

COMMERCE BANCORP INC /NJ/  
Form 10-K  
March 16, 2007

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**UNITED STATES  
SECURITIES AND EXCHANGE COMMISSION**  
Washington, D.C. 20549

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**FORM 10-K**

- ANNUAL REPORT PURSUANT TO SECTION 13 OR 15(d) OF THE  
SECURITIES EXCHANGE ACT OF 1934  
For the fiscal year ended December 31, 2006**
- 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 #1-12609  
(Exact name of registrant as specified in its charter)

New Jersey  
**(State of other jurisdiction of incorporation  
or organization)**

22-2433468  
**(I.R.S. Employee Identification Number)**

Commerce Atrium  
1701 Route 70 East  
Cherry Hill, New Jersey  
**(Address of principal executive offices)**

08034-5400  
**(Zip Code)**

Registrant's telephone number, including area code: 856-751-9000

Securities registered pursuant to Section 12(b) of the Act:

Common Stock	New York Stock Exchange
<b>Title of Class</b>	<b>Name of Each Exchange on Which Registered</b>

Securities registered pursuant to Section 12(g) of the Act: None

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Indicate by check mark if the registrant is a well-known seasoned issuer, as defined in Rule 405 of the Securities Act.  
Yes  No .

Indicate by check mark if the registrant is not required to file reports pursuant to Section 13 or Section 15(d) of the  
Exchange Act. Yes  No .

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 report(s), and (2) has been subject to such filing requirements for the past 90 days. Yes  No .

Indicate by check mark if disclosure of delinquent filers pursuant to Item 405 of Regulation S-K (§ 229.405 of this chapter) is not contained herein, and will not be contained, to the best of registrant's knowledge, in definitive proxy or information statements incorporated by reference in Part III of this Form 10-K or any amendment to this Form 10-K.

Indicate by check mark whether the registrant is a large accelerated filer, an accelerated filer or a non-accelerated filer. See definition of "accelerated and large accelerated filer" in Rule 12b-2 of the Exchange Act. (Check one): Large accelerated filer  Accelerated filer  Non-accelerated filer .

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

As of June 30, 2006, the aggregate market value of the registrant's common stock held by non-affiliates of the Registrant was approximately \$4,441,860,020 based on the closing sale price as reported on the New York Stock Exchange.

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**APPLICABLE ONLY TO CORPORATE ISSUERS:**

Indicate the number of shares outstanding of each of the registrant's classes of common stock, as of the last practicable date.

Common Stock \$1.00 Par Value	189,411,677
<b>Title of Class</b>	<b>No. of Shares Outstanding as of 3/5/07</b>

**DOCUMENTS INCORPORATED BY REFERENCE**

Part III incorporates certain information by reference from the Registrant's Proxy Statement for the 2007 Annual Meeting of Shareholders.

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## PART I

### Item 1. Business

#### Forward-Looking Statements

Commerce Bancorp, Inc. (the “Company”) may from time to time make written or oral “forward looking statements”, including statements contained in the Company’s filings with the Securities and Exchange Commission (“SEC”) (including this Annual Report on Form 10-K and the exhibits hereto), in its reports to stockholders and in other communications by the Company, which are made in good faith by the Company pursuant to the “safe harbor” provisions of the Private Securities Litigation Reform Act of 1995.

These forward-looking statements include statements with respect to the Company’s beliefs, plans, objectives, goals, expectations, anticipations, estimates and intentions, that are subject to significant risks and uncertainties and are subject to change based on various factors (some of which are beyond the Company’s control). The words “may”, “could”, “should”, “would”, “believe”, “anticipate”, “estimate”, “expect”, “intend”, “plan”, and similar expressions are intended to identify forward-looking statements. The following factors, among others, could cause the Company’s financial performance or other forward looking statements to differ materially from that expressed in such forward-looking statements: the strength of the United States economy in general and the strength of the local economies in which the Company conducts operations; the effects of, and changes in, trade, monetary and fiscal policies, including interest rate policies of the Board of Governors of the Federal Reserve System (the “FRB”); inflation; interest rates, market and monetary fluctuations; the timely development of competitive new products and services by the Company and the acceptance of such products and services by customers; the willingness of customers to substitute competitors’ products and services for the Company’s products and services and vice versa; the impact of changes in financial services’ laws and regulations (including laws concerning taxes, banking, securities and insurance); technological changes; future acquisitions; the expense savings and revenue enhancements from acquisitions being less than expected; the growth and profitability of the Company’s noninterest or fee income being less than expected; unanticipated regulatory or judicial proceedings (including those regulatory and other approvals necessary to open new stores); changes in consumer spending and saving habits; and the success of the Company at managing the risks involved in the foregoing.

The Company cautions that the foregoing list of important factors is not exclusive. The Company does not undertake to update any forward-looking statement, whether written or oral, that may be made from time to time by or on behalf of the Company.

