BankUnited, Inc.
Form S-4
July 13, 2011

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FINANCIAL STATEMENTS OF BANKUNITED, INC. AND HERALD

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**As filed with the U.S. Securities and Exchange Commission on July 13, 2011**

# UNITED STATES
# SECURITIES AND EXCHANGE COMMISSION

**Washington, D.C. 20549**

# Form S-4

**REGISTRATION STATEMENT
UNDER
THE SECURITIES ACT OF 1933**

# BankUnited, Inc.

(Exact Name of Registrant as Specified in Its Charter)

| | | |
|---|---|---|
| **Delaware** | **6035** | **27-0162450** |
| (State or Other Jurisdiction of Incorporation or Organization) | (Primary Standard Industrial Classification Code Number) | (IRS Employer Identification Number) |

**14817 Oak Lane
Miami Lakes, FL 33016
(305) 569-2000**
(Address, Including Zip Code, and Telephone Number, Including Area Code, of Registrant's Principal Executive Offices)

**John A. Kanas
Chairman, President and Chief Executive Officer
14817 Oak Lane
Miami Lakes, FL 33016
(305) 569-2000**
(Name, Address, Including Zip Code, and Telephone Number, Including Area Code, of Agent for Service)

**Copies to:**

| | |
|---|---|
| **William S. Rubenstein, Esq.<br>Skadden, Arps, Slate, Meagher & Flom LLP<br>4 Times Square<br>New York, New York 10036<br>(212) 735-3000** | **Lawrence M.F. Spaccasi, Esq.<br>Marc P. Levy, Esq.<br>Luse Gorman Pomerenk & Schick, P.C.<br>5335 Wisconsin Avenue, NW<br>Suite 780<br>Washington, D.C. 20015<br>(202) 274-2000** |

**Approximate Date of Commencement of Proposed Sale to the Public:
As soon as practicable after this Registration Statement becomes effective and upon completion of the merger described in the enclosed document.**

If the securities being registered on this form are being offered in connection with the formation of a holding company and there is compliance with General Instruction G, check the following box: o

If this form is filed to register additional securities for an offering pursuant to Rule 462(b) under the Securities Act of 1933, as amended (the "Securities Act"), check the following box and list the Securities Act registration statement number of the earlier effective registration statement for the same offering: o

If this form is a post-effective amendment filed pursuant to Rule 462(d) under the Securities Act, check the following box and list the Securities Act registration statement number of the earlier effective registration statement for the same offering: o

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 the definitions of "large accelerated filer," "accelerated filer" and "smaller reporting company" in Rule 12b-2 of the Exchange Act. (Check one):

| | | | |
|---|---|---|---|
| Large accelerated filer o | Accelerated filer o | Non-accelerated filer ý<br>(Do not check if a<br>smaller reporting company) | Smaller reporting company o |

If applicable, place an X in the box to designate the appropriate rule provision relied upon in conducting this transaction: o

Exchange Act Rule 13e-4(i) (Cross-Border Issuer Tender Offer) o

Exchange Act Rule 14d-1(d) (Cross Border Third-Party Tender Offer) o

**The Registrant hereby amends this Registration Statement on such date or dates as may be necessary to delay its effective date until the Registrant shall file a further amendment that specifically states that this Registration Statement shall thereafter become effective in accordance with Section 8(a) of the Securities Act or until this Registration Statement shall become effective on such date as the Securities and Exchange Commission, acting pursuant to said Section 8(a), may determine.**

**CALCULATION OF REGISTRATION FEE**

| Title of Each Class of Securities to be Registered | Amount to be Registered | Proposed Maximum Offering Price Per Share | Proposed Maximum Aggregate Offering Price | Amount of Registration Fee |
|---|---|---|---|---|
| Common Stock, par value $0.01(1) | 1,838,013(2) | Not applicable | $41,983,329.47(3) | $4,874.27 |

(1) This registration statement relates to common stock of BankUnited, Inc., par value $0.01 per share (the "BankUnited, Inc. shares"), to be issued to holders of common stock, par value $1.00 per share (the "Herald common shares"), and Series A Convertible Noncumulative Perpetual Preferred Stock, no par value (the "Herald preferred shares"), of Herald National Bank, a national banking association ("Herald"), in connection with the proposed merger of a yet-to-be formed, wholly-owned, national bank subsidiary of BankUnited, Inc. with and into Herald.

