any Subsidiary or other Affiliate thereof as if it were not the Administrative Agent hereunder.

The Administrative Agent shall not have any duties or obligations except those expressly set forth herein. Without limiting the generality of the foregoing, (a) the Administrative Agent shall not be subject to any fiduciary or other implied duties, regardless of whether a Default has occurred and is continuing, (b) the Administrative Agent shall not have any duty to take any discretionary action or exercise any discretionary powers, except discretionary rights and powers expressly contemplated by the Loan Documents that the Administrative Agent is required to exercise in writing as directed by the Required Lenders (or such other number or percentage of the Lenders as shall be necessary or believed by the Administrative Agent in good faith to be necessary under the circumstances as provided in Section 9.02) and (c) except as expressly set forth in the Loan Documents, the Administrative Agent shall not have any duty to disclose, and shall not be liable for the failure to disclose, any information relating to the Borrower or any Subsidiary that is communicated to or obtained by the bank serving as Administrative Agent or any of its Affiliates in any capacity. The Administrative Agent shall not be liable for any action taken or not taken by it with the consent or at the request of the Required Lenders (or such other number or percentage of the Lenders as shall be necessary under the circumstances as provided in Section 9.02) or in the absence of its own gross negligence or willful misconduct. The Administrative Agent shall be deemed not to have knowledge of any Default unless and until written notice thereof is given to the Administrative Agent by the Borrower or a Lender, and the Administrative Agent shall not be responsible for or have any duty to ascertain or inquire into (i) any statement, warranty or representation made in or in connection with any Loan Document, (ii) the contents of any certificate, report or other document delivered thereunder or in connection therewith, (iii) the performance or observance of any of the covenants, agreements or other terms or conditions set forth in any Loan Document or the occurrence of any Default or Event of Default, the validity, enforceability, effectiveness or genuineness of any Loan Document or any other agreement, instrument or document or (v) the satisfaction of any condition set forth in Article IV or elsewhere in any Loan Document, other than to confirm receipt of items expressly required to be delivered to the Administrative Agent.

The Administrative Agent shall be entitled to rely upon, and shall not incur any liability for relying upon, any notice, request, certificate, consent, statement, instrument, document or other writing (including any electronic message, Internet or intranet website posting or other distribution) believed by it to be genuine and to have been signed or sent by the proper Person. The Administrative Agent also may rely upon any statement made to it orally or by telephone and believed by it to be made by the proper Person, and shall not incur any liability for relying thereon. The Administrative Agent may consult with legal counsel (who may be counsel for the Borrower), independent accountants and other experts selected by it, and shall not be liable for any action taken or not taken by it in accordance with the advice of any such counsel, accountants or experts.

The Administrative Agent may perform any and all its duties and exercise its rights and powers by or through any one or more sub-agents appointed by the Administrative Agent. The Administrative Agent and any such sub-agent may perform any and all its duties and exercise its rights and powers by or through their respective Related Parties. The exculpatory provisions of the preceding paragraphs shall apply to any such sub-agent and to the Related Parties of the Administrative Agent and any such sub-agent, and shall apply to their respective activities in connection with the syndication of the credit facilities provided for herein as well as activities as Administrative Agent.

Subject to the appointment and acceptance of a successor Administrative Agent as provided in this paragraph, the Administrative Agent may resign at any time by notifying the Lenders and the Borrower. Upon any such resignation, the Required Lenders shall have the right to appoint a successor reasonably acceptable to the Borrower (such consent not to be unreasonably withheld or delayed). If no successor shall have been so appointed by the Required Lenders and shall have accepted such appointment within 30 days after the retiring Administrative Agent gives notice of its resignation, then the retiring Administrative Agent may, on behalf of the Lenders, appoint a successor Administrative Agent that is reasonably acceptable to the Borrower (such consent not to be unreasonably withheld or delayed) and is a bank with an office in New York, New York, or an Affiliate of any such bank. If the Person serving as Administrative Agent is a Defaulting Lender pursuant to clause (a) of the definition thereof, (i) the Required Lenders may, to the extent permitted by applicable law, by notice in writing to the Borrower and such Person remove such Person as Administrative Agent and appoint a successor reasonably acceptable to the Borrower (such consent not to be unreasonably withheld or delayed) or (ii) the Borrower may, to the extent permitted by applicable law, remove such Person as Administrative Agent upon 30 days' notice to the Lenders and appoint a successor reasonably acceptable to the Required Lenders (such consent not to be unreasonably withheld or delayed); provided that, notwithstanding the foregoing, in the event that the Administrative Agent is no longer a Defaulting Lender pursuant to clause (a) of the definition thereof, as determined pursuant to Section 2.17, then the Administrative Agent may not be removed pursuant to this sentence. If no such successor shall have been so appointed by the Borrower or the Required Lenders, as applicable, and shall have accepted such appointment within 30 days (the "Removal Effective Date"), then such removal shall nonetheless become effective in accordance with such notice on the Removal Effective Date. Upon the acceptance of its appointment as Administrative Agent hereunder by a successor, such successor shall succeed to and become vested with all the rights, powers, privileges and duties of the retiring or removed Administrative Agent, and the retiring or removed Administrative Agent shall be discharged from its duties and obligations under the Loan Documents. The fees payable by the Borrower to a successor Administrative Agent shall be the same as those payable to its predecessor unless otherwise agreed between the Borrower and such successor. After the Administrative Agent's resignation or removal hereunder, the provisions of this Article and Section 9.03 shall continue in effect for the benefit of such retiring or removed Administrative Agent, its subagents and their respective Related Parties in respect of any actions taken or omitted to be taken by any of them while the retiring or removed Administrative Agent was acting as Administrative Agent.

Each Lender acknowledges and agrees that the extensions of credit made hereunder are commercial loans and not investments in a business enterprise or securities. Each Lender further represents that it is engaged in making, acquiring or holding commercial loans in the ordinary course of its business and has, independently and without reliance upon the Administrative Agent or any other Lender or any of their Related Parties and based on such documents and information as it has deemed appropriate, made its own credit analysis and decision to enter into this Agreement as a Lender, and to make, acquire or hold Loans hereunder. Each Lender shall, independently and without reliance upon the Administrative Agent or any other Lender or any of their Related Parties and based on such documents and information (which may contain material, non-public information within the meaning of the United States securities laws concerning the Borrower and its Affiliates) as it shall from time to time deem appropriate, continue to make its own decisions in taking or not taking action under or based upon this Agreement, or any related agreement or any document furnished hereunder or thereunder and in deciding whether or to the extent to which it will continue as a Lender or assign or otherwise transfer its rights, interests and obligations hereunder. Notwithstanding anything herein to the contrary, none of the Syndication Agents, Joint Bookrunners or Joint Lead Arrangers listed on the cover page hereof shall have any powers, duties or responsibilities under any Loan Document, except in its capacity, as applicable, as the Administrative Agent or a Lender hereunder.

To the extent required by any applicable law, the Administrative Agent shall withhold from any payment to any Lender an amount equal to any applicable withholding Tax. If the IRS or any Governmental Authority asserts a claim that the Administrative Agent did not properly withhold Tax from any amount paid to or for the account of any Lender for any reason (including because the appropriate form was not delivered or was not properly executed, or because such Lender failed to notify the Administrative Agent of a change in circumstances that rendered the exemption from, or reduction of, withholding Tax ineffective), such Lender shall indemnify and hold harmless the Administrative Agent (to the extent that the Administrative Agent has not already been reimbursed by the Borrower and without limiting or expanding the obligation of the Borrower to do so) for all amounts paid, directly or indirectly, by the Administrative Agent as tax or otherwise, including any penalties, additions to Tax or interest thereon, together with all expenses incurred, including legal expenses and any out-of-pocket expenses, whether or not such Tax was correctly or legally imposed or asserted by the relevant Government Authority. A certificate as to the amount of such payment or liability delivered to any Lender by the Administrative Agent shall be conclusive absent manifest error. Each Lender hereby authorizes the Administrative Agent to set off and apply any and all amounts at any time owing to such Lender under this Agreement or any other Loan Document against any amount due to the Administrative Agent. The agreements in this paragraph shall survive the resignation and/or replacement of the Administrative Agent, any assignment of rights by, or the replacement of, a Lender, the termination of the Loans and the repayment, satisfaction or discharge of all obligations under this Agreement.

ARTICLE IX

Miscellaneous

SECTION 9.01. Notices. Except in the case of notices and other communications expressly permitted to be given by telephone, all notices and other communications provided for herein shall be in writing and shall be delivered by hand or overnight courier service, mailed by certified or registered mail or sent by facsimile, as follows:

(a) to the Borrower, to it at E*TRADE Clearing LLC, 1271 Avenue of the Americas, 14th Floor, New York, NY 10021, Attention of Michael A. Pizzi (Facsimile: 703-236-4794) and Karl A. Roessner (Facsimile: 571-227-0365), with a copy to Davis Polk & Wardwell, 450 Lexington Avenue, New York, New York 10017, Attention of Monica Holland (Facsimile: 212-701- 5307);

(b) if to the Administrative Agent, to JPMorgan Chase Bank, N.A., 500 Stanton Christiana Road, Ops 2, Floor 03, Newark, DE 19713-2107, United States, Attention of Pranay Tyagi (Facsimile: 302-634-5545) (email: 12012443577@TLS.Idsprod.com);

(c) if to any other Lender, to it at its address (or facsimile number) set forth in its Administrative Questionnaire.

Any party hereto may change its address or facsimile number for notices and other communications hereunder by notice to the other parties hereto. Notices and other communications to the Lenders hereunder may be delivered or furnished by using Electronic Systems pursuant to procedures approved by the Administrative Agent; provided that the foregoing shall not apply to notices pursuant to Article II unless otherwise agreed by the Administrative Agent and the applicable Lender. The Administrative Agent or the Borrower may, in its discretion, agree to accept notices and other communications to it hereunder by electronic communications pursuant to procedures approved by it; provided that approval of such procedures may be limited to particular notices or communications.

Unless the Administrative Agent otherwise prescribes, (i) notices and other communications sent to an e-mail address shall be deemed received upon the sender's receipt of an acknowledgement from the intended recipient (such as by the "return receipt requested" function, as available, return e-mail or other written acknowledgement), and (ii) notices or communications posted to an Internet or intranet website shall be deemed received upon the deemed receipt by the intended recipient, at its e-mail address as described in the foregoing clause (i), of notification that such notice or communication is available and identifying the website address therefor; provided that, for both clauses (i) and (ii) above, if such notice, email or other communication is not sent during the normal business hours of the recipient, such notice or communication shall be deemed to have been sent at the opening of business on the next business day for the recipient. Notices sent by hand or overnight courier service, or mailed by certified or registered mail, shall be deemed to have been given when received; notices sent by facsimile shall be deemed to have been given when sent (except that, if not given during normal business hours for the recipient, shall be deemed to have been given at the opening of business on the next business day for the recipient). Notices delivered through Electronic Systems, to the extent provided in paragraph (b) below, shall be effective as provided above.