The Company cautions you that any such forward-looking statements are not guarantees of future performance and involve known and unknown risks, uncertainties and other factors which may cause the Company’s actual results, performance or achievements to differ materially from the future results, performance or achievements the Company has anticipated in such forward-looking statements. You should note that many factors, some of which are discussed in this Annual Report on Form 10-K could affect the Company’s future financial results and could cause those results to differ materially from those expressed or implied in the Company’s forward-looking statements contained or incorporated by reference in this document.

#### General

The Company is a New Jersey business corporation registered as a bank holding company under the Bank Holding Company Act of 1956, as amended (“BHCA”). The Company was incorporated on December 9, 1982 and became an active bank holding company on June 30, 1983 through the acquisition of Commerce Bank, N.A., referred to as Commerce N.A.

As of December 31, 2006, the Company had total assets of \$45.3 billion, total loans of \$15.6 billion, and total deposits of \$41.3 billion. The address of the Company's principal executive office is Commerce Atrium, 1701 Route 70 East, Cherry Hill, New Jersey, 08034-5400 and the telephone number is (856) 751-9000. The Company operates one nationally chartered bank subsidiary (Commerce Bank N.A., Philadelphia, Pennsylvania) and one New Jersey state chartered bank subsidiary (Commerce Bank/North, Ramsey, New Jersey), referred to as Commerce North.

These two bank subsidiaries, referred to collectively as the banks, as of December 31, 2006 had 428 full service retail stores located in the states of New Jersey, Pennsylvania, Delaware, New York, Connecticut, Virginia, Maryland and Florida, as well as the District of Columbia. These banks provide a full range of retail and commercial banking services for consumers and small and mid-sized companies. Lending services are focused on commercial real estate and commercial and consumer loans to local borrowers. Deposits gathered through each bank's retail store network principally fund the lending and investment activities of each bank.

## **Acquisitions**

The Company's primary growth strategy is the opening of new full service stores of which 55 were opened in 2006 and 47 were opened in 2005. The Company has also developed its full service office network through selected acquisitions including the December 5, 2005 acquisition of Palm Beach County Bank, a privately held bank with seven stores based in West Palm Beach, Florida. Palm Beach County Bank was merged with and into Commerce N.A.

Commerce N.A. operates a non-bank subsidiary, Commerce Capital Markets, Inc. (CCMI), Philadelphia, Pennsylvania, also referred to as Commerce Capital Markets, which engages in various securities, investment management and brokerage activities.

Commerce North operates a non-bank subsidiary, Commerce Banc Insurance Services, Inc., referred to as Commerce Banc Insurance, which operates an insurance brokerage agency concentrating on commercial property, casualty and surety as well as personal lines of insurance and employee benefits for clients in multiple states, primarily New Jersey, Pennsylvania, New York and Delaware. Since 1996, Commerce Banc Insurance has completed several strategic acquisitions of insurance brokerage agencies.

On February 1, 2006, the Company acquired eMoney Advisor, Inc., a leading provider of web enabled wealth and financial planning solutions based in Conshohocken, Pennsylvania.

## **Dividends**

As a legal entity separate and distinct from its bank and non-bank subsidiaries, the Company's principal sources of revenues are dividends from its bank and non-bank subsidiaries. The subsidiaries that operate in the banking, insurance and securities business can pay dividends only if they are in compliance with the applicable regulatory requirements imposed on them by federal and state regulatory authorities.

## **The Banks**

As of December 31, 2006, Commerce N.A. had total assets of \$41.1 billion, total deposits of \$37.1 billion, and total shareholders' equity of \$2.4 billion and Commerce North had total assets of \$4.7 billion, total deposits of \$4.3 billion, and total shareholders' equity of \$308.9 million.

### *Service Areas*

The Company's primary service areas include metropolitan Philadelphia, metropolitan New York, metropolitan Washington, D.C. and southeastern Florida. The Company has attempted to locate its stores in the fastest growing communities within its service areas. Deposits gathered through these focused branching activities are used to support lending throughout the Company.

Commerce N.A. provides retail and commercial banking services through 381 retail stores in metropolitan New York, metropolitan Philadelphia, metropolitan Washington, D.C. and southeastern Florida. Commerce North provides retail and commercial banking services through 47 retail stores in Bergen, Essex, Hudson and Passaic Counties, New Jersey.

### *Retail Banking Services and Products*

Each bank provides a broad range of retail banking services and products, including free checking accounts, subject to minimum balances, savings programs, money market accounts, negotiable orders of withdrawal accounts, certificates of deposit, safe deposit facilities, free coin counting, consumer loan programs, including installment loans for home improvement and the purchase of consumer goods and automobiles, home equity and revolving lines of credit,

overdraft checking and automated teller facilities. Each bank also offers construction loans and permanent mortgages for houses.

*Trust Services*

Commerce N.A. offers trust services primarily focusing on corporate trust services, particularly as bond trustee, paying agent, and registrar for municipal bond offerings.

*Commercial Banking Services and Products*

Each bank offers a broad range of commercial banking services, including free checking accounts, subject to minimum balance, night depository facilities, money market accounts, certificates of deposit, short-term loans for seasonal or working capital purposes, term loans for fixed assets and expansion purposes, revolving credit plans and other commercial loans and leases to fit the needs of its customers. Each bank also finances the construction of business properties and makes real estate mortgage loans on completed buildings. Where the needs of a customer exceed a bank's legal lending limit for any one customer, such bank may participate with other banks, including the other bank owned by the Company, in making a loan.