(2) This number is based on (a)(i) 12,248,858 Herald common shares outstanding as of May 30, 2011, (ii) 4,684,928 Herald preferred shares outstanding as of such date, and (iii) 1,632,000 Herald common shares reserved for issuance pursuant to various Herald benefit plans as of such date; and (b) a share exchange ratio of 0.0990 BankUnited, Inc. shares issuable in exchange for each Herald common or preferred share.

(3) Estimated solely for the purpose of calculating the registration fee required by Section 6(b) of the Securities Act and computed pursuant to Rules 457(f)(1), 457(f)(2), 457(f)(3), and 457(c) under the Securities Act. Pursuant to Rule 457(f)(1) under the Securities Act, the proposed maximum aggregate offering price of the BankUnited, Inc. shares to be issued in exchange for the Herald common shares in the merger was calculated in accordance with Rule 457(c) under the Securities Act based upon the market value of the Herald common shares to be cancelled and exchanged for the BankUnited, Inc. shares in connection with the proposed merger as follows: the product of (i) 13,880,858, the maximum possible number of Herald common shares which may be cancelled and exchanged in the proposed merger, and (ii) $3.745, the average of the high and low prices for the Herald common shares reported on the NYSE Amex on July 11, 2011. Pursuant to Rule 457(f)(2) under the Securities Act, the proposed maximum aggregate offering price of the BankUnited, Inc. shares to be issued in exchange for the Herald preferred shares to be exchanged in the merger was calculated as $12,860,127.36, the aggregate book value of the shares of such securities computed as of July 11, 2011, the latest practicable date prior to the date of filing the registration statement. Pursuant to Rule 457(f)(3) under the Securities Act, the amount of cash to be paid by BankUnited, Inc. in the merger ($22,860,611.10) has been deducted from the sum of these amounts.

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**PRELIMINARY SUBJECT TO COMPLETION DATED JULY 13, 2011**

Dear Herald National Bank Shareholder:

You are cordially invited to attend a special meeting of the shareholders of Herald National Bank ("Herald") to be held on [ ], 2011 at [ ] a.m. (Eastern) at [ ].

At the special meeting, you will be asked to consider the acquisition of Herald by BankUnited, Inc. through the merger of a to-be-formed wholly-owned subsidiary of BankUnited, Inc. ("Merger Sub") with and into Herald, and to ratify and confirm the Merger Agreement (the "merger agreement"), dated as of June 2, 2011, that Herald has entered into with BankUnited, Inc. You also will be asked to approve (i) the adjournment, postponement, or continuation of the special meeting, if necessary, to solicit additional proxies in favor of the ratification and confirmation of the merger agreement and (ii) by non-binding, advisory vote, certain compensation arrangements for Herald's named executive officers in connection with the merger.

Subject to the terms and conditions set forth in the merger agreement, Merger Sub will merge with and into Herald, with Herald continuing as the surviving entity and a wholly-owned subsidiary of BankUnited, Inc.

If we complete the merger, holders of Herald's common and preferred stock will be entitled to elect to receive their merger consideration in the form of either BankUnited, Inc. common stock or cash. Subject to the election and adjustment procedures described in this document, Herald shareholders will receive, in exchange for each share of Herald common or preferred stock they hold, consideration equal to the sum of: (1) 0.0990 multiplied by the average of the closing prices of the BankUnited, Inc. common stock on the New York Stock Exchange (the "NYSE") during the ten trading days ending the day before the completion of the merger and (2) $1.35.

**The value of the merger consideration will fluctuate with the market price of BankUnited, Inc. common stock. As explained in more detail in this document, whether you make a cash election or a stock election, the value of the consideration that you will receive as of the completion date will be substantially the same.**

Based on the closing price of BankUnited, Inc. common stock on the NYSE on [ ], 2011, for each of your shares of Herald common or preferred stock you would receive either approximately $[ ] in cash or approximately [ ] shares of BankUnited, Inc. common stock. On June 1, 2011, the day before the merger agreement was executed, the closing price of BankUnited, Inc. common stock on the NYSE was $28.11, which would imply a value per Herald share of approximately $4.13 in cash or approximately 0.1470 shares of BankUnited, Inc. common stock. **A chart showing the cash and stock merger consideration at various closing prices of BankUnited, Inc. common stock is provided on Page [ ] of the attached document.**

The market prices of both BankUnited, Inc. common stock and Herald common stock will fluctuate before the merger. **You should obtain current stock price quotations for BankUnited, Inc. common stock and Herald common stock.** You can get these quotations from a newspaper, on the Internet or by calling your broker.