The Borrower agrees that the Administrative Agent may, but shall not be obligated to, make Communications (as defined below) available to the Lenders by posting the Communications on Debt Domain, Intralinks, Syndtrak, ClearPar or a substantially similar Electronic System.

Any Electronic System used by the Administrative Agent is provided “as is” and “as available.” The Agent Parties (as defined below) do not warrant the adequacy of such Electronic Systems and expressly disclaim liability for errors or omissions in the Communications. No warranty of any kind, express, implied or statutory, including any warranty of merchantability, fitness for a particular purpose, noninfringement of third-party rights or freedom from viruses or other code defects, is made by any Agent Party in connection with the Communications or any Electronic System. In no event shall the Administrative Agent or any of its Related Parties (collectively, the “Agent Parties”) have any liability to the Borrower, any Lender or any other Person or entity for damages of any kind, including direct or indirect, special, incidental or consequential damages, losses or expenses (whether in tort, contract or otherwise) arising out of the Borrower’s or the Administrative Agent’s transmission of communications through an Electronic System. “Communications” means, collectively, any notice, demand, communication, information, document or other material provided by or on behalf of the Borrower pursuant to any Loan Document or the transactions contemplated therein which is distributed by the Administrative Agent or any Lender by means of electronic communications pursuant to this Section, including through an Electronic System.

SECTION 9.02. Waivers; Amendments.

(a) No failure or delay by the Administrative Agent or any Lender in exercising any right or power under any Loan Document shall operate as a waiver thereof, nor shall any single or partial exercise of any such right or power, or any abandonment or discontinuance of steps to enforce such a right or power, preclude any other or further exercise thereof or the exercise of any other right or power. The rights and remedies of the Administrative Agent, the Lenders hereunder and under the other Loan Documents are cumulative and are not exclusive of any rights or remedies that they would otherwise have. No waiver of any provision of any Loan Document or consent to any departure by the Borrower therefrom shall in any event be effective unless the same shall be permitted by paragraph (b) of this Section, and then such waiver or consent shall be effective only in the specific instance and for the purpose for which given. Without limiting the generality of the foregoing, the making of a Loan shall not be construed as a waiver of any Default, regardless of whether the Administrative Agent or any Lender may have had notice or knowledge of such Default at the time. No notice or demand on the Borrower in any case shall entitle the Borrower to any other or further notice or demand in similar or other circumstances.

(b) Neither any Loan Document nor any provision thereof may be waived, amended or modified except, in the case of this Agreement, pursuant to an agreement or agreements in writing entered into by the Borrower and the Required Lenders or by the Borrower and the Administrative Agent with the consent of the Required Lenders, provided that no such agreement shall (i) increase the Commitment of any Lender without the written consent of such Lender, (ii) reduce the principal amount of any Loan or reduce the rate of interest thereon, or reduce any fees payable hereunder, without the written consent of each Lender affected thereby, (iii) postpone the maturity of any Loan, or any date for the payment of the principal amount of any Loan or any interest or fees payable hereunder, or reduce the amount of, waive or excuse any such payment, or postpone the scheduled date of expiration of any Commitment, without the written consent of each Lender affected thereby, (iv) change Section 2.15(b) or (c) in a manner that would alter the pro rata sharing of payments required thereby, without the written consent of each Lender adversely affected thereby (v) change Section 2.19 without the consent of the Committed Swingline Lenders and, to the extent any Uncommitted Swingline Loans are then outstanding, the Uncommitted Swingline Lenders or (vi) change any of the provisions of this Section or the percentage set forth in the definition of the term “Required Lenders” or any other provision of any Loan Document specifying the number or percentage of Lenders required to waive, amend or modify any

rights thereunder or make any determination or grant any consent thereunder, without the written consent of each Lender (it being understood that, with the consent of the Required Lenders, additional extensions of credit pursuant to this Agreement may be included in the determination of the Required Lenders on substantially the same basis as the Commitments on the date hereof); provided further that no such agreement shall amend, modify or otherwise affect the rights or duties of the Administrative Agent, the Committed Swingline Lenders or the Uncommitted Swingline Lenders hereunder without the prior written consent of the Administrative Agent, the Committed Swingline Lenders or the Uncommitted Swingline Lenders, as the case may be.

(c) In connection with any proposed amendment, modification, waiver or termination (a "Proposed Change") requiring the consent of all Lenders or all affected Lenders, if the consent of the Required Lenders to such Proposed Change is obtained, but the consent to such Proposed Change of other Lenders whose consent is required is not obtained (any such Lender whose consent is not obtained as described in paragraph (b) of this Section being referred to as a "Non-Consenting Lender"), then, so long as the Lender that is acting as Administrative Agent is not a Non-Consenting Lender, the Borrower may, at its sole expense and effort, upon notice to such Non-Consenting Lender and the Administrative Agent, require such Non-Consenting Lender to assign and delegate, without recourse (in accordance with and subject to the restrictions contained in Section 9.04), all (but not less than all) its interests, rights and obligations under this Agreement to an assignee that shall assume such obligations (which assignee may be another Lender, if a Lender accepts such assignment), provided that (a) to the extent an assignment to such Lender would require the consent of the Administrative Agent under Section 9.04, the Borrower shall have received the prior written consent of the Administrative Agent, which consent shall not unreasonably be withheld, (b) such Non-Consenting Lender shall have received payment of an amount equal to the outstanding principal of its Loans, accrued interest thereon, accrued fees and all other amounts payable to it hereunder from the assignee (to the extent of such outstanding principal and accrued interest and fees) or the Borrower (in the case of all other amounts) and (c) the Borrower or such assignee shall have paid to the Administrative Agent the processing and recordation fee specified in Section 9.04(b).

SECTION 9.03. Expenses; Indemnity; Damage Waiver.

(a) The Borrower shall pay (i) all reasonable out-of-pocket expenses incurred by the Administrative Agent and its Affiliates, including the reasonable fees, charges and disbursements of counsel for the Administrative Agent, in connection with the syndication of the credit facilities provided for herein, the preparation and administration of the Loan Documents or any amendments, modifications or waivers of the provisions thereof (whether or not the transactions contemplated hereby or thereby shall be consummated) or in connection with an Incremental Assumption Agreement and the transactions contemplated thereby, but limited in the case of fees and expenses of counsel to reasonable fees, disbursements and other charges of a single counsel to the Administrative Agent and, if reasonably necessary, of a single local counsel to the Administrative Agent in such relevant jurisdiction, which may be a single local counsel acting in multiple jurisdictions and (ii) all reasonable out-of-pocket expenses incurred by the Administrative Agent or any Lender, including the fees, charges and disbursements of any counsel for any Agent or any Lender in connection with the enforcement or protection of its rights in connection with the Loan Documents, including its rights under this Section, or in connection with the Loans made hereunder, including all such out-of-pocket expenses incurred during any workout, restructuring or negotiations in respect of such Loans, but limited in the case of fees and expenses of counsel to reasonable fees, disbursements and other charges of one counsel to the Administrative Agent and one counsel to the Lenders taken as whole and, if reasonably necessary, of a single local counsel to the Administrative Agent and a single local counsel to the Lenders in each relevant jurisdiction, which may be a single local counsel acting in multiple jurisdictions and, in the case of an actual or potential conflict of interest, one additional counsel to the affected persons.

(b) The Borrower shall indemnify each Lender, the Joint Bookrunners, the Joint Lead Arrangers, the Administrative Agent and each Related Party of any of the foregoing Persons (each such Person being called an "Indemnatee"), against, and hold each Indemnatee harmless from, any and all losses, claims, damages, investigation, suit or proceeding, liabilities and related expenses, including the fees, charges and disbursements of any counsel, but limited to reasonable fees, disbursements and other charges of one counsel to the Indemnitees and, if reasonably necessary, of a single local counsel to the Indemnitees in each relevant jurisdiction, which may be a single local counsel acting in multiple jurisdictions and, in the case of an actual or potential conflict of interest, one additional counsel to the affected persons, incurred by or asserted against any Indemnatee by any third party or by the Borrower or any Subsidiary arising out of, in connection with, or as a result of (i) the execution or delivery of any Loan Document or any other agreement or instrument contemplated thereby, the performance by the parties to the Loan Documents of their respective obligations thereunder or the consummation of the Transactions or any other transactions contemplated thereby, (ii) any Loan or the use of the proceeds therefrom, (iii) in connection with clause (i) and (ii) above, any actual or alleged presence or release of Hazardous Materials on or from any property currently or formerly owned or operated by the Borrower or any Subsidiary, or any Environmental Liability related in any way to the Borrower or any Subsidiary, or (iv) any actual or prospective claim, litigation, investigation or proceeding relating to any of the foregoing, whether based on contract, tort or any other theory, whether brought by a third party or by the Borrower or any equity holders, Affiliates, creditors and regardless of whether any Indemnatee is a party thereto, provided that such indemnity shall not, as to any Indemnatee, be available to the extent that such losses, claims, damages, costs, expenses or liabilities or related expenses are (x) determined by a court of competent jurisdiction by final nonappealable judgment to have resulted from the gross negligence, bad faith, or willful misconduct of such Indemnatee; or (y) arising out of a dispute solely between or among indemnified persons not involving any act or omission of the Borrower (except that the Administrative Agent, Joint Bookrunners or Joint Lead Arrangers in their respective roles as such shall be indemnified on the terms set forth herein). This Section 9.03(b) shall not apply with respect to Taxes other than any Taxes that represent losses, claims, damages, etc. arising from any non-Tax claim.

(c) To the extent that the Borrower fails to pay any amount required to be paid by it to the Administrative Agent, the Committed Swingline Lenders or the Uncommitted Swingline Lenders under paragraph (a) or (b) of this Section, each Lender severally agrees to pay to the Administrative Agent, the Committed Swingline Lenders or the Uncommitted Swingline Lenders such Lender's pro rata share (determined as of the time that the applicable unreimbursed expense or indemnity payment is sought) of such unpaid amount, provided that the unreimbursed expense or indemnified loss, claim, damage, liability or related expense, as the case may be, was incurred by or asserted against the Administrative Agent, the Committed Swingline Lenders or the Uncommitted Swingline Lenders in their capacity as such. For purposes hereof, a Lender's "pro rata share" shall be determined based upon its share of the aggregate principal amount of outstanding Loans and unused Commitments at the time. The obligations of the Lenders under this paragraph (c) are subject to the last sentence of Section 2.02(a) (which shall apply mutatis mutandis to the Lenders' obligations under this paragraph (c)).