### **Commerce Banc Insurance**

Commerce Banc Insurance operates one of the nation's largest regional insurance brokerage firms concentrating on commercial property, casualty and surety as well as personal lines. In addition, Commerce Banc Insurance offers a line of employee benefit programs including group as well as individual medical, life, disability, pension, and risk management services. Commerce Banc Insurance currently operates out of 10 locations in New Jersey, 1 location in Pennsylvania, and 2 locations in Delaware. Commerce Banc Insurance places insurance for clients in multiple states, primarily New Jersey, Pennsylvania, New York, and Delaware.

### **Commerce Capital Markets**

Commerce Capital Markets engages in various securities, investment management and brokerage activities. Commerce Capital Markets' principal place of business is Philadelphia, Pennsylvania, with offices in New Jersey, New York, Delaware and Florida.

### **Other Activities**

NA Asset Management, a Delaware corporation, is a wholly-owned subsidiary of Commerce N.A. that purchases, holds and sells investments. Commerce Mortgage Acceptance Corp., a Delaware corporation, is a wholly-owned subsidiary of Commerce N.A. that engages in the securitization of residential mortgage loans. North Asset Management, a Delaware corporation, is a wholly-owned subsidiary of Commerce North that purchases, holds, and sells investments. Commerce Commercial Leasing LLC, a New Jersey Limited Liability Company, is a wholly-owned subsidiary of Commerce N.A. that provides business leasing services. On February 1, 2006, the Company acquired eMoney Advisor, Inc., a wholly-owned subsidiary of Commerce Banc Insurance that provides web enabled wealth and financial planning solutions.

Additional information pertaining to the Company's segments is set forth in Note 21 - Segment Reporting of the Notes to Consolidated Financial Statements, which appears elsewhere herein.

The Company has an investment in Pennsylvania Commerce Bancorp, Inc., Camp Hill, Pennsylvania (14.82% beneficial ownership as of December 31, 2006 assuming the exercise of all outstanding warrants held by the Company). The Company and its subsidiaries provide marketing, administrative and technical support services to Pennsylvania Commerce Bancorp, Inc. and its wholly-owned subsidiary, Commerce Bank/Harrisburg.

### **Competition**

The Company's service areas are characterized by intense competition in all aspects and areas of its business from commercial banks, savings and loan associations, mutual savings banks and other financial institutions. The Company's competitors, including credit unions, consumer finance companies, factors, insurance companies and money market mutual funds, compete with lending and deposit gathering services offered by the Company. Many competitors have substantially greater financial resources with larger lending limits and larger branch systems than the Company.

In commercial transactions, Commerce N.A.'s and Commerce North's legal lending limit to a single borrower (approximately \$397.8 million, and \$50.1 million respectively, as of December 31, 2006) enables the banks to compete effectively for the business of smaller and mid-sized businesses. The combined legal lending limit of the Company is \$447.9 million. These legal lending limits may act as a constraint on the banks' effectiveness in competing to provide financing in excess of these limits.

The Company believes that it is able to compete on a substantially equal basis with all financial institutions because of its superior customer service, which includes longer hours of operation than those offered by most of the Company's



competitors, free checking accounts for customers maintaining minimum balances and competitive interest rates on savings and time accounts with low minimum deposit requirements.

The Company seeks to provide personalized services through management's knowledge and awareness of its market area, customers and borrowers. The Company believes this knowledge and awareness provides a business advantage in serving the retail depositors and the small and mid-sized commercial borrowers that comprise the Company's customer base.

### **Supervision and Regulation**

THE FOLLOWING DISCUSSION SETS FORTH CERTAIN OF THE MATERIAL ELEMENTS OF THE REGULATORY FRAMEWORK APPLICABLE TO BANK HOLDING COMPANIES AND THEIR SUBSIDIARIES AND PROVIDES CERTAIN SPECIFIC INFORMATION RELEVANT TO THE COMPANY AND ITS SUBSIDIARIES. THE REGULATORY FRAMEWORK IS INTENDED PRIMARILY FOR THE PROTECTION OF DEPOSITORS, OTHER CUSTOMERS AND THE FEDERAL DEPOSIT INSURANCE FUNDS AND NOT FOR THE PROTECTION OF SECURITY HOLDERS. TO THE EXTENT THAT THE FOLLOWING INFORMATION DESCRIBES STATUTORY AND REGULATORY PROVISIONS, IT IS QUALIFIED IN ITS ENTIRETY BY REFERENCE TO THE PARTICULAR STATUTORY AND REGULATORY PROVISIONS. A CHANGE IN APPLICABLE STATUTES, REGULATIONS OR REGULATORY POLICY MAY HAVE A MATERIAL EFFECT ON THE BUSINESS OF THE COMPANY.