After careful consideration, our Board of Directors has declared unanimously that the merger agreement and the transactions contemplated thereby are advisable. **Our Board of Directors recommends that you vote "FOR" the ratification and confirmation of the merger agreement, "FOR" the approval of the adjournment, postponement, or continuation of the special meeting, if necessary, to solicit additional proxies in favor of the ratification and confirmation of the merger agreement, and "FOR" the proposal regarding certain merger-related executive compensation arrangements.**

**For more information about the merger agreement and the circumstances that led to it, please read the attached proxy statement/prospectus in its entirety. We encourage you to read it carefully and to pay particular attention to the Risk Factors section that begins on Page [ ].** This proxy statement/prospectus also constitutes BankUnited, Inc.'s prospectus for the common stock it will issue in connection with the merger. You may obtain additional information about BankUnited, Inc. and Herald from documents that BankUnited, Inc. has filed with the Securities and Exchange Commission, and Herald has filed with the Office of the Comptroller of the Currency.

**Your vote is very important.** We cannot complete the merger without the affirmative vote of two-thirds of our outstanding capital stock. If you fail to vote, if you fail to authorize your broker to vote on your behalf, or if you abstain from voting, the effect will be the same as if you had voted against the ratification and confirmation of the merger agreement.

Whether or not you plan to attend the special meeting, please vote as soon as possible to ensure that your shares are represented. Instructions on how to vote appear on the enclosed proxy card. If you sign and return your proxy card without specifying your vote, your shares will be voted in favor of the ratification and confirmation of the merger agreement, the adjournment, postponement, or continuation of the special meeting, if necessary, to solicit additional proxies in favor of the ratification and confirmation of the merger agreement, and the proposal regarding certain merger-related executive compensation arrangements.

If you have any questions or need assistance voting your shares, please contact **[ ]**, a firm that is helping us solicit proxies, toll-free at **[ ]**.

Thank you in advance for your consideration of this matter.

Sincerely,

Raymond A. Nielsen
*Chairman and Chief Executive Officer*

BankUnited, Inc. common stock is quoted on the NYSE under the symbol "BKU." Herald common stock is quoted on the NYSE Amex under the symbol "HNB."

**Neither the Securities and Exchange Commission, the Office of the Comptroller of the Currency nor any state securities commission or bank regulatory agency has approved or disapproved the securities to be issued in the merger or determined if this proxy statement/prospectus is accurate or adequate. Any representation to the contrary is a criminal offense.**

**The securities to be issued in the merger are not savings or deposit accounts or other obligations of any bank or non-bank subsidiary of either Herald or BankUnited, Inc., and they are not insured by the Federal Deposit Insurance Corporation or any other governmental agency.**

This proxy statement/prospectus is dated [ ] and is first being distributed to Herald shareholders on or about [ ].

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**HERALD NATIONAL BANK**
**NOTICE OF SPECIAL MEETING OF COMMON AND PREFERRED SHAREHOLDERS**

| | |
|---|---|
| **Date and time** | [ ] at [ ] a.m. (Eastern). |
| **Location** | [ ]. |
| **Items of business** | The purpose of the special meeting is for the shareholders of Herald to consider and vote on the following matters:<br>A proposal to ratify and confirm the merger agreement, dated as of June 2, 2011, by and between Herald and BankUnited, Inc., pursuant to which a wholly-owned subsidiary of BankUnited, Inc. will merge with and into Herald, with Herald continuing as the surviving entity and a wholly-owned subsidiary of BankUnited, Inc.<br>A proposal to adjourn, postpone, or continue the special meeting, if necessary, to solicit additional proxies in favor of the ratification and confirmation of the merger agreement.<br>A proposal to approve, by non-binding, advisory vote, certain compensation arrangements for Herald's named executive officers in connection with the merger. |
| **Record date** | We have fixed the close of business on [ ], 2011 as the record date for determining those shareholders entitled to notice of and to vote at the special meeting. Only Herald shareholders of record at the close of business on that date are entitled to vote at the special meeting and any adjournments, postponements, or continuations of the special meeting.<br><br>At the close of business on [ ], 2011, there were outstanding and entitled to vote approximately [ ] shares of our capital stock ([ ] shares of our common stock and [ ] shares of our preferred stock). |
| **Voting** | **Please vote as soon as possible.** We cannot complete the merger without the affirmative vote of two-thirds of the shares of our outstanding capital stock. If you fail to vote, if you fail to authorize your broker to vote on your behalf, or if you abstain from voting, the effect will be the same as if you had voted against the ratification and confirmation of the merger agreement.<br><br>Instructions on how to vote are on the enclosed proxy card.<br><br>**Whether or not you plan to attend the special meeting, it is important that you vote as soon as possible to ensure your shares are represented at the special meeting.** |
| **Registered shareholders** | If you hold Herald stock in your name, you may vote:<br>Online by accessing the Internet Web site printed on your proxy card.<br>Via telephone by calling the toll-free number printed on your proxy card. |

