**APPLICATION**

**TO ESTABLISH A DOMESTIC OPERATING SUBSIDIARY**

**(N.J.A.C. 3:11-5)**

 \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, 20\_\_\_

To: Commissioner of Banking & Insurance

Department of Banking & Insurance

PO Box 040

Trenton, NJ 08625

From: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

(Exact Corporate Title of Bank)

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Exact Street Address of Head Office - (City, State, Zip Code)

Application is hereby made for permission to establish a de novo corporation to be controlled by the Bank as a domestic operating subsidiary. The Bank will own \_\_\_\_\_\_ percent of the voting stock of the proposed subsidiary.

A certified copy of a resolution of the Board of Directors authorizing the establishment of the operating subsidiary is enclosed.

An affidavit of the president of the Bank relative to the formation of the subsidiary is enclosed.

A copy of the filed and recorded certificate of incorporation of the subsidiary is submitted with the application.

It is hereby certified that all representation and information in this application and with respect to any other document or paper submitted in connection with this application contain no misrepresentation or omissions of material facts.

(Seal of Bank) \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

 Signature of Officer

 Designated to File Application

Requests for additional information or other communications concerning this proposal should be directed to:

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

(Name) (Title)

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

 (Mailing Address) (Telephone No.)

All questions should be answered completely. If answer is no or none, this should be indicated. To the extent possible, questions should be answered in the space provided with insert pages with appropriate cross-references utilized if necessary. **All dollar amounts should be rounded to the nearest thousand unless otherwise noted.**

**SAMPLE** - Substitute appropriate certification and resolution for this page.

BANK BOARD RESOLUTION

SECRETARY'S CERTIFICATE

1. I hereby certify that I am the (Secretary) (Cashier) of

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

 located in \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ State of \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

 and that I have been duly appointed and am presently serving that capacity in

 accordance with the by-laws of said bank.

2. I further certify that at a meeting of the Board of Directors of

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ duly called and convened on

the \_\_\_\_\_\_\_\_\_\_\_\_\_\_day of \_\_\_\_\_\_\_\_\_\_\_\_\_, 20\_\_\_, the following resolution(s)

were duly adopted by a majority of the board.

**(INSERT RESOLUTIONS ADOPTED - THE ENTIRE TEXT SHOULD BE INCLUDED).**

The resolution should include, at a minimum:

1. Name and address of corporation to be established;

2. Brief description of the activities of the corporation and the reason for the proposal;

3. Percent of bank ownership of the stock of the corporation;

4. The dollar amount of cash or other investment authorized to be made by the bank;

5. The officer or officers designated to file the application and empowered to take such other action as may be necessary to complete the appropriate filings;

6. Such other pertinent factors as the board may stipulate;

The foregoing resolution(s) is presently in full force and effect and has not been revoked or rescinded as of the date hereof.

In witness hereof I have hereupon set the seal of this bank this

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ day of \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, 20\_\_\_\_\_.

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

 Secretary or Cashier

**(Seal of Bank)**

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1. Provide a detailed description of all business activities in which the proposed subsidiary will engage, including the type of customers to be served. Submit an estimation of the volume and scope of the anticipated business.

2. Describe the anticipated investment in and advances to the proposed operating subsidiary. Include all cash to be invested, asset to be transferred and credit arrangements involving either the Bank or proposed subsidiary.

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3. If the Bank will own less than 100% of the outstanding stock, indicate the amount of stock the Bank will own and provide the names of any other owners, their individual interest and their relationship, if any, to the Bank or its directors, officers, major stockholders (one owning directly or beneficially 5% or more of the outstanding stock) or their associates or interests.

4. Indicate the location(s) (street address, city, county, state) from which the subsidiary will conduct its business.

5. If the proposed subsidiary will not utilize space in the existing Bank premises, provide estimates of the cost of land, building, furniture and fixtures, whether purchased or leased.

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6. If the proposed subsidiary will purchase, lease, or otherwise be involved in any financial arrangement with any of the Bank's (or its subsidiaries) directors, officers, major shareholders, associate, or interest thereof, furnish complete details.

7. Describe the geographic area from which the subsidiary contemplates obtaining its business.

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8. State the name of the person who will head the proposed operating subsidiary and briefly describe such person's qualifications. Identify any Bank management personnel to be employed by the subsidiary or who will devote substantial time to the subsidiary.

9. Identify and comment upon any special considerations that would be germane to an evaluation of the proposal, and are not covered elsewhere in this application.

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10. Submit a pro forma balance sheet for the proposed subsidiary reflecting all major asset, liability and capital accounts and their projected balances.