*The Company*

The Company is registered as a bank holding company under the BHCA, and subject to supervision and regulation by the Federal Reserve Board (“FRB”). The Company is also regulated by the New Jersey Department of Banking and Insurance (the “Department”).

Under the BHCA, the Company is required to secure the prior approval of the FRB before it can merge or consolidate with any other bank holding company or acquire all or substantially all of the assets of any bank or acquire direct or indirect ownership or control of any voting shares of any bank that is not already majority owned by it, if after such acquisition it would directly or indirectly own or control more than 5% of the voting shares of such bank.

The Company is generally prohibited under the BHCA from engaging in, or acquiring direct or indirect ownership or control of more than 5% of the voting shares of any company engaged in non-banking activities unless approved by the FRB. In making such a determination, the FRB considers whether the performance of these activities by a bank holding company can reasonably be expected to produce benefits to the public which outweigh the possible adverse effects.

Satisfactory financial condition, particularly with regard to capital adequacy, and satisfactory Community Reinvestment Act, as amended, (“CRA”) ratings are generally prerequisites to obtaining federal regulatory approval to make acquisitions and open stores. Under the CRA, Commerce N.A. and Commerce North are currently rated “outstanding”.

In addition, under the BHCA, the Company is required to file periodic reports of its operations with, and is subject to examination by, the FRB.

The Company is under the jurisdiction of the SEC and various state securities commissions for matters relating to the offering and sale of its securities and is subject to the SEC’s rules and regulations relating to periodic reporting, reporting to shareholders, proxy solicitation and insider trading.

There are various legal restrictions on the extent to which the Company and its non-bank subsidiaries can borrow or otherwise obtain credit from its banking subsidiaries. In general, these restrictions require that any such extensions of credit must be secured by designated amounts of specified collateral and are limited, as to any one of the Company or such non-bank subsidiaries, to ten percent of the lending bank’s capital stock and surplus, and as to the Company and all such non-bank subsidiaries in the aggregate, to 20% of such lending bank’s capital stock and surplus. Further, a bank holding company and its subsidiaries are prohibited from engaging in certain tying arrangements in connection with any extension of credit, lease or sale of property or furnishing of services.

The Financial Institutions Reform, Recovery and Enforcement Act (“FIRREA”) contains a “cross-guarantee” provision that could result in any insured depository institution owned by the Company being assessed for losses incurred by the FDIC in connection with assistance provided to, or the failure of, any other depository institution owned by the Company. Also, under FRB policy, the Company is expected to act as a source of financial strength to each of its banking subsidiaries and to commit resources to support each such bank in circumstances where such bank might not be in a financial position to support itself. Consistent with the “source of strength” policy for subsidiary banks, the FRB has stated that, as a matter of prudent banking, a bank holding company generally should not maintain a rate of cash dividends unless its net income available to common shareholders has been sufficient to fully fund the dividends and the prospective rate of earnings retention appears to be consistent with the corporation’s capital needs, asset quality and overall financial condition.

A discussion of capital guidelines and capital is included in the section entitled “Capital Resources” contained within “Management’s Discussion and Analysis of Financial Condition and Results of Operations” included elsewhere herein.

*Commerce N.A. and Commerce North*

Commerce N.A. is subject to the National Bank Act and accordingly subject to the supervision and regular examination by the Office of the Comptroller of the Currency (“OCC”). Commerce N.A. is required to furnish quarterly reports to the OCC and OCC approval is required for the establishment of additional stores by any national bank, subject to applicable state law restrictions. In 2005, Commerce N.A. relocated its headquarters to Philadelphia, Pennsylvania and receives the benefit of Pennsylvania’s reciprocal banking arrangements in all the states which it currently or has plans to operate branches.

Commerce North, as a New Jersey state-chartered bank, is subject to the New Jersey Banking Act and subject to the supervision and regular examinations by the Department and the FDIC, and is required to furnish quarterly reports to each agency. The approval of the Department and the FDIC is necessary for the establishment of any additional stores by any New Jersey state-chartered bank, subject to applicable state law.

Under the CRA, a bank has a continuing and affirmative obligation consistent with its safe and sound operation to help meet the credit needs of its entire community, including low- and moderate-income neighborhoods. CRA does not establish specific lending requirements or programs for financial institutions nor does it limit an institution’s discretion to develop the types of products and services that it believes are best suited to its particular community, consistent with CRA. CRA requires that the applicable regulatory agency assess an institution’s record of meeting the credit needs of its community. The CRA requires public disclosure of an institution’s CRA rating and requires that the applicable regulatory agency provide a written evaluation of an institution’s CRA performance utilizing a four-tiered descriptive rating system. An institution’s CRA rating is considered in determining whether to grant charters, stores and other deposit facilities, relocations, mergers, consolidations and acquisitions. Performance less than satisfactory may be the basis for denying an application. For their most recent examinations, Commerce N.A. and Commerce North each received an “outstanding” rating, the highest of the available ratings.