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| | |
|---|---|
| | By signing and returning your proxy card in the enclosed postage-paid envelope. |
| | If you attend the special meeting, you may vote in person even if you previously returned your proxy card. |
| **Beneficial shareholders** | If you hold Herald stock in the name of a broker, bank, or other fiduciary, please follow the instructions on the voting card provided by that broker, bank, or other fiduciary. |
| | If you wish to attend the special meeting and vote in person, you must bring with you a proxy or letter from the broker, bank, other fiduciary, or other nominee to confirm your beneficial ownership of the shares. |
| **Questions** | If you have any questions or need assistance voting your shares, please contact [ ], a firm that is helping us solicit proxies, toll-free at [ ]. |
| **Additional information** | The merger agreement is attached as Annex A of the attached proxy statement/prospectus. We encourage you to read the entire proxy statement/prospectus carefully, especially the Risk Factors section that begins on Page [ ]. |
| | After careful consideration, our Board of Directors has declared unanimously that the merger agreement and the transactions contemplated thereby are advisable. **Our Board of Directors recommends that you vote "FOR" the ratification and confirmation of the merger agreement, "FOR" the approval of the adjournment, postponement, or continuation of the special meeting, if necessary, to solicit additional proxies in favor of the ratification and confirmation of the merger agreement, and "FOR" the non-binding proposal regarding certain merger-related executive compensation arrangements.** |

By Order of the Board of Directors

Gerard A. Perri
Secretary

New York, New York
[ ]

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## ADDITIONAL INFORMATION

This proxy statement/prospectus incorporates by reference important business and financial information about BankUnited, Inc. and Herald from other documents that are not included in or delivered with this proxy statement/prospectus. This information is available to you without charge upon your written or oral request. You can obtain those documents incorporated by reference into this proxy statement/prospectus by accessing the Securities and Exchange Commission's website maintained at http://www.sec.gov, for documents regarding BankUnited, Inc., or by requesting copies in writing or by telephone from the appropriate company, as set forth below, for documents regarding either BankUnited, Inc. or Herald:

| | |
|---|---|
| **BankUnited, Inc.** | **Herald National Bank** |
| **Attention: Douglas J. Pauls** | **Attention: Gerard A. Perri** |
| **14817 Oak Lane** | **623 Fifth Avenue, 11th Floor** |
| **Miami Lakes, FL 33016** | **New York, New York 10022** |
| **(305) 569-2000** | **(212) 421-0030** |

You will not be charged for any of these documents that you request. To receive timely delivery of additional copies of this proxy statement/prospectus in advance of the meeting, please make your request no later than [ ], 2011.

For a detailed description of how you may obtain information about BankUnited, Inc. and Herald that is not included in this proxy statement/prospectus, see "Where You Can Find More Information" on Page [ ] and "Recent Developments" on Page [ ].

## ABOUT THIS DOCUMENT

This document, which forms part of a registration statement on Form S-4 filed with the Securities and Exchange Commission, which we refer to as the "SEC," by BankUnited, Inc. (File No. [ ]), constitutes a prospectus of BankUnited, Inc. under Section 5 of the Securities Act of 1933, as amended, which we refer to as the "Securities Act," with respect to the BankUnited, Inc. common shares to be issued to Herald shareholders as required by the merger agreement. This document also constitutes a proxy statement of Herald under Section 14(a) of the Securities Exchange Act of 1934, as amended, which we refer to as the "Exchange Act." It also constitutes a notice of meeting with respect to the special meeting of Herald shareholders, at which Herald shareholders will be asked to vote upon a proposal to ratify and confirm the merger agreement.

You should rely only on the information contained in or incorporated by reference into this document. No one has been authorized to provide you with information that is different from that contained in, or incorporated by reference into, this document. This document is dated [ ], 2011. You should not assume that the information contained in, or incorporated by reference into, this document is accurate as of any date other than that date. Neither the mailing of this document to Herald shareholders nor the issuance by BankUnited, Inc. of stock in connection with the merger will create any implication to the contrary.