(d) To the fullest extent permitted by applicable law, no party to this Agreement and no Indemnatee shall assert, and each hereby waives, any claim against any other party to this Agreement or any Indemnatee, on any theory of liability, for special, indirect, consequential or punitive damages (as opposed to direct or actual damages) arising out of, in connection with, or as a result of, any Loan Document or any agreement or instrument contemplated thereby, the Transactions, any Loan or the use of the proceeds thereof; provided that nothing in this clause (d) shall relieve the Borrower of any obligation it may have to indemnify any Indemnatee against special, indirect, consequential or punitive damages

awarded against such Indemnatee in favor of a third party in a final, non-appealable judgment by a court of competent jurisdiction. No Indemnatee referred to in paragraph (b) above shall be liable for any damages arising from the use by unintended recipients of any information or other materials distributed by it through telecommunications, electronic or other information transmission systems in connection with this Agreement or the other Loan Documents or the transactions contemplated hereby or thereby, except to the extent determined by a court of competent jurisdiction by final non-appealable judgment to have resulted from the gross negligence, bad faith or willful misconduct of such Indemnatee.

- (e) All amounts due under this Section shall be payable not later than three Business Days after written demand therefor.
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SECTION 9.04. Successors and Assigns.

(a) The provisions of this Agreement shall be binding upon and inure to the benefit of the parties hereto and their respective successors and assigns permitted hereby, except that (i) the Borrower may not assign or otherwise transfer any of its rights or obligations hereunder without the prior written consent of each Lender (and any attempted assignment or transfer by the Borrower without such consent shall be null and void) and (ii) no Lender may assign or otherwise transfer its rights or obligations hereunder except in accordance with this Section. Nothing in this Agreement, expressed or implied, shall be construed to confer upon any Person (other than the parties hereto, their respective successors and assigns permitted hereby, Participants (to the extent provided in paragraph (c) of this Section) and, to the extent expressly contemplated hereby, the Related Parties of each of the Administrative Agent and the Lenders) any legal or equitable right, remedy or claim under or by reason of this Agreement.

(b) (i) Subject to the conditions set forth in paragraph (b)(ii) below, any Lender may assign to one or more assignees (other than an Ineligible Institution) all or a portion of its rights and obligations under this Agreement (including all or a portion of its Commitment and the Loans at the time owing to it) with the prior written consent (such consent not to be unreasonably withheld or delayed) of (A) the Borrower, except to the extent not required pursuant to clause (ii) below, (B) the Administrative Agent and (C) the Committed Swingline Lenders.

(ii) Assignments shall be subject to the following additional conditions: (A) except in the case of an assignment to a Lender, an Affiliate of a Lender or an Approved Fund or an assignment of the entire remaining amount of the assigning Lender's Commitment or Loans, the amount of the Commitment or Loans of the assigning Lender subject to each such assignment (determined as of the date the Assignment and Assumption with respect to such assignment is delivered to the Administrative Agent) shall not be less than \$5,000,000, and the Borrower and the Administrative Agent consent (such consent not to be unreasonably withheld or delayed), provided that (I) no consents shall be required for an assignment to an existing Lender or an Affiliate of an existing Lender or an Approved Fund (other than a Defaulting Lender), (II) no such consent of the Borrower shall be required if an Event of Default has occurred and is continuing and (III) such consent will be deemed to have been given if the Borrower has not responded within ten (10) Business Days after its receipt of any request for such consent, (B) each partial assignment shall be made as an assignment of a proportionate part of all the assigning Lender's rights and obligations under this Agreement, (C) the parties to each assignment shall execute and deliver to the Administrative Agent (x) an Assignment and Assumption or (y) to the extent applicable, an agreement incorporating an Assignment and Assumption by reference pursuant to an Electronic System as to which the Administrative Agent and the parties to the Assignment and Assumption are participants, together with a processing and recordation fee of \$3,500, provided that assignments made pursuant to Section 2.16(b) or Section 9.02(c) shall not require the signature of the assigning Lender to become effective, and (D) the assignee, if it shall not be a Lender, shall deliver to the Administrative Agent an Administrative Questionnaire and any tax forms required by Section 2.14(e).

For purposes of paragraph (b) of this Section, the terms "Approved Fund" and "Ineligible Institution" have the following meanings:

"Approved Fund" means any Person (other than a natural person) that is engaged in making, purchasing, holding or investing in bank loans and similar extensions of credit in the ordinary course of its business and that is administered or managed by (a) a Lender, (b) an Affiliate of a Lender or (c) an entity or an Affiliate of an entity that administers or manages a Lender.

“Ineligible Institution” means (a) a natural person, (b) a Defaulting Lender or its Lender Parent,

(c) a holding company, investment vehicle or trust for, or owned and operated for the primary benefit of, a natural person or relative(s) thereof or (d) the Borrower or any of its Affiliates; provided that, such holding company, investment vehicle or trust shall not constitute an Ineligible Institution if it (x) has not been established for the primary purpose of acquiring any Loans or Commitments, (y) is managed by a professional advisor, who is not such natural person or a relative thereof, having significant experience in the business of making or purchasing commercial loans, and (z) has assets greater than \$25,000,000 and a significant part of its activities consist of making or purchasing commercial loans and similar extensions of credit in the ordinary course of its business.

(iii) Subject to acceptance and recording thereof pursuant to paragraph (b)(v) of this Section, from and after the effective date specified in each Assignment and Assumption, the assignee thereunder shall be a party hereto and, to the extent of the interest assigned by such Assignment and Assumption, have the rights and obligations of a Lender under this Agreement, and the assigning Lender thereunder shall, to the extent of the interest assigned by such Assignment and Assumption, be released from its obligations under this Agreement (and, in the case of an Assignment and Assumption covering all of the assigning Lender’s rights and obligations under this Agreement, such Lender shall cease to be a party hereto but shall continue to be entitled to the benefits of Sections 2.12, 2.13, 2.14 and 9.03 and to any fees payable hereunder that have accrued for such Lender’s account but have not yet been paid). Any assignment or transfer by a Lender of rights or obligations under this Agreement that does not comply with this Section shall be treated for purposes of this Agreement as a sale by such Lender of a participation in such rights and obligations in accordance with paragraph (c)(i) of this Section.

(iv) The Administrative Agent, acting for this purpose as an agent of the Borrower, shall maintain at one of its offices a copy of each Assignment and Assumption delivered to it and a register for the recordation of the names and addresses of the Lenders, and the Commitment of, and principal amount of the Loans owing to, each Lender pursuant to the terms hereof from time to time (the “Register”). The entries in the Register shall be conclusive absent manifest error, and the Borrower, the Administrative Agent and the Lenders shall treat each Person whose name is recorded in the Register pursuant to the terms hereof as a Lender hereunder for all purposes of this Agreement, notwithstanding notice to the contrary. The Register shall be available for inspection by the Borrower and any Lender, at any reasonable time and from time to time upon reasonable prior notice.

(v) Upon its receipt of (x) a duly completed Assignment and Assumption executed by an assigning Lender and an assignee or (y) to the extent applicable, an agreement incorporating an Assignment and Assumption by reference pursuant to an Electronic System as to which the Administrative Agent and the parties to the Assignment and Assumption are participants, the assignee's completed Administrative Questionnaire and any tax forms required by Section 2.14(e) (unless the assignee shall already be a Lender hereunder), the processing and recordation fee referred to in paragraph (b) of this Section and any written consent to such assignment required by paragraph (b) of this Section, the Administrative Agent shall accept such Assignment and Assumption and record the information contained therein in the Register; provided that if either the assigning Lender or the assignee shall have failed to make any payment required to be made by it pursuant to Section 2.19(c), 2.20(c), 2.04(b), 2.15(d) or 9.03(c), the Administrative Agent shall have no obligation to accept such Assignment and Assumption and record the information therein in the Register unless and until such payment shall have been made in full, together with all accrued interest thereon. No assignment shall be effective for purposes of this Agreement unless it has been recorded in the Register as provided in this paragraph.

(vi) The words "execution," "signed," "signature" and words of like import in any Assignment and Assumption shall be deemed to include electronic signatures or the keeping of records in electronic form, each of which shall be of the same legal effect, validity or enforceability as a manually executed signature or the use of a paper-based recordkeeping system, as the case may be, to the extent and as provided for in any applicable law, including the Federal Electronic Signatures in Global and National Commerce Act, the New York State Electronic Signatures and Records Act or any other similar state laws based on the Uniform Electronic Transactions Act.

(c) (i) Any Lender may, without the consent of the Borrower, the Administrative Agent or the Committed Swingline Lenders, sell participations to one or more banks or other entities (a "Participant") other than an Ineligible Institution, in all or a portion of such Lender's rights and obligations under this Agreement (including all or a portion of its Commitment and the Loans owing to it), provided that (A) such Lender's obligations under this Agreement shall remain unchanged, (B) such Lender shall remain solely responsible to the other parties hereto for the performance of such obligations and (C) the Borrower, the Administrative Agent and the other Lenders shall continue to deal solely and directly with such Lender in connection with such Lender's rights and obligations under this Agreement. Any agreement or instrument pursuant to which a Lender sells such a participation shall provide that such Lender shall retain the sole right to enforce the Loan Documents and to approve any amendment, modification or waiver of any provision of the Loan Documents, provided that such agreement or instrument may provide that such Lender will not, without the consent of the Participant, agree to any amendment, modification or waiver described in the first proviso to Section 9.02(b) that affects such Participant. Subject to paragraph (c)(ii) of this Section, the Borrower agrees that each Participant shall be entitled to the benefits of Sections 2.12, 2.13 and 2.14 (subject to all requirements and limitations therein, including the requirements under Section 2.14(e)) to the same extent as if it were a Lender and had acquired its interest by assignment pursuant to paragraph (b) of this Section. To the extent permitted by law, each Participant also shall be entitled to the benefits of Section 9.08 as though it were a Lender, provided that such Participant agrees to be subject to Section 2.15(c) as though it were a Lender. Each Lender that sells a participation shall, acting solely for this purpose as a non-fiduciary agent of the Borrower, maintain a register complying with the requirements of Sections 163(f), 871(h) and 881(c)(2) of the Code on which it enters the name and address of each Participant and the principal amounts (and stated interest) of each Participant's interest in the Loans or other obligations under this Agreement (the "Participant Register"); provided, that no Lender shall have any obligation to disclose all or any portion of the Participant Register (including the identity of any Participant or any information relating to a

Participant's interest in the Loans or other obligation under this Agreement) to any Person except to the extent such disclosure is necessary in connection with a Tax audit or other Tax proceeding to establish that any loans are in registered form for U.S. federal income tax purposes. The entries in the Participant Register shall be conclusive absent manifest error, and such Lender shall treat each person whose name is recorded in the Participant Register as the owner of such participation for all purposes of this Agreement notwithstanding any notice to the contrary.

(ii) A Participant shall not be entitled to receive any greater payment under Section 2.12 or Section 2.14 than the applicable Lender would have been entitled to receive with respect to the participation sold to such Participant, except to the extent such entitlement to a greater payments results from a Change in Law occurring after the sale of such participation.

(d) Any Lender may at any time pledge or assign a security interest in all or any portion of its rights under this Agreement to secure obligations of such Lender, including any pledge or assignment to secure obligations to a Federal Reserve Bank, and this Section shall not apply to any such pledge or assignment of a security interest, provided that no such pledge or assignment of a security interest shall release a Lender from any of its obligations hereunder or substitute any such pledgee or assignee for such Lender as a party hereto.