Commerce N.A. and Commerce North are also members of the FDIC and Commerce N.A. is a member of the Federal Reserve System and, therefore, are subject to additional regulation by the FDIC and FRB. Some of the aspects of the lending and deposit business of Commerce N.A. and Commerce North which are regulated by these agencies include personal lending, mortgage lending and reserve requirements. The operation of Commerce N.A. and Commerce North is also subject to numerous federal, state and local laws and regulations which set forth specific restrictions and procedural requirements with respect to interest rates on loans, the extension of credit, credit practices, the disclosure of credit terms and discrimination in credit transactions.

Commerce N.A. and Commerce North are subject to certain limitations on the amount of cash dividends that they can pay. See Note 20 - Condensed Financial Statements of the Parent Company and Other Matters of the Notes to Consolidated Financial Statements, which appears elsewhere herein.

A discussion of regulatory capital guidelines and capital is included in the section entitled "Capital Resources" contained within "Management's Discussion and Analysis of Financial Condition and Results of Operations" included elsewhere herein.

The OCC has authority under the Financial Institutions Supervisory Act to prohibit national banks from engaging in any activity which, in the OCC's opinion, constitutes an unsafe or unsound practice in conducting their businesses. The FRB has similar authority with respect to the Company and the Company's non-bank subsidiaries. The FDIC has similar authority with respect to Commerce North.

All of the deposits of the banking subsidiaries are insured up to applicable limits by the FDIC and are subject to deposit insurance assessments. The insurance assessments are based upon a matrix that takes into account a bank's capital level and supervisory rating. On November 2, 2006 the FDIC adopted final regulations to implement the Financial Deposit Insurance Reform Act of 2005, which was passed by Congress in February 2006. The final regulations included annual assessment rates that were effective at the beginning of 2007. Assessment rates range, for most banks, between five and seven cents for every \$100 of assessable deposits. At December 31, 2006 the Company's consolidated capital levels and each of the Company's banking subsidiaries met the regulatory definition of a "well capitalized" financial institution.

#### *Commerce Banc Insurance/Commerce Capital Markets*

Commerce Banc Insurance, a non-bank subsidiary of Commerce North, is currently subject to supervision, regulation and examination by the Department, as well as other state insurance departments where it operates. Commerce Capital Markets, a non-bank subsidiary of Commerce N.A., engages in certain permitted securities and brokerage activities and is regulated by the SEC. Commerce Capital Markets is also subject to rules and regulations promulgated by the National Association of Securities Dealers, Inc., the Securities Investors Protection Corporation and various state securities commissions and, with respect to municipal securities activities, the Municipal Securities Rulemaking Board.

Both Commerce Banc Insurance and Commerce Capital Markets are also subject to various state laws and regulations in which they do business. These laws and regulations are primarily intended to benefit clients and generally grant supervisory agencies broad administrative powers, including the power to limit or restrict the carrying on of business for failure to comply with such laws and regulations. If such event occurs, the possible sanctions which may be imposed include the suspension of individual employees, limitations on engaging in business for specific periods, censures and fines.

#### *Gramm-Leach-Bliley Act*

On November 12, 1999, the Gramm-Leach-Bliley Act (the “Act”) became law, repealing the 1933 Glass-Steagall Act’s separation of the commercial and investment banking industries. The Act created a category of holding company called a “Financial Holding Company,” a subset of bank holding companies that satisfy the following criteria: (1) all of the depository institution subsidiaries must be well capitalized and well managed and must have a CRA rating of “satisfactory” or better as of its most recent examination; and (2) the holding company must have made an effective election with the FRB that it elects to be a financial holding company. The Company has not elected to be a financial holding company. The Act specifies certain activities that are financial in nature. These activities include acting as principal, agent or broker for insurance; underwriting, dealing in or making a market in securities; and providing financial and investment advice.

These financial activities authorized by the Act may also be engaged in by a “financial subsidiary” of a national or state bank, except for annuity underwriting, insurance company portfolio investments, real estate investment and development, and merchant banking, which must be conducted in a financial holding company. In order for the new financial activities to be engaged in by a financial subsidiary of a national or state bank, the Act requires each of the parent bank (and its related bank affiliates) to be well capitalized and well managed; the aggregate consolidated assets of all of that bank’s financial subsidiaries may not exceed the lesser of 45% of its consolidated total assets or \$50.0 billion; the bank must have at least a satisfactory CRA rating; and, if that bank is one of the 100 largest national banks, it must meet certain financial rating or other comparable requirements. Commerce N.A. has established a “financial subsidiary” to engage in certain limited securities activities.

The Act establishes a system of functional regulation, under which the federal banking agencies will regulate the banking activities of financial holding companies and banks' financial subsidiaries, the SEC will regulate their securities activities and state insurance regulators will regulate their insurance activities. The Act also provides new protections against the transfer and use by financial institutions of consumers' nonpublic, personal information.

The foregoing discussion is qualified in its entirety by reference to the statutory provisions of the Act and the implementing regulations, which are adopted by various government agencies pursuant to the Act.

THE RULES GOVERNING THE REGULATION OF BANK HOLDING COMPANIES AND THEIR SUBSIDIARIES ARE VERY DETAILED AND TECHNICAL. THE ABOVE DISCUSSION IS GENERAL IN NATURE AND ACCORDINGLY DOES NOT PURPORT TO BE COMPLETE OR TO DESCRIBE ALL OF THE LAWS AND REGULATIONS THAT APPLY TO THE COMPANY AND ITS SUBSIDIARIES.