**This document does not constitute an offer to sell, or a solicitation of an offer to buy, any securities, or the solicitation of a proxy, in any jurisdiction to or from any person to whom it is unlawful to make any such offer or solicitation in such jurisdiction. Except where the context otherwise indicates, information contained in this document regarding Herald has been provided by Herald and information contained in this document regarding BankUnited, Inc. has been provided by BankUnited, Inc.**

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## QUESTIONS AND ANSWERS ABOUT THE MERGER AND SPECIAL MEETING

**The questions and answers below highlight only selected procedural information from this proxy statement/prospectus. They do not contain all of the information that may be important to you. You should read carefully the entire document and the additional documents incorporated by reference into this proxy statement/prospectus to fully understand the merger agreement and the transactions contemplated thereby, including the merger, and the voting procedures for the special meeting. We generally refer to Herald National Bank as "Herald," and BankUnited, Inc. as "BankUnited, Inc.," throughout this proxy statement/prospectus.**

**Q: What is the proposed transaction for which I am being asked to vote?**

A:

Holders of Herald's common and preferred stock are being asked to ratify and confirm the Merger Agreement, referred to in this proxy statement/prospectus as the "merger agreement," dated as of June 2, 2011, by and between BankUnited, Inc. and Herald, pursuant to which a to-be-formed wholly-owned subsidiary of BankUnited, Inc., referred to in this proxy statement/prospectus as "Merger Sub," will merge with and into Herald, with Herald continuing as the surviving entity and a wholly-owned subsidiary of BankUnited, Inc., which transaction we refer to as "the merger" within this proxy statement/prospectus. Subject to certain approvals and conditions, the merger agreement provides that Herald will be merged with and into BankUnited, BankUnited, Inc.'s wholly-owned banking subsidiary, at the end of August 2012. In addition, you may also be asked to vote to approve a proposal to adjourn, postpone or continue the special meeting, if necessary, to solicit additional proxies in favor of the ratification and confirmation of the merger agreement.

**Q: Is Herald required to submit the merger agreement to its shareholders?**

A:

Yes. Under the terms of the merger agreement, unless the merger agreement is terminated before the Herald special meeting, Herald is required to submit the merger agreement to its shareholders even if Herald's Board of Directors has withdrawn, modified or qualified its recommendation. The Herald Board of Directors unanimously recommends that you vote "FOR" the ratification and confirmation of the merger agreement.

**Q:**

**Why is Herald not merging into BankUnited, Inc.'s existing banking subsidiary until August 2012?**

A:

John A. Kanas, BankUnited, Inc.'s Chairman, President and Chief Executive Officer, and John Bohlsen, BankUnited, Inc.'s Vice Chairman and Chief Lending Officer and a director, are subject to non-compete agreements which expire in August 2012. These agreements purport to restrict Messrs. Kanas and Bohlsen in their individual capacities from engaging in the consumer and commercial banking businesses in New York. Until the expiration of these agreements, it is BankUnited, Inc.'s expectation that Herald will not be merged with, and will be held separately from, BankUnited, BankUnited, Inc.'s wholly-owned banking subsidiary. During that period, neither Mr. Kanas nor Mr. Bohlsen will be an officer, director or employee of Herald, nor will they have any decision-making authority with respect to or otherwise participate in the affairs of Herald. Subject to certain approvals and conditions, the merger agreement provides that Herald will be merged with and into BankUnited at the end of August 2012, and the parties expect such merger to occur at such time.

**Q: Who is entitled to vote?**

A:

Only holders of record of Herald common and preferred stock at the close of business on [ ], 2011 will be entitled to vote at the special meeting.

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**Q: When and where will the special meeting be held?**

A:

The special meeting will be held at [ ] at [ ] a.m. (Eastern) on [ ], 2011.

**Q: What do I need to do now?**

A:

After you have carefully read this proxy statement/prospectus and have decided how you wish to vote your shares, please vote your shares promptly. If you hold Herald stock in your name as a shareholder of record, you must complete, sign, date, and mail your proxy card in the enclosed postage paid return envelope as soon as possible. You may also authorize a proxy to vote your shares by telephone or through the Internet as instructed on the enclosed proxy card. If you hold your stock in "street name" through a bank or broker, you must direct your bank or broker to vote in accordance with the instructions you have received from your bank or broker. Submitting your proxy card, authorizing a proxy by telephone or through the Internet, or directing your bank or broker to vote your shares will ensure that your shares are represented and voted at the special meeting.