(e) Notwithstanding anything to the contrary contained herein, any Lender (a "Granting Lender") may grant to a special purpose funding vehicle (an "SPV"), identified as such in writing from time to time by the Granting Lender to the Administrative Agent and the Borrower, the option to provide to the Borrower all or any part of any Loan that such Granting Lender would otherwise be obligated to make to the Borrower pursuant to this Agreement, provided that (i) nothing herein shall constitute a commitment by any SPV to make any Loan and (ii) if an SPV elects not to exercise such option or otherwise fails to provide all or any part of such Loan, the Granting Lender shall be obligated to make such Loan pursuant to the terms hereof. The making of a Loan by an SPV hereunder shall utilize the Commitment of the Granting Lender to the same extent, and as if, such Loan were made by such Granting Lender. Each SPV exercising the option (an "Electing SPV") shall be entitled to the benefits of Sections 2.12, 2.13 and 2.14 (subject to all requirements and limitations therein, including the requirements under Section 2.14(e)) to the same extent as if it were a Granting Lender and had acquired its interest by assignment pursuant to paragraph (b) of this Section, providing that a SPV shall not be entitled to receive any greater payment under Section 2.12 or Section 2.14 than the Granting Lender would have been entitled to receive with respect to the Loan made by such SPV, except to the extent such entitlement to a greater payments results from a Change in Law occurring after the sale of such participation. Each Granting Lender shall, acting solely for this purpose as an agent of the Borrower, maintain a register complying with the requirements of Sections 163(f), 871(h) and 881(c)(2) of the Code on which it enters the name and address of each Electing SPV and the principal amounts (and stated interest) of each Electing SPV's interest in the Loans or other obligations under this Agreement (the "Electing SPV Register"); provided, that no Granting Lender shall have any obligation to disclose all or any portion of the Electing SPV Register (including the identity of any Electing SPV or any information relating to an Electing SPV's interest in the Loans or other obligation under this Agreement) to any Person except to the extent such disclosure is necessary in connection with a Tax audit or other Tax proceeding to establish that any loans are in registered form for U.S. federal income tax purposes. The entries in the Electing SPV Register shall be conclusive absent manifest error, and such Granting Lender shall treat each person whose name is recorded in the Electing SPV Register as the owner of such Loan for all purposes of this Agreement notwithstanding any notice to the contrary. Each party hereto hereby agrees that no SPV shall be liable for any indemnity or similar payment obligation under this Agreement (all liability for which shall remain with the Granting Lender). In furtherance of the foregoing, each party hereto hereby agrees (which agreement shall survive the termination of this Agreement) that, prior to the

date that is one year and one day after the payment in full of all outstanding commercial paper or other senior indebtedness of any SPV, such party will not institute against, or join any other person in instituting against, such SPV any bankruptcy, reorganization, arrangement, insolvency or liquidation proceedings under the laws of the United States or any State thereof. In addition, notwithstanding anything to the contrary contained in this Section 9.04, any SPV may (i) with notice to, but without the prior written consent of, the Borrower and the Administrative Agent and without paying any processing fee therefor, assign all or a portion of its interests in any Loans to the Granting Lender or to any financial institutions (consented to by the Borrower and Administrative Agent) providing liquidity or credit support to or for the account of such SPV to support the funding or maintenance of Loans and (ii) disclose on a confidential basis any non-public information relating to its Loans to any rating agency, commercial paper dealer or provider of any surety, guarantee or credit or liquidity enhancement to such SPV.

SECTION 9.05. Survival. All covenants, agreements, representations and warranties made by the Borrower in the Loan Documents and in the certificates or other instruments delivered in connection with or pursuant to any Loan Document shall be considered to have been relied upon by the other parties hereto and shall survive the execution and delivery of the Loan Documents and the making of any Loans, regardless of any investigation made by any such other party or on its behalf and notwithstanding that the Administrative Agent or any Lender may have had notice or knowledge of any Default or incorrect representation or warranty at the time any credit is extended hereunder, and shall continue in full force and effect as long as the principal of or any accrued interest on any Loan or any fee or any other amount payable under this Agreement is outstanding and unpaid and so long as the Commitments have not expired or terminated. The provisions of Sections 2.12, 2.13, 2.14 and 9.03 and Article VIII shall survive and remain in full force and effect regardless of the consummation of the transactions contemplated hereby, the repayment of the Loans, the expiration or termination of the Commitments or the termination of this Agreement or any provision hereof.

SECTION 9.06. Counterparts; Integration; Effectiveness.

(a) This Agreement may be executed in counterparts (and by different parties hereto on different counterparts), each of which shall constitute an original, but all of which when taken together shall constitute a single contract. This Agreement, the other Loan Documents and any separate letter agreements with respect to fees payable to the Administrative Agent or the syndication of the Loans and Commitments constitute the entire contract among the parties relating to the subject matter hereof and supersede any and all previous agreements and understandings, oral or written, relating to the subject matter hereof. Except as provided in Section 4.01, this Agreement shall become effective when it shall have been executed by the Administrative Agent and when the Administrative Agent shall have received counterparts hereof that, when taken together, bear the signatures of each of the other parties hereto, and thereafter shall be binding upon and inure to the benefit of the parties hereto and their respective successors and assigns. Delivery of an executed counterpart of a signature page of this Agreement by facsimile shall be effective as delivery of a manually executed counterpart of this Agreement.

(b) Delivery of an executed counterpart of a signature page of this Agreement by telecopy, emailed pdf. or any other electronic means that reproduces an image of the actual executed signature page shall be effective as delivery of a manually executed counterpart of this Agreement. The words "execution," "signed," "signature," "delivery," and words of like import in or relating to any document to be signed in connection with this Agreement and the transactions contemplated hereby shall be deemed to include Electronic Signatures, deliveries or the keeping of records in electronic form, each of which shall be of the same legal effect, validity or enforceability as a manually executed signature, physical delivery thereof or the use of a paper-based recordkeeping system, as the case may be, to the extent and as provided for in any applicable law, including the Federal Electronic Signatures in Global

and National Commerce Act, the New York State Electronic Signatures and Records Act, or any other similar state laws based on the Uniform Electronic Transactions Act.

SECTION 9.07. Severability. Any provision of this Agreement held to be invalid, illegal or unenforceable in any jurisdiction shall, as to such jurisdiction, be ineffective to the extent of such invalidity, illegality or unenforceability without affecting the validity, legality and enforceability of the remaining provisions hereof; and the invalidity of a particular provision in a particular jurisdiction shall not invalidate such provision in any other jurisdiction.

SECTION 9.08. Right of Setoff. If an Event of Default shall have occurred and be continuing, each Lender and its Affiliates is hereby authorized at any time and from time to time, to the fullest extent permitted by law, to set off and apply any and all deposits (general or special, time or demand, provisional or final, in whatever currency, other than funds held on behalf of customers) at any time held and other obligations (in whatever currency) at any time owing by such Lender or any such Affiliate to or for the credit or the account of the Borrower against any of and all the obligations of the Borrower now or hereafter existing under this Agreement held by such Lender, irrespective of whether or not such Lender shall have made any demand under this Agreement and although such obligations may be unmaturing or are owed to a branch or office of such Lender different from the branch or office holding such deposit or obligated on such Indebtedness. The applicable Lender shall notify the Borrower and the Administrative Agent of such setoff and application, provided that any failure to give or any delay in giving such notice shall not affect the validity of any such setoff and application under this Section. The rights of each Lender and its respective Affiliates under this Section are in addition to other rights and remedies (including other rights of setoff) that such Lender and its respective Affiliates may have.

SECTION 9.09. Governing Law; Jurisdiction; Consent to Service of Process.

(a) This Agreement shall be construed in accordance with and governed by the law of the State of New York.

(b) The Borrower hereby irrevocably and unconditionally submits, for itself and its property, to the exclusive jurisdiction of the Supreme Court of the State of New York sitting in the borough of Manhattan and of the United States District Court of the Southern District of New York sitting in the borough of Manhattan, and any appellate court from any thereof, in any action or proceeding arising out of or relating to any Loan Document, or for recognition or enforcement of any judgment, and each of the parties hereto hereby irrevocably and unconditionally agrees that all claims in respect of any such action or proceeding may be heard and determined in such New York State or, to the extent permitted by law, in such Federal court. Each of the parties hereto agrees that a final judgment in any such action or proceeding shall be conclusive and may be enforced in other jurisdictions by suit on the judgment or in any other manner provided by law. Nothing in any Loan Document shall affect any right that the Administrative Agent or any Lender may otherwise have to bring any action or proceeding relating to any Loan Document against the Borrower or its respective properties in the courts of any jurisdiction.

(c) The Borrower hereby irrevocably and unconditionally waives, to the fullest extent it may legally and effectively do so, any objection that it may now or hereafter have to the laying of venue of any suit, action or proceeding arising out of or relating to any Loan Document in any court referred to in paragraph (b) of this Section. Each of the parties hereto hereby irrevocably waives, to the fullest extent permitted by law, the defense of an inconvenient forum to the maintenance of such action or proceeding in any such court.

(d) Each party to this Agreement irrevocably consents to service of process in the manner provided for notices in Section 9.01. Nothing in any Loan Document will affect the right of any party to this Agreement to serve process in any other manner permitted by law.

SECTION 9.10. WAIVER OF JURY TRIAL. EACH PARTY HERETO HEREBY WAIVES, TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW, ANY RIGHT IT MAY HAVE TO A TRIAL BY JURY IN ANY LEGAL PROCEEDING DIRECTLY OR INDIRECTLY ARISING OUT OF OR RELATING TO ANY LOAN DOCUMENT OR THE TRANSACTIONS CONTEMPLATED THEREBY (WHETHER BASED ON CONTRACT, TORT OR ANY OTHER THEORY). EACH PARTY HERETO (A) CERTIFIES THAT NO REPRESENTATIVE, AGENT OR ATTORNEY OF ANY OTHER PARTY HAS REPRESENTED, EXPRESSLY OR OTHERWISE, THAT SUCH OTHER PARTY WOULD NOT, IN THE EVENT OF LITIGATION, SEEK TO ENFORCE THE FOREGOING WAIVER AND (B) ACKNOWLEDGES THAT IT AND THE OTHER PARTIES HERETO HAVE BEEN INDUCED TO ENTER INTO THIS AGREEMENT BY, AMONG OTHER THINGS, THE MUTUAL WAIVERS AND CERTIFICATIONS IN THIS SECTION.

SECTION 9.11. Headings. Article and Section headings and the Table of Contents used herein are for convenience of reference only, are not part of this Agreement and shall not affect the construction of, or be taken into consideration in interpreting, this Agreement.