11. Submit a pro forma projection of income and expense for the proposed subsidiary reflecting all major income and expenses and estimated annual income (loss).

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**SAMPLE**

AFFIDAVIT

STATE OF NEW JERSEY )

 ss:

COUNTY OF )

1. (Name of Bank President) , of full age, being duly sworn according to

law, upon my oath depose and say that:

1. I am the President of (Name of Bank)

2. The (Name of Bank) has incorporated a subsidiary

 named (Name of Subsidiary) in which said bank owns

\_\_\_\_\_\_% of the voting stock. This corporation is a domestic operating

subsidiary of the bank and will conduct only business which the bank itself may

conduct in accordance with applicable State and Federal banking laws.

Primarily, it is to be engaged in \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

 (Brief outline of proposed activities)

3. The corporation will be formed under Title 14A of the New Jersey Statutes which

control general business corporations or appropriate reference to general business

corporation section of the law in the State wherein the subsidiary is incorporated

and, consequently, in its Certificate of Incorporation it will not be specifically

set forth that it will conduct banking business activities. However, I represent

to the Commissioner of Banking of the State of New Jersey that

 (Name of Subsidiary) will engage only in activities

which the Commissioner of Banking of the State of New Jersey will rely upon

the same in connection with the granting of his approval to the investment in

in such subsidiary, pursuant to N.J.A.C. 3:11-5.

4. I further represent that the books and records of the operating subsidiary shall be

made available upon request and be subject to examination and supervision by the

Commissioner of Banking in the same manner and to the same extent as the parent

bank, as provided in N.J.A.C. 3:11-5.1(g).

 (Signature of President)

 (Typed Name and Title)

Subscribed and sworn to before

me this \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ day

of\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, 20\_\_\_

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

TITLE 3

DEPARTMENT OF BANKING

SUBTITLE B

DIVISION OF BANKING

CHAPTER 11

INVESTMENTS

**SUBCHAPTER 5.** INVESTMENT BY BANK IN CAPITAL STOCK OF DOMESTIC

 OPERATING SUBSIDIARIES

3:11-5.1 Operational subsidiaries

(a) With the prior approval of the Commissioner of Banking, a bank may engage in activities, which are a part of the business of banking or incidental thereto, by means of an operating subsidiary corporation. In order to qualify as an operating subsidiary hereunder, at least 80% of the voting stock of the subsidiary must be owned by the bank. An application to conduct business, as an operating subsidiary shall be accompanied by a $100.00 application fee. In addition the Department shall impose a per diem charge, as required.

(b) An operating subsidiary may perform any business function which the parent bank is permitted to perform.

(c) The Department considers an application for the establishment of a domestic operating subsidiary to be primarily a business decision of the applicant, however, the Commissioner must be satisfied that the general condition of the applicant is satisfactory. The existence of conditions warranting special supervisory attention by the Banking Department normally will preclude approval. A bank should not have an undue amount of criticized assets, particularly in relation to capital; serious or frequent violations of law; inadequate liquidity; adverse operating trends; poor internal controls or other significant problems. Capital, earnings and retention of earnings should be sufficient to support the current level of operations as well as the proposed expansion. In determining the applicant's capacity to support the proposed subsidiary, the estimated cost of establishing will be considered. If the application is for the acquisition of an existing business, the Commissioner will also take into account the public interest factor, similar to the requirement for this consideration on mergers as called for in N.J.S.A. 17:9A-136.

(d) Transactions between the parent bank and the operating subsidiaries are not subject to the limitations in N.J.S.A. 17:9A-62.

(e) Except as otherwise permitted by statute or regulation, all provisions of State banking laws applicable to the operations of the parent bank shall be equally applicable to the operations of its operational subsidiaries.

(f) Unless otherwise provided by statute or regulation, pertinent book figures of the parent bank its operating subsidiaries shall be consolidated for the purpose of applying applicable statutory limitations.

(g) Each operating subsidiary shall be subject to examination and supervision by the Commissioner of Banking in the same manner and to the same extent as the parent bank. If upon examination, the Commissioner shall ascertain that the subsidiary is created or operated in violation of law or regulation or that the manner of operation is detrimental to the business of the parent bank and its depositors, he may order the bank to dispose of all or part of such subsidiary upon such terms as he may deem proper. The cost of an examination into the condition of an existing business proposed to be acquired and operated as an operating subsidiary shall be paid by the applicant as will any subsequent examination of an approved subsidiary.

(h) Prior to the disposition of an operating subsidiary, the parent bank shall inform the Commissioner of Banking, by letter, of the terms of the transaction.