**Q:**

**If I am a Herald shareholder, should I send my Herald stock certificates with my proxy card?**

A:

No. Please DO NOT send your Herald stock certificates with your proxy card. Rather, prior to the election deadline of [ ], 2011, you should send your Herald stock certificates to the exchange agent, together with your completed, signed form of election. If your shares are held in "street name," you should follow your broker's instructions for making an election with respect to your shares.

**Q:**

**If I am a Herald shareholder, when must I elect the type of merger consideration that I prefer to receive?**

A:

Holders of Herald preferred or common stock who wish to elect the type of merger consideration they prefer to receive in the merger should carefully review and follow the instructions set forth in the form of election being distributed to you concurrently with this proxy statement/prospectus. These instructions require that a properly completed and signed form of election be received by the exchange agent by the election deadline, which is 5:00 p.m., New York City time, on [ ], 2011, the day prior to the date of the special meeting of Herald shareholders. If a Herald shareholder does not submit a properly completed and signed form of election to the exchange agent by the election deadline, then such shareholder will have no control over the type of merger consideration such shareholder may receive, and, consequently, may receive only cash, only BankUnited, Inc. common stock, or a combination of cash and BankUnited, Inc. common stock in the merger.

**Q: If I am a Herald shareholder, can I change my election after I submit my certificates?**

A:

You can revoke your election and submit new election materials prior to the election deadline. You may do so by submitting a written notice to the exchange agent that is received prior to the election deadline at the following address:

[ ]

The revocation must specify the account name and such other information as the exchange agent may request; revocations may not be made in part. New elections must be submitted in accordance with the election procedures described in this proxy statement/prospectus. If you instructed a broker to submit an election for your shares, you must follow your broker's directions for changing those instructions.

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**Q: Why is my vote important?**

A: If you do not vote by proxy or vote in person at the special meeting, it will be more difficult for us to obtain the necessary quorum to hold our special meeting. In addition, your failure to vote, by proxy or in person, will have the same effect as a vote against the ratification and confirmation of the merger agreement. The merger agreement must be ratified and confirmed by the affirmative vote of the holders of two-thirds of Herald capital stock outstanding (i.e., Herald's preferred and common stock voting together as a single class). Approval of the proposal to adjourn, postpone or continue the special meeting, if necessary for the purpose of soliciting additional proxies, requires the affirmative vote of the holders of a majority of the outstanding shares of Herald common stock entitled to vote on the matter. Approval of the non-binding proposal regarding certain merger-related executive compensation arrangements requires the affirmative vote of the holders of a majority of the outstanding shares of Herald common stock entitled to vote on the matter. At the same time BankUnited, Inc. and Herald entered into the merger agreement, BankUnited, Inc. entered into voting agreements with Herald's directors, certain of Herald's officers, and certain Herald shareholders represented on Herald's Board of Directors. Together, these persons had the right to vote approximately 43.1% of Herald's capital stock as of the date the merger agreement was signed. **Herald's Board of Directors unanimously recommends that you vote "FOR" the ratification and confirmation of the merger agreement, "FOR" the approval of the adjournment, postponement or continuation of the special meeting, if necessary, to solicit additional proxies in favor of the ratification and confirmation of the merger agreement, and "FOR" the non-binding proposal regarding certain merger-related executive compensation arrangements.**

**Q: Why are Herald shareholders being asked to approve, on a nonbinding advisory basis, certain merger-related executive compensation arrangements?**

A: The SEC has recently adopted new rules that require Herald to seek a nonbinding advisory vote with respect to certain payments that may be made to Herald's named executive officers in connection with the merger.

**Q: What will happen if Herald shareholders do not approve certain merger-related executive compensation arrangements at the special meeting?**

A: Approval of merger-related executive compensation arrangements, payable under existing agreements, that certain Herald named executive officers may receive in connection with the merger is not a condition to completion of the merger. The vote with respect to the merger-related executive compensation arrangements is an advisory vote and will not be binding on Herald. Therefore, if the merger agreement is ratified and confirmed by Herald's shareholders the merger-related executive compensation arrangements may still be paid to the Herald named executive officers if and to the extent required.

**Q: If my shares of Herald stock are held in street name by my broker, will my broker automatically vote my shares for me?**

A: No. Your broker cannot vote your shares without instructions from you. You should instruct your broker as to how to vote your shares, following the directions your broker provides to you. Please check the voting form used by your broker.