SECTION 9.12. Confidentiality. Each of the Administrative Agent and the Lenders agrees to maintain the confidentiality of the Information (as defined below), except that Information may be disclosed (a) to its and its Affiliates' directors, officers, employees and agents, including accountants, legal counsel and other advisors (it being understood that the Persons to whom such disclosure is made will be informed of the confidential nature of such Information and instructed to keep such Information confidential), (b) to the extent requested by any regulatory authority, (c) to the extent required by applicable laws or regulations or by any subpoena or similar legal process, (d) to any other party to this Agreement, (e) in connection with the exercise of any remedies hereunder or any suit, action or proceeding relating to any Loan Document or the enforcement of rights thereunder, (f) subject to an agreement containing provisions substantially the same as those of this Section, to (i) any assignee of or Participant in, or any prospective assignee of or Participant in, any of its rights or obligations under this Agreement or (ii) any actual or prospective counterparty (or its advisors) to any Swap Agreement relating to the Borrower and its obligations under the Loan Documents, (g) with the consent of the Borrower or (h) to the extent such Information (i) becomes publicly available other than as a result of a breach of this Section or (ii) becomes available to the Administrative Agent or any Lender on a nonconfidential basis from a source other than the Borrower. For the purposes of this Section, the term "Information" means all information received from the Borrower relating to the Borrower or its business, other than any such information that is available to the Administrative Agent or any Lender on a nonconfidential basis prior to disclosure by the Borrower, provided that, in the case of information received from the Borrower or any Subsidiary after the date hereof, such information is clearly identified at the time of delivery as confidential. Any Person required to maintain the confidentiality of Information as provided in this Section shall be considered to have complied with its obligation to do so if such Person has exercised the same degree of care to maintain the confidentiality of such Information as such Person would accord to its own confidential information.

SECTION 9.13. Interest Rate Limitation. Notwithstanding anything herein to the contrary, if at any time the interest rate applicable to any Loan, together with all fees, charges and other amounts that are treated as interest on such Loan or participation therein under applicable law (collectively, the "Charges"), shall exceed the maximum lawful rate (the "Maximum Rate") that may be contracted for, charged, taken, received or reserved by the Lender holding such Loan or participation therein in accordance with applicable law, the rate of interest payable in respect of such Loan hereunder, together with all Charges payable in respect thereof, shall be limited to the Maximum Rate and, to the extent lawful, the interest and Charges that would have been payable in respect of such Loan or participation therein but were not payable as a result of the operation of this Section shall be cumulated and the interest and Charges payable to such Lender in respect of other Loans or participation therein or periods

shall be increased (but not above the Maximum Rate therefor) until such cumulated amount, together with interest thereon at the Federal Funds Effective Rate to the date of repayment, shall have been received by such Lender.

SECTION 9.14. USA Patriot Act. Each Lender hereby notifies the Borrower that pursuant to the requirements of the USA Patriot Act, it is required to obtain, verify and record information that identifies the Borrower, which information includes the name and address of the Borrower and other information that will allow such Lender to identify the Borrower in accordance with the Act.

SECTION 9.15. Material Non-Public Information.

(a) EACH LENDER ACKNOWLEDGES THAT INFORMATION AS DEFINED IN SECTION 9.12 FURNISHED TO IT PURSUANT TO THIS AGREEMENT MAY INCLUDE MATERIAL NON-PUBLIC INFORMATION CONCERNING THE BORROWER AND ITS RELATED PARTIES OR THEIR RESPECTIVE SECURITIES, AND CONFIRMS THAT IT HAS DEVELOPED COMPLIANCE PROCEDURES REGARDING THE USE OF MATERIAL NON-PUBLIC INFORMATION AND THAT IT WILL HANDLE SUCH MATERIAL NON-PUBLIC INFORMATION IN ACCORDANCE WITH THOSE PROCEDURES AND APPLICABLE LAW, INCLUDING FEDERAL AND STATE SECURITIES LAWS.

(b) ALL INFORMATION, INCLUDING REQUESTS FOR WAIVERS AND AMENDMENTS, FURNISHED BY THE BORROWER OR THE ADMINISTRATIVE AGENT PURSUANT TO, OR IN THE COURSE OF ADMINISTERING, THIS AGREEMENT WILL BE SYNDICATE-LEVEL INFORMATION, WHICH MAY CONTAIN MATERIAL NON-PUBLIC INFORMATION ABOUT THE BORROWER AND ITS RELATED PARTIES OR ITS SECURITIES. ACCORDINGLY, EACH LENDER REPRESENTS TO THE BORROWER AND THE ADMINISTRATIVE AGENT THAT IT HAS IDENTIFIED IN ITS ADMINISTRATIVE QUESTIONNAIRE A CREDIT CONTACT WHO MAY RECEIVE INFORMATION THAT MAY CONTAIN MATERIAL NON-PUBLIC INFORMATION IN ACCORDANCE WITH ITS COMPLIANCE PROCEDURES AND APPLICABLE LAW.

SECTION 9.16. [Reserved].

SECTION 9.17. No Fiduciary Duty; Conflicts of Interest.

The Administrative Agent, each Lender and their Affiliates (collectively, solely for purposes of this paragraph, the "Lenders"), may have economic interests that conflict with those of the Borrower, its stockholders and/or their respective affiliates. The Borrower agrees that nothing in the Loan Documents or otherwise will be deemed to create an advisory, fiduciary or agency relationship or fiduciary or other implied duty between any Lender, on the one hand, and the Borrower, its stockholders or its affiliates, on the other. The Borrower acknowledges and agrees that (i) the transactions contemplated by the Loan Documents (including the exercise of rights and remedies hereunder and thereunder) are arm's-length commercial transactions between the Lenders, on the one hand, and the Borrower, on the other, and (ii) in connection therewith and with the process leading thereto, (x) no Lender has assumed an advisory or fiduciary responsibility in favor of the Borrower, its stockholders or its affiliates with respect to the transactions contemplated hereby (or the exercise of rights or remedies with respect thereto) or the process leading thereto (irrespective of whether any Lender has advised, is currently advising or will advise the Borrower, its stockholders or its Affiliates on other matters) or any other obligation to the Borrower except the obligations expressly set forth in the Loan Documents and (y) each Lender is acting solely as principal and not as the agent or fiduciary of the Borrower, its management, stockholders, creditors or any other Person. The Borrower acknowledges and agrees that it has consulted its own legal

and financial advisors to the extent it deemed appropriate and that it is responsible for making its own independent judgment with respect to such transactions and the process leading thereto. The Borrower agrees that it will not claim that any Lender has rendered advisory services of any nature or respect, or owes a fiduciary or similar duty to the Borrower, in connection with such transaction or the process leading thereto.

SECTION 9.18. Acknowledgement and Consent to Bail-In of EEA Financial Institutions.

Notwithstanding anything to the contrary in any Loan Document or in any other agreement, arrangement or understanding among any such parties, each party hereto acknowledges that any liability of any EEA Financial Institution arising under any Loan Document may be subject to the write-down and conversion powers of an EEA Resolution Authority and agrees and consents to, and acknowledges and agrees to be bound by:

(a) the application of any Write-Down and Conversion Powers by an EEA Resolution Authority to any such liabilities arising hereunder which may be payable to it by any party hereto that is an EEA Financial Institution; and

(b) the effects of any Bail-In Action on any such liability, including, if applicable:

(i) a reduction in full or in part or cancellation of any such liability;

(ii) a conversion of all, or a portion of, such liability into shares or other instruments of ownership in such EEA Financial Institution, its parent entity, or a bridge institution that may be issued to it or otherwise conferred on it, and that such shares or other instruments of ownership will be accepted by it in lieu of any rights with respect to any such liability under this Agreement or any other Loan Document; or

(iii) the variation of the terms of such liability in connection with the exercise of the write-down and conversion powers of any EEA Resolution Authority.

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

E*TRADE CLEARING LLC

By: /S/ Michael Pizzi

Name: Michael Pizzi

Title: Chief Financial

Officer, E*TRADE

Financial Corporation

JP MORGAN CHASE BANK, N.A.,
as a Lender, a Committed Swingline Lender and Administrative Agent,

By: /S/ Kortney Knight
Name: Kortney Knight
Title: Vice President
J.P. Morgan

U.S. Bank National Association, as a Committed
Swingline Lender and as a Lender,

By: /S/ Christopher M. Doering

Name: Christopher M. Doering

Title: Senior Vice President

Bank of America, N.A., as a Lender and a Committed Swingline Lender,

By: /S/ Sherman Wong
Name: Sherman Wong
Title: Director

By: /S/ Brian Correia
Name: Brian Correia
Title: Assistant Vice President

Industrial and Commerical Bank of China LTD., New York Branch, as a Lender
and a Committed Swingline Lender,

By: /S/ Jeffrey Roth _____
Name: Jeffrey Roth
Title: Director

By: /S/ Guoshen Sun _____
Name: Guoshen Sun
Title: Deputy General Manager

WELLS FARGO BANK, NATIONAL ASSOCIATION,
as a Lender and a Committed Swingline Lender,

By: /S/ Lori

Hartman_____

Name: Lori Hartman
Title: Vice President

HSBC Bank USA, N.A., as a Lender,

By: /S/ Stephen J. Contino
Name: Stephen J. Contino
Title: Vice President

PEOPLE'S UNITED BANK, NATIONAL ASSOCIATION, as a Lender,

By: /S/ Kathryn M. Williams
Name: Kathryn M. Williams
Title: Vice President

The Bank of New York Mellon, as a Lender,

By: /S/ Robert

Motzel _____

Name: Robert Motzel
Title: Managing Director

Citizens Banks, N.A., as a Lender,

By: /S/ Michael K. Makaitis
Name: Michael K. Makaitis
Title: Senior Vice President

Signature Bank, as a Lender,

By: /S/ Richard Oh____
Name: Richard Oh
Title: Vice President

CHANG HWA COMMERCIAL BANK LTD., LOS ANGELES BRANCH., as a
Lender,

By: /S/ Kang Yang

Name: Kang Yang

Title: Vice President &

Manager

General

-

TEXAS CAPITAL BANK, N.A., as a Lender,

By: /S/ R. Bart McCain

Name: R. Bart McCain

Title: Senior Vice President

WESTERN ALLIANCE BANK, as a Lender,

By: /S/ Matt Kappadakunnel
Name: Matt Kappadakunnel
Title: Vice President

Banc of California, N.A., as a Lender,

By: /S/ Steven

Canup _____

Name: Steven Canup

Title: Managing Director

BANKUNITED, N.A., as a Lender,

By: /S/ Kenneth Lipke
Name: Kenneth Lipke
Title: Vice President

Liberty Bank, as a Lender,

By: /S/ Carla Balesano

Name: Carla Balesano

Title: Senior Vice President

MEGA INTERNATIONAL COMMERCIAL BANK CO., LTD., SILICON
VALLEY BRANCH, as a Lender,

By: /S/ Nian Tzy Yeh _
Name: Nian Tzy Yeh
Title: VP & General Manager

TriState Capital Bank, as a Lender,

By: /S/ Ellen Frank _

Name: Ellen Frank

Title: Senior Vice President

[Signature Page to E*Trade Clearing 364-Day Facility]

EXHIBIT A

[FORM OF] ASSIGNMENT AND ASSUMPTION

This Assignment and Assumption (the “Assignment and Assumption”) is dated as of the Effective Date set forth below and is entered into by and between [the] [each] Assignor identified in item 1 below ([the] [each, an] “Assignor”) and [the] [each] Assignee identified in item 2 below ([the] [each, an] “Assignee”). [It is understood and agreed that the rights and obligations of [the Assignors] [the Assignees] hereunder are several and not joint.]¹ Capitalized terms used but not defined herein shall have the meanings given to them in the Credit Agreement identified below (as amended, restated, amended and restated, supplemented, extended and/or otherwise modified from time to time, the “Credit Agreement”), receipt of a copy of which is hereby acknowledged by [the] [each] Assignee. The Standard Terms and Conditions set forth in Annex 1 attached hereto are hereby agreed to and incorporated herein by reference and made a part of this Assignment and Assumption as if set forth herein in full.