### **National Monetary Policy**

In addition to being affected by general economic conditions, the Company's earnings and growth are affected by the policies of regulatory authorities, including the OCC, the FRB and the FDIC. An important function of the FRB is to regulate money supply and credit conditions. Among the instruments used to implement these objectives are open market operations in U.S. Government securities, setting the discount rate, and changes in reserve requirements against bank deposits. These instruments are used in varying combinations to influence overall growth and distribution of credit, bank loans, investments and deposits, and their use may also affect interest rates charged on loans or paid on deposits.

The monetary policies and regulations of the FRB have had significant effects on the operating results of commercial banks in the past and are expected to continue to do so in the future. The effects of these policies upon the Company's future business, earnings and growth cannot be predicted.

### **Employees**

As of December 31, 2006, the Company and its subsidiaries had in excess of 11,800 full-time equivalent employees.

### **Available Information**

The Company's internet address is [www.commerceonline.com](http://www.commerceonline.com). The Company makes available free of charge on [www.commerceonline.com](http://www.commerceonline.com) its annual report on Form 10-K, quarterly reports on Form 10-Q and current reports on Form 8-K, and amendments to those reports filed or furnished pursuant to Section 13(a) or 15(d) of the Exchange Act, as soon as reasonably practicable after the Company electronically files such material with, or furnishes it to, the SEC. In addition, the Company makes available free of charge on [www.commerceonline.com](http://www.commerceonline.com) its Corporate Governance Guidelines, Code of Business Conduct and Ethics, Code of Ethics for Senior Financial Officers, and the charters of its Audit, Compensation and Nominating and Governance Committees.

In addition, the Company will provide, at no cost, paper or electronic copies of its reports and other filings (excluding exhibits) made with the SEC and its Corporate Governance Guidelines, Code of Business Conduct and Ethics, Code of Ethics for Senior Financial Officers, and the charters of its Audit, Compensation and Nominating and Governance Committees. Requests should be directed to:

Commerce Bancorp, Inc.  
Commerce Atrium  
1701 Route 70 East  
Cherry Hill, NJ 08034-5400

Attn: C. Edward Jordan, Jr.  
Executive Vice President

The information on the website listed above, is not, and should not, be considered part of this annual report on Form 10-K and is not incorporated by reference in this document. This website is, and is only intended to be, an inactive textual reference.

**Item 1A. Risk Factors**

The Company is subject to a number of risk factors including, among others, business and economic conditions, monetary and other governmental policies, accounting policies, competition and continuing consolidation in the financial services industry. These factors, and others, could impact the Company's business, financial condition and results of operations. In the normal course of business, the Company assumes various types of risk, which include, among others, credit risk, interest rate risk, liquidity risk and risk associated with trading activities. In addition to information in this 10-K, readers should carefully consider that the following important factors, among others, could materially impact the Company's business and future financial condition, results of operations and cash flows.

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*The Company plans to continue its rapid growth and there are risks associated with such growth.*

The Company plans to continue rapidly expanding its operations in order to increase deposits and loans. In particular, the Company intends to expand its banking franchise through continued store expansion. The Company's growth may place a strain on its administrative, operational, personnel and financial resources and increase demands on its systems and controls. If the Company grows too quickly and is not able to maintain effective operating and control systems, attract qualified personnel, control costs or maintain asset quality, this continued rapid growth could adversely affect its financial condition, results of operations and cash flows.

*The Company operates in a highly regulated environment and may be adversely affected by changes in laws and regulations.*

The Company is subject to extensive state and federal regulation, supervision, and legislation, which govern almost all aspects of its operations that are primarily intended for the protection of customers, depositors, and the deposit insurance funds. These laws, regulations and supervisory activities may change from time to time. The impact of any changes may negatively impact the Company's financial condition, results of operations and cash flows.

Regulatory authorities have extensive discretion in the exercise of their supervisory and enforcement powers. They may, among other things, impose restrictions on the operation of a banking institution, including the processing of applications and the opening of new branches. Regulatory and law enforcement authorities also have wide discretion and extensive enforcement powers under various consumer protection, civil rights and other laws, including the Gramm-Leach Bliley Act, the Bank Secrecy Act, the Truth-in-Lending Act, the Equal Credit Opportunity Act, the Fair Housing Act and the Real Estate Settlement Procedures Act. While the Company cannot predict what the effect of any presently contemplated or future changes in the laws or regulations, or the application or enforcement thereof, would have, any changes could be materially adverse to the Company's financial condition, results of operations and cash flows.

*The Company has been advised that the Office of the Comptroller of the Currency is conducting an investigation.*

The Company has been advised that an investigation is being conducted by the OCC in conjunction with the FRB. The Company has further been advised that the scope of the investigation will include but not be limited to transactions with its officers, directors and related parties, including transactions involving bank premises. The Company is fully cooperating with the OCC and the FRB with respect to the investigation. The Company cannot predict how or when the investigation will be resolved or whether the investigation will have a material adverse effect on its growth, financial condition, results of operations or cash flows.