**Q: What if I fail to instruct my broker?**

A: If you do not provide your broker with instructions and your broker submits an unvoted proxy, referred to as a broker non-vote, the broker non-vote will be counted toward a quorum at the special meeting, but it will have the same effect as a vote against the ratification and confirmation of the merger agreement. With respect to the proposal to adjourn, postpone or continue the special meeting, if necessary, to solicit additional proxies and the non-binding proposal regarding

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certain merger-related executive compensation arrangements, an abstention or failure to instruct your broker will have the same effect as a vote against the proposal.

**Q: Can I attend the special meeting and vote my shares in person?**

A:

Yes. All shareholders, including shareholders of record and shareholders who hold their shares through banks, brokers, nominees or any other holder of record, may attend the special meeting. If you are not a shareholder of record, you must obtain a proxy, executed in your favor, from the record holder of your shares of Herald stock, such as a broker, bank or other nominee, to be able to vote in person at the special meeting. If you plan to attend the special meeting, you must hold your shares of Herald stock in your own name or have a letter from the record holder of your shares of Herald stock confirming your ownership and you must bring a form of personal photo identification with you in order to be admitted.

**Q: Can I change my vote?**

A:

Yes. A Herald shareholder who is a shareholder of record and has given a proxy may revoke it at any time before its exercise at the special meeting by (i) giving written notice of revocation to Herald's corporate secretary, (ii) properly submitting to Herald a duly executed proxy bearing a later date, or (iii) attending the special meeting and voting in person. Any Herald shareholder entitled to vote in person at the special meeting may vote in person regardless of whether a proxy has been previously given, and such vote will revoke any previous proxy, but the mere presence (without notifying the Corporate Secretary) of a Herald shareholder at the special meeting will not constitute revocation of a previously given proxy. If you hold your shares in "street name" through a bank or broker, you should contact your bank or broker to revoke your proxy.

Any written notices of revocation and other communications with respect to revocation of proxies should be addressed to Herald as follows: Corporate Secretary, Herald National Bank, 623 Fifth Avenue, 11th Floor, New York, New York 10022, and must be received by 11:59 p.m. Eastern time on [ ], 2011, or the day before the meeting date, if the special meeting is adjourned, postponed or continued.

Proxies may also be revoked via the Internet or telephone by following the instructions on your proxy card.

**Q: Is the merger expected to be taxable to Herald shareholders?**

A:

Subsequent to the receipt of certain regulatory approvals, and promptly upon the expiration of the non-compete agreements of John A. Kanas and John Bohlsen in August 2012, BankUnited, Inc. will cause Herald to merge with and into BankUnited, a direct, wholly-owned subsidiary of BankUnited, Inc., which transaction we refer to as the "subsequent merger." Unless otherwise indicated in this proxy statement/prospectus or the context otherwise requires, all references in this proxy statement/prospectus to "the merger" are to the proposed merger of Herald and Merger Sub and all references to the "integrated mergers" are to the merger and the merger of Herald and BankUnited, collectively. The integrated mergers should be treated as a single integrated transaction for U.S. federal income tax purposes. Consequently, the integrated mergers will be treated, together, as a reorganization within the meaning of Section 368(a) of the Internal Revenue Code of 1986, as amended, referred to in this proxy statement/prospectus as the "Code." As a result, the U.S. federal income tax consequences of the integrated mergers to each Herald shareholder will vary depending on whether the shareholder receives cash, shares of BankUnited, Inc. common stock or a combination thereof in exchange for the shareholder's Herald stock pursuant to the merger. Herald shareholders generally will not recognize gain or loss on the BankUnited, Inc. common stock received pursuant to the merger, and their basis in and

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holding periods for the BankUnited, Inc. common stock received may vary among shares if blocks of Herald stock were acquired at different times or for different prices.

Holders receiving solely cash for their Herald stock generally will recognize gain or loss equal to the difference between the amount of cash received and their tax basis in their shares of Herald stock. Holders receiving both BankUnited, Inc. common stock and cash for their Herald stock generally will recognize gain (but not loss) in an amount equal to the lesser of (i) the holder's gain realized (i.e., the excess, if any, of the sum of the amount of cash and the fair market value of the BankUnited, Inc. common stock received over the holder's adjusted tax basis in its shares of Herald stock surrendered) and (ii) the amount of cash received pursuant to the merger.