For an agreed consideration, [the] [each] Assignor hereby irrevocably sells and assigns to [the Assignee] [the respective Assignees], and [the] [each] Assignee hereby irrevocably purchases and assumes from [the Assignor] [the respective Assignors], subject to and in accordance with the Standard Terms and Conditions and the Credit Agreement, as of the Effective Date inserted by the Administrative Agent as contemplated below (i) all of [the Assignor’s] [the respective Assignors’] rights and obligations in [its capacity as a Lender] [their respective capacities as Lenders] under the Credit Agreement and any other documents or instruments delivered pursuant thereto to the extent related to the amount and percentage interest identified below of all of such outstanding rights and obligations of [the Assignor] [the respective Assignors] under the respective facilities identified below and (ii) to the extent permitted to be assigned under applicable law, all claims, suits, causes of action and any other right of [the Assignor (in its capacity as a Lender)] [the respective Assignors (in their respective capacities as Lenders)] against any Person, whether known or unknown, arising under or in connection with the Credit Agreement, any other documents or instruments delivered pursuant thereto or the loan transactions governed thereby or in any way based on or related to any of the foregoing, including, but not limited to, contract claims, tort claims, malpractice claims, statutory claims and all other claims at law or in equity related to the rights and obligations sold and assigned pursuant to clause (i) above (the rights and obligations sold and assigned by [the] [any] Assignor to [the] [any] Assignee pursuant to clauses (i) and (ii) above being referred to herein collectively as [the] [an] “Assigned Interest”). Each such sale and assignment is without recourse to [the] [any] Assignor and, except as expressly provided in this Assignment and Assumption, without representation or warranty by [the] [any] Assignor.

1. Assignor[s]: ____

2. Assignee[s]:

[for each Assignee, indicate [Affiliate] [Approved Fund] of [*identify* Lender]]

3. Borrower: E*TRADE CLEARING LLC, a Delaware limited liability company

¹ Include bracketed language if there are either multiple Assignors or multiple Assignees.

4. Administrative Agent: JPMorgan Chase Bank, N.A., as the Administrative Agent under the Credit Agreement.
5. Credit Agreement: The 364-Day Credit Agreement, dated as of June 24, 2016, among E*TRADE Clearing LLC, a Delaware limited liability company, the lenders and other financial institutions from time to time party thereto and JPMorgan Chase Bank, N.A., as Administrative Agent.
6. Assigned Interest[s]:

Assignor[s]	Assignee[s]	Facility Assigned	Aggregate Amount of Commitment/Loans for all Lenders	Amount of Commitment/Loans Assigned	Percentage Assigned of Commitment/Loans ²	CUSIP Number
			\$	\$	%	
			\$	\$	%	
			\$	\$	%	

[7. Trade Date:____]³

Effective Date:____, 20__[TO BE INSERTED BY THE ADMINISTRATIVE AGENT AND WHICH SHALL BE THE EFFECTIVE DATE OF RECORDATION OF TRANSFER IN THE REGISTER THEREFOR.]

[REMAINDER OF PAGE INTENTIONALLY LEFT BLANK]

² Set forth, to at least 9 decimals, as a percentage of the Commitment/Loans of all Lenders thereunder.

³ To be completed if the Assignor(s) and the Assignee(s) intend that the minimum assignment amount is to be determined as of the Trade Date.

The terms set forth in this Assignment and Assumption are hereby agreed to:

ASSIGNOR[S]

[NAME OF ASSIGNOR]

By: ____ Title:

ASSIGNEE[S]

[NAME OF ASSIGNEE]

By: ____ Title:

[Consented to and] Accepted:

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

By: __ Title:

[Consented to:]

[E*TRADE CLEARING LLC]

By: __ Title:

STANDARD TERMS AND CONDITIONS FOR ASSIGNMENT AND ASSUMPTION1. Representations and Warranties.

1.1. Assignor[s]. [The] [Each] Assignor (a) represents and warrants that (i) it is the legal and beneficial owner of [the] [the relevant] Assigned Interest, (ii) [the] [such] Assigned Interest is free and clear of any lien, encumbrance or other adverse claim and (iii) it has full power and authority, and has taken all action necessary, to execute and deliver this Assignment and Assumption and to consummate the transactions contemplated hereby; and (b) assumes no responsibility with respect to (i) any statements, warranties or representations made in or in connection with the Credit Agreement or any other Loan Document, (ii) the execution, legality, validity, enforceability, genuineness, sufficiency or value of the Loan Documents or any collateral thereunder, (iii) the financial condition of the Borrower, any of its Subsidiaries or Affiliates or any other Person obligated in respect of any Loan Document or (iv) the performance or observance by the Borrower, any of its Subsidiaries or Affiliates or any other Person of any of their respective obligations under any Loan Document.

1.2. Assignee[s]. [The] [Each] Assignee (a) represents and warrants that (i) it has full power and authority, and has taken all action necessary, to execute and deliver this Assignment and Assumption and to consummate the transactions contemplated hereby and to become a Lender under the Credit Agreement, (ii) it meets all the requirements to be an assignee under Section 9.04(b) of the Credit Agreement (subject to such consents, if any, as may be required under Section 9.04(b) of the Credit Agreement), (iii) from and after the Effective Date referred to in this Assignment and Assumption, it shall be bound by the provisions of the Credit Agreement as a Lender thereunder and, to the extent of [the] [the relevant] Assigned Interest, shall have the obligations of a Lender thereunder, (iv) it is sophisticated with respect to decisions to acquire assets of the type represented by the Assigned Interest and either it, or the Person exercising discretion in making its decision to acquire the Assigned Interest, is experienced in acquiring assets of such type, (v) it has received a copy of the Credit Agreement, and has received or has been accorded the opportunity to receive copies of the most recent financial statements delivered pursuant to Section 5.01 thereof, as applicable, and such other documents and information as it deems appropriate to make its own credit analysis and decision to enter into this Assignment and Assumption and to purchase [the] [such] Assigned Interest, (vi) it has, independently and without reliance upon the Administrative Agent or any other Lender and based on such documents and information as it has deemed appropriate, made its own credit analysis and decision to enter into this Assignment and Assumption and to purchase [the] [such] Assigned Interest, (vii) if it is a Foreign Lender, attached to the Assignment and Assumption is any documentation required to be delivered by it pursuant to the terms of the Credit Agreement, duly completed and executed by [the] [such] Assignee and (viii) it is not a "Defaulting Lender" as defined in the Credit Agreement; and (b) agrees that (i) it will, independently and without reliance on the Administrative Agent, [the] [any] Assignor or any other Lender, and based on such documents and information as it shall deem appropriate at the time, continue to make its own credit decisions in taking or not taking action under the Loan Documents, and (ii) it will perform in accordance with their terms all of the obligations which by the terms of the Loan Documents are required to be performed by it as a Lender.

2. Payments. From and after the Effective Date, the Administrative Agent shall make all payments in respect of [the] [each] Assigned Interest (including payments of principal, interest, fees and other amounts) to [the] [the relevant] Assignor for amounts which have accrued to but excluding the Effective Date and to [the] [the relevant] Assignee for amounts which have accrued from and after the Effective Date.

3. General Provisions. This Assignment and Assumption shall be binding upon, and inure to the benefit of, the parties hereto and their respective successors and assigns. This Assignment and Assumption may be executed in any number of counterparts, which together shall constitute one instrument. Delivery of an executed counterpart of a signature page of this Assignment and Assumption by telecopy shall be effective as delivery of a manually executed counterpart of this Assignment and Assumption. This Assignment and Assumption shall be governed by, and construed in accordance with, the law of the State of New York

EXHIBIT B

FINANCIAL COVENANT COMPUTATIONS

Terms not otherwise defined herein are used as defined in the 364-Day Credit Agreement (the "Credit Agreement") dated as of June 24, 2016 among E*TRADE Clearing LLC as Borrower, JPMorgan Chase Bank, N.A., as administrative agent, and the other agents and lenders party thereto.

I. Minimum Consolidated Tangible Net Worth

1. Consolidated Tangible Net Worth

- a. Amount of stockholders' equity as set forth on the most recent quarterly or annual consolidated balance sheet of the Borrower and its Subsidiaries delivered pursuant to Section 5.01(a) or 5.01(b) of the Credit Agreement; provided that, other than on dates which financial statements and regulatory reports are required to be delivered under Section 5.01(a) or 5.01(b) of the Credit Agreement, such amount shall be based on the good faith estimates of the Borrower \$___
- b. Amount of all intangible items including, without limitation, goodwill, franchises, licenses, patents, trademarks, trade names, copyrights, service marks, brand names and write-ups of intangible assets (other than non-cash gains resulting from mark to market adjustments of securities positions made in the ordinary course of business) (but only to the extent that such items would be included on a consolidated balance sheet of the Borrower and its Subsidiaries in accordance with GAAP) based on the most recent quarterly or annual consolidated balance sheet of the Borrower and its Subsidiaries delivered pursuant to Section 5.01(a) or 5.01(b) of the Credit Agreement; provided that, other than on dates which financial statements and regulatory reports are required to be delivered under Section 5.01(a) or 5.01(b) of the Credit Agreement, such amount shall be based on the good faith estimates of the Borrower \$___

I.1 Consolidated Tangible Net Worth: (I.1(a) - I.1(b)) \$___

2. Minimum TNW

- a. \$635,929,023.80
- b. an amount equal to 50% of consolidated net income of the Borrower for each fiscal quarter of the Borrower ended after March 31, 2016 for which such consolidated net income is positive (excluding any consolidated net income (if such amount is positive) for the month of April, 2016)

\$___

I.2. Minimum TNW: (I.2(a) + I.2(b))

\$___

3. Minimum Consolidated Tangible Net Worth: Is I.1 greater than I.2?

II. Minimum Regulatory Net Capital

A B C

Regulatory Net Capital 6% of its aggregate debit items (computed in accordance with Section 15(c)(3)-1 of the Securities Exchange Act) calculated using the alternative standard for net capital calculation Is A greater than B? [Y/N]

EXHIBIT C-1

[FORM OF]

U.S. TAX COMPLIANCE CERTIFICATE

(For Non-U.S. Lenders That Are Not Partnerships For U.S. Federal Income Tax Purposes)

Reference is hereby made to the 364-Day Credit Agreement dated as of June 24, 2016 (as amended, supplemented or otherwise modified from time to time, the "Credit Agreement"), among E*TRADE Clearing LLC and each lender from time to time party thereto.