*Changes in interest rates could reduce the Company's income and cash flows.*

The Company's income and cash flows and the value of its assets and liabilities depend to a great extent on the difference between the interest rates earned on interest-earning assets such as loans and investment securities, and the interest rates paid on interest-bearing liabilities such as deposits and borrowings. These rates are highly sensitive to many factors that are beyond the Company's control, including general economic conditions and policies of various governmental and regulatory agencies, in particular, the FRB. Changes in monetary policy, including changes in interest rates, will influence the origination of loans, the purchase of investments, the generation of deposits and the rates received and paid.

*If the Company does not adjust to changes in the financial services industry, its financial performance may suffer.*

The Company's ability to maintain its history of strong financial performance and return on investment to shareholders may depend in part on its ability to expand the scope of available financial services to its customers. The Company's



business model focuses on using superior customer service to provide traditional banking services to a growing customer base. However, the Company operates in an increasingly competitive environment, a result primarily of changes in regulation, changes in technology and product delivery systems and the accelerating pace of consolidation among financial service providers. If the Company is unable to expand the scope of its available financial services to its customers, this could adversely impact its financial condition, results of operations and cash flows.

*The Company's future success will depend on its ability to compete effectively in a highly competitive market and geographic area.*

The Company faces substantial competition in all phases of its operations from a variety of different competitors. There is very strong competition for financial services in the areas in which the Company currently conducts its businesses. The Company encounters competition from commercial banks, savings and loan associations, mutual savings banks and other financial institutions, including credit unions, consumer finance companies factors, insurance companies and money market funds. Its competitors compete with lending and deposit-gathering services offered by the Company. Due to size, many competitors can achieve larger economies of scale and as a result may offer a broader range of products and services than the Company. Some of the financial services organizations with which the Company competes are not subject to the same degree of regulation as is imposed on bank holding companies and federally insured financial institutions. As a result, these nonbank competitors have certain advantages over the Company in accessing funding and in providing various services. The banking business in the Company's primary market area is very competitive, which could impact its financial condition, results of operations and cash flows.

*An interruption to the Company's information systems could impact the Company's operations.*

The Company relies upon its information systems for operating and monitoring all major aspects of its business, including deposit and loan operations, as well as internal management functions. These systems and the Company's operations could be damaged or interrupted by natural disasters, power loss, network failure, improper operation by the Company's employees, security breaches, computer viruses, intentional attacks by third parties or other unexpected events. Any disruption in the operation of the Company's information systems could adversely impact the Company's operations, which may affect the Company's financial condition, results of operations and cash flows.

*Economic conditions either nationally or locally in areas in which the Company's operations are concentrated may be less favorable than expected.*

Deterioration in local, regional, national or global economic conditions could result in, among other things, an increase in loan delinquencies, a decrease in property values, a change in housing turnover rate or a reduction in the level of bank deposits. Particularly, a weakening of the real estate or employment market in the Company's primary market areas could result in an increase in the number of borrowers who default on their loans and a reduction in the value of the collateral securing their loans. Any material economic deterioration could have an adverse impact on the Company's financial condition, results of operations and cash flows.

*The Company's common stock is not insured by any governmental agency and, therefore, investments in the Company's common stock involves risk.*

The securities of the Company are not deposit accounts or other obligation of any bank, and are not insured by the FDIC, or any other governmental agency, and are subject to investment risk, including the possible loss of principal.

## **Item 2. Properties**

The executive and administrative offices of the Company are located at 1701 Route 70 East, Cherry Hill, New Jersey. This six-story structure is owned by the Company. The Company and its subsidiaries own or lease numerous other premises for use in conducting business activities. The facilities owned or occupied under lease by the Company's subsidiaries are considered by management to be adequate.

Additional information pertaining to the Company's properties is set forth in Note 7 - Bank Premises, Equipment, and Leases of the Notes to Consolidated Financial Statements, which appears elsewhere herein.

## **Item 3. Legal Proceedings**

On January 22, 2007, a purported shareholder derivative complaint was filed in the United States District Court for the District of New Jersey, by a party identifying itself as a shareholder of the Company purporting to act on behalf of the Company against the Chairman and Chief Executive Officer of the Company and possibly certain present and former directors and officers of the Company and their related interests. The Company is also named as a "nominal defendant." The suit alleges breaches of fiduciary duty, waste of corporate assets and unjust enrichment arising from certain related party transactions. The complaint seeks monetary damages, disgorgement, and other relief against the defendants on behalf of the Company. The complaint does not seek monetary damages from the Company but does seek that the Company take certain corrective actions.

On January 28, 2007, the Company received a demand letter dated January 18, 2007, from a law firm not involved in the derivative action described above, on behalf of a shareholder who also is not involved in the derivative action, demanding that the Board of Directors bring claims on behalf of the Company against certain present and former directors and officers of the Company and their related interests based on allegations substantially similar to those that

were alleged in the proposed shareholder derivative action described above and, separately, demand that certain records of the Company be made available for inspection.

