

August 20, 2003

Ms. Cam Ragland
CRA Officer
E*TRADE Bank
671 N. Glebe Road
Arlington, VA 22203

Dear Ms. Ragland:

I am writing from the Woodstock Institute in Chicago to comment on E*TRADE Bank's (ETB) recent Needs to Improve CRA rating. The Woodstock Institute is a 30-year old Chicago-based organization that is dedicated to promoting community reinvestment and economic development in lower-income and minority neighborhoods locally and nationally. Woodstock staff attempted to reach E*TRADE Bank through email addresses listed on the company's website. One address bounced back to us, and we never received a response from the other. We could not locate a phone number or contact person for community reinvestment or community relations on the website.

ETB should formulate a strong and appropriate response to its failing CRA rating. As the largest Internet bank in the country, and one of the largest banks to fail a CRA exam, ETB's plan for correcting its CRA record is a vital policy issue. As the financial industry changes, it is important that the implementation of CRA reflect that changing reality. Federally-insured banks must remain responsive to low-income people and communities. We are especially concerned with the way that the bank is defining its assessment area. The fact that ETB is an Internet bank should not preclude it from accurately describing its service area. Smaller Internet-based institutions, such as Netbank, with approximately a fifth of the assets of ETB, use much larger assessment areas.

In an August 7th, 2003, article in the American Banker, ETB discussed narrowing its CRA service area to four primary assessment areas. Its most recent assessment area included 25 separate assessment areas in several states. In the article, ETB proposed to drop many of these assessment areas to focus on four main areas from which it claims it receives 40% of its deposits. This means that the bank would exclude 60% of its deposit base from its CRA responsibilities. This is particularly problematic considering the bank's past failure to serve low and moderate-income (LMI) people.

Banks should include in their CRA assessment areas all counties or market service areas (MSAs) in which the bank holds 0.05% of the market share. Consequently, the bank should not be permitted to exclude the other assessment areas from its CRA responsibilities.

Alternately, ETB could aggregate CRA lending goals for the entire country outside of the defined assessment area. To do this, the bank should look at its market share ratio in the portion of the national market that is outside its assessment area. ETB should divide its aggregate market share for different types of mortgage lending for low- and moderate-income (LMI) communities/ borrowers by its market share (for the same types of products respectively) for middle- and upper-income (MUI) communities/ borrowers. This same market share ratio approach should be used inside the bank's stated assessment area as well. The bank should aim for a minimum LMI-MUI market share ratio of 1.0. This would mean that the bank is making a roughly equal share of effort in LMI areas as it is in MUI areas. A similar market share ratio could be done for LMI account holders versus MUI account holders in aggregate outside of its assessment area.

ETB's lending performance is so poor that it must make dramatic changes to its practices before achieving a Satisfactory CRA rating. We have analyzed the bank's home purchase and refinance lending in select markets and found that out of the variety of banks that Woodstock has analyzed over the years, ETB has the one of the worst lending records.

As described above, the Woodstock Institute uses a market share ratio approach to describe an institution's lending patterns. If a bank is making an equal effort in lending to the LMI and MUI markets in a given geographic area, the market share ratio (MSR) would be 1.0. The attached tables show that in some cases, ETB is not even making a tenth the effort in lending to LMI markets as it is in lending to MUI markets. Table 1 details an analysis of ETB's lending in its current stated assessment area in Florida (Fort Lauderdale, Orlando, and Tampa MSAs); Georgia (Atlanta MSA); and Virginia/West Virginia (Washington, DC, MSA). The bank's lending to LMI borrowers, as well as to black and Latino borrowers, is alarmingly low. ETB did not make a single loan to a low-income borrower in its entire Florida assessment area. It made no home purchase loans to low-income borrowers in its Georgia assessment area. The total number of home purchase and refinance loans going to low-income borrowers in ALL of the assessment areas that we analyzed was 25 in 2001.

What is even more disturbing is that the bank proposes to shrink what already proves to be an arbitrary assessment area. It is interesting to note that of 185 HMDA-reportable loans made by ETB in 2001 in the state of Indiana, only 16 were made inside the bank's stated assessment area, the South Bend MSA. Further, Table 2 shows that in 2001 in Florida, the bank made more loans outside of its assessment area than inside. The reason for declaring only three counties in the state to be in the assessment area seems to be because the bank has ATMs in those locations. This is an inadequate measure of how ETB does business. The bank made almost as many loans in West Virginia and Virginia outside of its assessment area in those states as it did in the Washington, DC, MSA. ETB's lending to LMI, black, and Latino borrowers is seriously inadequate across the board in FL, VA, and WV, outside of the bank's assessment area. Moreover, ETB did not make any home purchase loans to low-income borrowers in the areas of FL, VA, and WV that fell outside of its assessment area.

Because the Woodstock Institute is based in Chicago and staffs a coalition of more than a hundred non-profits that focuses on community reinvestment issues, it is important to look at ETB's lending record in Illinois. The bank made 1,259 home purchase and refinance loans in Illinois in 2001. Neither Illinois nor any MSA in the state has been included in the bank's CRA assessment area. This is despite the fact that ETB made more loans in IL than in other states that are included in the area. Finally, Table 2 shows that ETB's lending in Illinois is extremely weak in regards to lending to LMI, black and Latino borrowers.

Over the last exam period, the bank committed very few CRA-related investments, no community development loans, no community development services, and focused on deposit products targeted to individuals with large balances. The bank must come up with an adequate response to its extremely poor record of service to LMI people and communities. In summary E*TRADE Bank should be required to significantly expand its stated assessment area to more accurately reflect the way the bank does business. Internet banks must not be allowed a pass on a poor CRA record simply by reducing their assessment areas in an arbitrary fashion and abandoning their commitment to lower-income areas. There is a precedent for this type of action The Institute has commented on Netbank's strategic plan in the past and recommended a similar assessment area expansion. Netbank responded by increasing, rather than decreasing, its assessment area to include several more states. Though Woodstock believes that Netbank could do more to bring its assessment area in line with its business strategy,

ETB's assessment area is much more troubling. Moreover, ETB must make quantitative lending goals that will bring its market share of lending to LMI borrowers more in line with its market share of lending to MUI borrowers. The Woodstock Institute believes that ETB and the OTS have the opportunity to set a positive precedent for how Internet banks in particular can deal with poor CRA ratings.

Sincerely,
Katy Jacob
Project Director

cc: Ms. Lynn Bedard, OTS

Mr. Steve Gutterman, Director of Operations, E*TRADE Bank