Pursuant to the provisions of Section 2.14 of the Credit Agreement, the undersigned hereby certifies that (i) it is the sole record and beneficial owner of the Loan(s) (as well as any Note(s) evidencing such Loan(s)) in respect of which it is providing this certificate, (ii) it is not a bank within the meaning of Section 881(c)(3)(A) of the Code, (iii) it is not a ten percent shareholder of the Borrower within the meaning of Section 871(h)(3)(B) of the Code and (iv) it is not a controlled foreign corporation related to the Borrower as described in Section 881(c)(3)(C) of the Code.

The undersigned has furnished the Administrative Agent and the Borrower with a certificate of its non-U.S. Person status on IRS Form W-8BEN-E or W-8BEN. By executing this certificate, the undersigned agrees that (1) if the information provided on this certificate changes, the undersigned shall promptly so inform the Borrower and the Administrative Agent and (2) the undersigned shall have at all times furnished the Borrower and the Administrative Agent with a properly completed and currently effective certificate in either the calendar year in which each payment is to be made to the undersigned, or in either of the two calendar years preceding such payments.

Unless otherwise defined herein, terms defined in the Credit Agreement and used herein shall have the meanings given to them in the Credit Agreement.

[NAME OF LENDER]

By

Name: Title:

Date: __, 20[]

EXHIBIT C-2

[FORM OF]

U.S. TAX COMPLIANCE CERTIFICATE

(For Non-U.S. Lenders That Are Partnerships For U.S. Federal Income Tax Purposes) Reference is hereby made to the 364-Day Credit Agreement dated as of June 24, 2016 (as amended, supplemented or otherwise modified from time to time, the "Credit Agreement"), among E*TRADE Clearing LLC and each lender from time to time party thereto.

Pursuant to the provisions of Section 2.14 of the Credit Agreement, the undersigned hereby certifies that (i) it is the sole record owner of the Loan(s) (as well as any Note(s) evidencing such Loan(s)) in respect of which it is providing this certificate, (ii) its partners/members are the sole beneficial owners of such Loan(s) (as well as any Note(s) evidencing such Loan(s)), (iii) with respect to the extension of credit pursuant to this Credit Agreement, neither the undersigned nor any of its partners/members claiming the portfolio interest exemption (the "applicable partners/members") is a bank extending credit pursuant to a loan agreement entered into in the ordinary course of its trade or business within the meaning of Section 881(c)(3)(A) of the Code, (iv) none of the applicable partners/members is a ten percent shareholder of the Borrower within the meaning of Section 871(h)(3)(B) of the Code and (v) none of the applicable partners/members is a controlled foreign corporation related to the Borrower as described in Section 881(c)(3)(C) of the Code.

The undersigned has furnished the Administrative Agent and the Borrower with IRS Form W- 8IMY accompanied by an IRS Form W-8BEN-E or W-8BEN from each of the applicable partners/members. By executing this certificate, the undersigned agrees that (1) if the information provided on this certificate changes, the undersigned shall promptly so inform the Borrower and the Administrative Agent and (2) the undersigned shall have at all times furnished the Borrower and the Administrative Agent with a properly completed and currently effective certificate in either the calendar year in which each payment is to be made to the undersigned, or in either of the two calendar years preceding such payments.

Unless otherwise defined herein, terms defined in the Credit Agreement and used herein shall have the meanings given to them in the Credit Agreement.

[NAME OF LENDER]

By
Name Title:

Date: __, 20[]

EXHIBIT C-3

[FORM OF]

U.S. TAX COMPLIANCE CERTIFICATE

(For Non-U.S. Participants That Are Not Partnerships For U.S. Federal Income Tax Purposes) Reference is hereby made to the 364-Day Credit Agreement dated as of June 24, 2016 (as amended, supplemented or otherwise modified from time to time, the "Credit Agreement"), among E*TRADE Clearing LLC and each lender from time to time party thereto.

Pursuant to the provisions of Section 2.14 of the Credit Agreement, the undersigned hereby certifies that (i) it is the sole record and beneficial owner of the participation in respect of which it is providing this certificate, (ii) it is not a bank within the meaning of Section 881(c)(3)(A) of the Code, (iii) it is not a ten percent shareholder of the Borrower within the meaning of Section 871(h)(3)(B) of the Code and (iv) it is not a controlled foreign corporation related to the Borrower as described in Section 881(c)(3)(C) of the Code.

The undersigned has furnished its participating Lender with a certificate of its non-U.S. Person status on IRS Form W-8BEN-E or W-8BEN. By executing this certificate, the undersigned agrees that

(1) if the information provided on this certificate changes, the undersigned shall promptly so inform such Lender in writing and (2) the undersigned shall have at all times furnished such Lender with a properly completed and currently effective certificate in either the calendar year in which each payment is to be made to the undersigned, or in either of the two calendar years preceding such payments.

Unless otherwise defined herein, terms defined in the Credit Agreement and used herein shall have the meanings given to them in the Credit Agreement.

[NAME OF PARTICIPANT]

By
Name Title:

Date: __, 20[]

EXHIBIT C-4

[FORM OF]

U.S. TAX COMPLIANCE CERTIFICATE

(For Non-U.S. Participants That Are Partnerships For U.S. Federal Income Tax Purposes) Reference is hereby made to the 364-Day Credit Agreement dated as of June 24, 2016 (as amended, supplemented or otherwise modified from time to time, the "Credit Agreement"), among E*TRADEClearing LLC and each lender from time to time party thereto.

Pursuant to the provisions of Section 2.14 of the 364-Day Credit Agreement, the undersigned hereby certifies that (i) it is the sole record owner of the participation in respect of which it is providing this certificate, (ii) its partners/members are the sole beneficial owners of such participation, (iii) with respect such participation, neither the undersigned nor any of its partners/members claiming the portfolio interest exemption (the "applicable partners/members") is a bank extending credit pursuant to a loan agreement entered into in the ordinary course of its trade or business within the meaning of Section 881(c)(3)(A) of the Code, (iv) none of the applicable partners/members is a ten percent shareholder of the Borrower within the meaning of Section 871(h)(3)(B) of the Code and (v) none of the applicable partners/members is a controlled foreign corporation related to the Borrower as described in Section 881(c)(3)(C) of the Code.

The undersigned has furnished its participating Lender with IRS Form W-8IMY accompanied by an IRS Form W-8BEN-E or W-8BEN from each of the applicable partners/members. By executing this certificate, the undersigned agrees that (1) if the information provided on this certificate changes, the undersigned shall promptly so inform such Lender and (2) the undersigned shall have at all times furnished such Lender with a properly completed and currently effective certificate in either the calendar year in which each payment is to be made to the undersigned, or in either of the two calendar years preceding such payments.

Unless otherwise defined herein, terms defined in the Credit Agreement and used herein shall have the meanings given to them in the Credit Agreement.

[NAME OF PARTICIPANT]

By
Name Title:

Date: __, 20[]

EXHIBIT D

[FORM OF] ASSUMPTION AGREEMENT

ASSUMPTION AGREEMENT, dated as of [] [], 201[] (this “Agreement”), made by E*TRADE Securities LLC, a Delaware limited liability company (the “Assuming Borrower”) surviving the merger of E*TRADE Clearing LLC (the “Initial Borrower”), with and into the Assuming Borrower, and acknowledged by JPMorgan Chase Bank, N.A., as administrative agent (in such capacity, the “Administrative Agent”) for the banks and other financial institutions (the “Lenders”) from time to time parties to the Credit Agreement (as hereinafter defined).

WITNESSETH:

WHEREAS, pursuant to an agreement and plan of merger, the Initial Borrower will merge with and into the Assuming Borrower and the separate existence of the Initial Borrower will thereupon cease;

WHEREAS, the Initial Borrower, the Lenders and the Administrative Agent have entered into that certain 364-Day Credit Agreement, dated as of June 24, 2016 (as amended, supplemented or otherwise modified from time to time, the “Credit Agreement”), pursuant to which such Lenders have provided a 364-day revolving credit facility to the Initial Borrower;

WHEREAS, pursuant to Section 6.03(a)(3) of the Credit Agreement, the Assuming Borrower desires to accept and assume all of the rights, obligations and liabilities of the Initial Borrower under the Credit Agreement; and

WHEREAS, the Administrative Agent and the Lenders party to the Credit Agreement from time to time have consented to such assignment by the Initial Borrower to the Assuming Borrower and assumption by the Assuming Borrower, subject solely to the satisfaction of the conditions set forth in the definition of “Specified Merger” in the Credit Agreement.

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

1. Defined Terms. Unless otherwise defined herein, terms defined in the Credit Agreement and used herein shall have the meanings given to them in the Credit Agreement.
 2. Credit Agreement. Upon the Assumption Date (as defined below), without further act or deed, (a) the Assuming Borrower hereby assumes all obligations and liabilities (including, without limitation, the Obligations) and all rights of the Initial Borrower as “Borrower” under the Credit Agreement and the other Loan Documents, (b) the Assuming Borrower hereby becomes a party to the Credit Agreement as the “Borrower” with the same force and effect as if originally named therein as Borrower, (c) the Assuming Borrower hereby expressly agrees to observe and perform and be bound by all of the terms, covenants, representations, warranties, and agreements contained in the Credit Agreement and each other
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Loan Document which are binding upon, and to be observed or performed by, the Initial Borrower or the “Borrower” thereunder, (d) the Assuming Borrower hereby ratifies and confirms the validity of, and all of its obligations and liabilities (including, without limitation, the Obligations) under, the Credit Agreement and such other Loan Documents and (e) each reference to the “Borrower” in the Credit Agreement and in any other Loan Document is hereby deemed to refer to the Assuming Borrower (clauses (a) through (e), the “Assumption”).