In response to the complaint and demand letter, the Board of Directors adopted a board resolution establishing a Special Litigation Committee (made up of independent directors) to independently investigate, review and analyze the facts and circumstances surrounding the allegations made in the complaint and demand letter. The Committee has engaged independent outside counsel to advise it. The Company intends to file a motion to stay the complaint and the demands set forth in the demand letter pending the outcome of the investigation being conducted by the Special Litigation Committee.

## Part II

### Item 5. Market for Registrant's Common Equity, Related Stockholder Matters and Issuer Purchases of Equity Securities

See Item 7, Management's Discussion and Analysis of Financial Condition and Results of Operations; Stockholders' Equity and Dividends and Capital Resources, which appear elsewhere herein.

See Item 12, Security Ownership of Certain Beneficial Owners and Management and Related Stockholder Matters, which appears elsewhere herein, for disclosure regarding the Company's Equity Compensation Plans.

Period	(a) Total Number of Shares Purchased (1)	(b) Average Price Paid per Share	(c) Total Number of Shares Purchased as Part of Publicly Announced Plans or Programs	(d) Maximum Number of Shares that May Yet Be Purchased Under the Plans or Programs
October 1 to October 31, 2006				
November 1 to November 30, 2006				
December 1 to December 31, 2006	224,277	\$36.58		
Total	224,277	\$36.58		

(1) Purchases were made by the Company for the payment of income taxes on the exercise of stock options by an executive officer.

### Dividend Policy

It is the present intention of the Company's Board of Directors to pay quarterly cash dividends on the Company's common stock. However, the declaration and payment of future dividends will be subject to determination and declaration by the Board of Directors, which will consider the Company's earnings, financial condition and capital needs and applicable regulatory requirements. See Note 20 - Condensed Financial Statements of the Parent Company and Other Matters of the Notes to Consolidated Financial Statements, which appears elsewhere herein.

### Item 6. Selected Financial Data

The following selected consolidated financial data should be read in conjunction with "Management's Discussion and Analysis of Financial Condition and Results of Operations" and the Company's consolidated financial statements and accompanying notes included elsewhere herein.



## Year Ended December 31,

<i>(dollars in thousands, except per share data)</i>	2006	2005	2004	2003	2002
<b>Income Statement Data:</b>					
Net interest income	\$ 1,274,508	\$ 1,153,582	\$ 1,017,785	\$ 755,866	\$ 572,755
Provision for credit losses	33,700	19,150	39,238	31,850	33,150
Noninterest income	591,153	442,794	375,071	332,478	257,466
Noninterest expense	1,355,761	1,146,380	938,778	763,392	579,168
Income before income taxes	476,200	430,846	414,840	293,102	217,903
Net income	299,313	282,939	273,418	194,287	144,815
<b>Balance Sheet Data:</b>					
Total assets	\$45,271,816	\$38,466,037	\$30,501,645	\$22,712,180	\$16,403,981
Loans (net)	15,454,996	12,524,988	9,318,991	7,328,519	5,731,856
Securities available for sale	11,098,113	9,518,821	8,044,150	10,650,655	7,806,779
Securities held to maturity	14,884,982	13,005,364	10,463,658	2,490,484	763,026
Trading securities	106,007	143,016	169,103	170,458	326,479
Deposits	41,288,211	34,726,713	27,658,885	20,701,400	14,548,841
Long-term debt			200,000	200,000	200,000
Stockholders' equity	2,801,098	2,309,173	1,665,705	1,277,288	918,010
<b>Per Share Data:</b>					
Net income-basic	\$ 1.62	\$ 1.70	\$ 1.74	\$ 1.36	\$ 1.08
Net income-diluted	1.55	1.61	1.63	1.29	1.01
Dividends declared	0.49	0.45	0.40	0.34	0.31
Book value	14.86	12.92	10.42	8.35	6.77
Average shares outstanding:					
Basic	184,919	165,974	156,625	142,169	133,590
Diluted	193,674	179,135	172,603	156,507	149,389
<b>Selected Ratios:</b>					
<b>Performance</b>					
Return on average assets	0.71 %	0.83 %	1.03 %	0.99 %	1.05%
Return on average equity	11.65	14.90	18.78	18.81	18.50
Net interest margin	3.35	3.77	4.28	4.36	4.69
<b>Liquidity and Capital</b>					
Average loans to average deposits	37.09 %	35.01 %	34.49 %	36.93 %	42.48%
Dividend payout-basic	30.25	26.47	22.99	25.00	28.70
Stockholders' equity to total assets	6.19	6.00	5.46	5.62	5.60
Risk-based capital:					
Tier 1	11.73	11.81	12.30	12.66	11.47
Total	12.44	12.58	13.25	13.62	12.51
Leverage ratio	6.18	6.04	6.19	6.61	6.37
<b>Asset Quality</b>					
Non-performing assets to total year-end assets	0.12 %	0.09 %	0.11 %	0.10 %	0.11%
Net charge-offs to average loans outstanding	0.11				