3. Effectiveness. This Agreement shall become effective on the date (such date, the “Assumption Date”) that the Administrative Agent shall have received each of the following, each of which shall be originals or facsimiles (or delivered by other electronic transmission, including pdf) unless otherwise specified:

- (a) counterparts of this Agreement signed on behalf of the Assuming Borrower and the Administrative Agent;
 - (b) copies of the certificate of formation and operating agreement (or comparable organizational documents) of the Assuming Borrower and any amendments thereto, certified in each instance by its Director, Secretary, Assistant Secretary or Chief Financial Officer (or any other person holding a similar title) and, with respect to organizational documents filed with a Governmental Authority, by the applicable Governmental Authority;
 - (c) copies of resolutions of the board of directors (or other governing body) of the Assuming Borrower approving and authorizing the performance of the obligations under the Credit Agreement, together with specimen signatures of the persons authorized to execute this Agreement on the Assuming Borrower’s behalf, and, with respect to the resolutions, certified as of the Assumption Date by its Director, Secretary, Assistant Secretary or Chief Financial Officer (or any other person holding a similar title) as being in full force and effect without modification or amendment;
 - (d) a favorable written opinion (addressed to the Administrative Agent and the Lenders) of Davis Polk & Wardwell LLP, special counsel to the Assuming Borrower, regarding the due execution of this Agreement and the due authorization and validity of this Agreement or the obligations under the Credit Agreement, in form and substance reasonably satisfactory to the Administrative Agent;
 - (e) a certificate of a Financial Officer (A) certifying that immediately after giving effect to the Assumption, no Default or Event of Default would result therefrom and (B) setting forth reasonably detailed calculations demonstrating compliance with the Financial Covenants on a pro forma basis, substantially in the form of Exhibit B to the Credit Agreement; and
 - (f) the Lenders and the Administrative Agent shall have received, as of the Assumption Date, all documentation and other information about the Assuming Borrower as shall have been reasonably requested in writing at least three (3) Business Days prior to the Assumption Date (or such shorter period as the Administrative Agent shall otherwise agree) that is required by regulatory authorities under applicable “know your customer” and anti-money laundering rules and regulations, including without limitation the Patriot Act.
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4. Effect of Amendment. Except as expressly modified by Section 2 hereof, the provisions of the Credit Agreement and the other Loan Documents are and shall remain in full force and effect. This Agreement shall be deemed to be a Loan Document for all purposes of the Credit Agreement.

5. GOVERNING LAW. THIS AGREEMENT SHALL BE CONSTRUED IN ACCORDANCE WITH AND GOVERNED BY THE LAW OF THE STATE OF NEW YORK.

6. Counterparts. This Agreement may be executed in any number of counterparts, and by the different parties hereto on separate counterpart signature pages, and all such counterparts taken together shall be deemed to constitute one and the same instrument.

7. Severability. Any provision of this Agreement which is prohibited or unenforceable in any jurisdiction shall, as to such jurisdiction, be ineffective to the extent of such prohibition or unenforceability without invalidating the remaining provisions hereof, and any such prohibition or unenforceability in any jurisdiction shall not invalidate or render unenforceable such provision in any other jurisdiction.

8. Successors and Assigns. This Agreement shall be binding upon and inure to the benefit of the Assuming Borrower and its successors and assigns, and the Administrative Agent and the Lenders and their respective successors, indorsees, transferees and assigns.

IN WITNESS WHEREOF the undersigned has caused this Agreement to be duly executed and delivered by its proper and duly authorized officer as of the day and year first above written.

E*TRADE SECURITIES LLC, the entity surviving the merger of E*TRADE Clearing LLC with and into E*TRADE Securities LLC

By: Name: Title:

Acknowledged by:

JPMORGAN CHASE BANK, N.A.
as Administrative Agent

By: Name:
Title:

Schedule 2.01Commitments

Lender	Commitment
JPMorgan Chase Bank, N.A.	\$40,000,000.00
U.S. Bank National Association	\$40,000,000.00
Bank of America, N.A.	\$40,000,000.00
Industrial and Commercial Bank of China Limited, New York Branch	\$40,000,000.00
Wells Fargo Bank, National Association	\$40,000,000.00
HSBC Bank USA, N.A.	\$25,000,000.00
People's United Bank N.A.	\$25,000,000.00
The Bank of New York Mellon	\$20,000,000.00
Citizens Bank N.A.	\$20,000,000.00
Signature Bank	\$20,000,000.00
Chang Hwa Commercial Bank Ltd., Los Angeles Branch	\$15,000,000.00
Texas Capital Bank, N.A.	\$15,000,000.00
Western Alliance Bank	\$15,000,000.00
Banc of California, N.A.	\$10,000,000.00
BankUnited, N.A.	\$10,000,000.00
Liberty Bank	\$10,000,000.00
Mega International Commercial Bank Co., Ltd., Silicon Valley Branch	\$10,000,000.00
TriState Capital Bank	\$5,000,000.00
Total	\$400,000,000.00

Schedule 3.06

Disclosed Matters

The representations and warranties of the Borrower in Section 3.04(b) and Section 3.06 of the Agreement are made subject to the matters involving the April 2007 leveraged buyout of the Tribune Company (“Tribune”) by Sam Zell and the subsequent bankruptcy of Tribune, described in further detail on page 68 of E*TRADE Financial Corporation’s 10-Q filed May 4, 2016 and on page 151 of E*TRADE Financial Corporation’s 10-K filed February 24, 2016.

Schedule 3.12

Subsidiaries

None.

Schedule 6.01

Existing Indebtedness

None.

Schedule 6.02

Existing Liens

None.

1. I have reviewed this Quarterly Report on Form 10-Q of E*TRADE Financial Corporation;
2. Based on my knowledge, this report does not contain any untrue statement of a material fact or omit to state a material fact necessary to make the statements made, in light of the circumstances under which such statements were made, not misleading with respect to the period covered by this report;
3. Based on my knowledge, the financial statements, and other financial information included in this report, fairly present in all material respects the financial condition, results of operations and cash flows of the registrant as of, and for, the periods presented in this report;
4. The registrant's other certifying officer and I are responsible for establishing and maintaining disclosure controls and procedures (as defined in Exchange Act Rules 13a-15(e) and 15d-15(e)) and internal control over financial reporting (as defined in Exchange Act Rules 13a-15(f) and 15d-15(f)) for the registrant and have:
 - a) Designed such disclosure controls and procedures, or caused such disclosure controls and procedures to be designed under our supervision, to ensure that material information relating to the registrant, including its consolidated subsidiaries, is made known to us by others within those entities, particularly during the period in which this report is being prepared;
 - b) Designed such internal control over financial reporting, or caused such internal control over financial reporting to be designed under our supervision, to provide reasonable assurance regarding the reliability of financial reporting and the preparation of financial statements for external purposes in accordance with generally accepted accounting principles;
 - c) Evaluated the effectiveness of the registrant's disclosure controls and procedures and presented in this report our conclusions about the effectiveness of the disclosure controls and procedures, as of the end of the period covered by this report based on such evaluation; and
 - d) Disclosed in this report any change in the registrant's internal control over financial reporting that occurred during the registrant's most recent fiscal quarter (the registrant's fourth fiscal quarter in the case of an annual report) that has materially affected, or is reasonably likely to materially affect, the registrant's internal control over financial reporting; and
5. The registrant's other certifying officer and I have disclosed, based on our most recent evaluation of internal control over financial reporting, to the registrant's auditors and the audit committee of the registrant's board of directors (or persons performing the equivalent functions):
 - a) All significant deficiencies and material weaknesses in the design or operation of internal control over financial reporting which are reasonably likely to adversely affect the registrant's ability to record, process, summarize and report financial information; and
 - b) Any fraud, whether or not material, that involves management or other employees who have a significant role in the registrant's internal control over financial reporting.

E*TRADE Financial Corporation
(Registrant)

By /s/ PAUL T. IDZIK
Paul T. Idzik
Chief Executive Officer
(Principal Executive Officer)

1. I have reviewed this Quarterly Report on Form 10-Q of E*TRADE Financial Corporation;
2. Based on my knowledge, this report does not contain any untrue statement of a material fact or omit to state a material fact necessary to make the statements made, in light of the circumstances under which such statements were made, not misleading with respect to the period covered by this report;
3. Based on my knowledge, the financial statements, and other financial information included in this report, fairly present in all material respects the financial condition, results of operations and cash flows of the registrant as of, and for, the periods presented in this report;
4. The registrant's other certifying officer and I are responsible for establishing and maintaining disclosure controls and procedures (as defined in Exchange Act Rules 13a-15(e) and 15d-15(e)) and internal control over financial reporting (as defined in Exchange Act Rules 13a-15(f) and 15d-15(f)) for the registrant and have:
 - a) Designed such disclosure controls and procedures, or caused such disclosure controls and procedures to be designed under our supervision, to ensure that material information relating to the registrant, including its consolidated subsidiaries, is made known to us by others within those entities, particularly during the period in which this report is being prepared;
 - b) Designed such internal control over financial reporting, or caused such internal control over financial reporting to be designed under our supervision, to provide reasonable assurance regarding the reliability of financial reporting and the preparation of financial statements for external purposes in accordance with generally accepted accounting principles;
 - c) Evaluated the effectiveness of the registrant's disclosure controls and procedures and presented in this report our conclusions about the effectiveness of the disclosure controls and procedures, as of the end of the period covered by this report based on such evaluation; and
 - d) Disclosed in this report any change in the registrant's internal control over financial reporting that occurred during the registrant's most recent fiscal quarter (the registrant's fourth fiscal quarter in the case of an annual report) that has materially affected, or is reasonably likely to materially affect, the registrant's internal control over financial reporting; and
5. The registrant's other certifying officer and I have disclosed, based on our most recent evaluation of internal control over financial reporting, to the registrant's auditors and the audit committee of the registrant's board of directors (or persons performing the equivalent functions):
 - a) All significant deficiencies and material weaknesses in the design or operation of internal control over financial reporting which are reasonably likely to adversely affect the registrant's ability to record, process, summarize and report financial information; and
 - b) Any fraud, whether or not material, that involves management or other employees who have a significant role in the registrant's internal control over financial reporting.

E*TRADE Financial Corporation
(Registrant)

By /s/ MICHAEL A. PIZZI
Michael A. Pizzi
Chief Financial Officer
(Principal Financial Officer)

**CERTIFICATION PURSUANT TO 18 U.S.C. SECTION 1350,
AS ADOPTED PURSUANT TO SECTION 906 OF THE SARBANES-OXLEY ACT OF 2002**

The certification set forth below is being submitted in connection with this Quarterly Report on Form 10-Q of E*TRADE Financial Corporation (the “Quarterly Report”) for the purpose of complying with Rule 13a-14(b) or Rule 15d-14(b) of the Securities Exchange Act of 1934 (the “Exchange Act”) and Section 1350 of Chapter 63 of Title 18 of the United States Code.

Paul T. Idzik, the Chief Executive Officer and Michael A. Pizzi, the Chief Financial Officer of E*TRADE Financial Corporation, each certifies that, to the best of their knowledge:

1. the Quarterly Report fully complies with the requirements of Section 13(a) or 15(d) of the Exchange Act; and
2. the information contained in the Quarterly Report fairly presents, in all material respects, the financial condition and results of operations of E*TRADE Financial Corporation.

Dated: August 4, 2016

/s/ PAUL T. IDZIK

Paul T. Idzik
Chief Executive Officer
(Principal Executive Officer)

/s/ MICHAEL A. PIZZI

Michael A. Pizzi
Chief Financial Officer
(Principal Financial Officer)