You should read "Material U.S. Federal Income Tax Consequences of the Merger" beginning on Page [ ] for a more complete discussion of the U.S. federal income tax consequences of the merger. Tax matters can be complicated, and the tax consequences of the merger to you will depend on your particular tax situation. You should consult your tax advisor to determine the tax consequences of the merger to you.

**Q: When do you expect to complete the merger?**

A:

We expect to complete the merger by year-end 2011, subject to the receipt of regulatory approvals and other customary closing conditions. However, we cannot assure you when or if the merger will occur. Among other things, we cannot complete the merger until we obtain the approval of Herald shareholders at the special meeting.

**Q: Whom should I call with questions about the special meeting or the merger?**

A:

Herald shareholders should call [ ], Herald's proxy solicitor, toll-free at [ ], with any questions about the special meeting or the merger and related transactions.

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## SUMMARY

**This summary highlights selected information from this proxy statement/prospectus. It may not contain all the information that is important to you. We urge you to read carefully this entire document and the other documents we refer you to for a more complete understanding of the merger described herein. Each item in this summary includes a page reference directing you to a more complete description of that item. Unless otherwise indicated in this proxy statement/prospectus or the context otherwise requires, all references in this proxy statement/prospectus to "BankUnited, Inc.," "we," "our" or "us" refer to BankUnited, Inc., and all references to "Herald" refer to Herald National Bank.**

### We Propose a Merger of Herald and Merger Sub (Page [ ])

We propose that "Merger Sub," a to-be-formed, wholly-owned, direct national bank subsidiary of BankUnited, Inc., will merge with and into Herald, with Herald as the surviving entity. Upon completion of the merger, Herald will become a wholly-owned subsidiary of BankUnited, Inc., and Herald common stock will no longer be publicly traded. We currently expect to complete the merger by year-end 2011, subject to the receipt of regulatory approvals and other customary closing conditions. The merger agreement provides that, subject to certain approvals and conditions, on the last business day of August 2012, Herald will merge with and into BankUnited, BankUnited, Inc.'s wholly-owned banking subsidiary, with BankUnited as the surviving entity, and the parties expect such merger to occur on the last business day of August 2012.

### Herald shareholders will receive cash and/or shares of BankUnited, Inc. common stock in the merger depending on their election and any adjustment (Page [ ])

Herald shareholders will have the right to elect to receive merger consideration for each of their shares of Herald preferred and common stock in the form of cash or shares of BankUnited, Inc. common stock, subject to adjustment in the circumstances described below. In the event of adjustment, a Herald shareholder may receive a portion or all of the merger consideration in a form other than that which the shareholder elected.

**The value of the merger consideration to be received by Herald shareholders will fluctuate with the market price of BankUnited, Inc. common stock and will be determined based on the average closing price on the NYSE of BankUnited, Inc. common stock for the ten trading days immediately preceding the date of completion of the merger. As explained in more detail in this document, if you are a Herald shareholder, whether you make a cash election or a stock election, the value of the consideration that you will receive as of the date of completion of the merger will be substantially the same based on the average BankUnited, Inc. closing price used to calculate the merger consideration.** Herald shareholders may specify different elections with respect to different shares that they hold (if, for example, you own 100 Herald shares, you could make a cash election with respect to 50 shares and a stock election with respect to the other 50 shares).

Holders of Herald common and preferred stock will have the same election rights and will receive the same dollar value of merger consideration in the merger. However, elections made with respect to Herald preferred stock will be given priority such that those elections will determine the amounts of cash and stock available as merger consideration for Herald common shareholders.

Set forth below is a table showing a hypothetical range of ten-day average closing sale prices for shares of BankUnited, Inc. common stock and the corresponding consideration that a Herald shareholder would receive in a cash election, on the one hand, or in a stock election, on the other hand, under the merger consideration formula. The table does not reflect the fact that cash will be paid instead of the issuance of fractional shares. **As described below, regardless of whether you make a cash election or a stock election, you may nevertheless receive a mix of cash and stock.**

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| BankUnited, Inc. Common Stock | Herald Common and Preferred Stock | | | |
|---|---|---|---|---|
| | | | Stock Election: Stock Consideration Per Share | |
| Hypothetical Ten-Day Average Closing Prices | Cash Election: Cash Consideration Per Share | OR | BankUnited, Inc. Shares | Market Value(*) |
| $ 20.50 | $ 3.38 | | 0.1649 | $ 3.38 |
| 21.00 | 3.43 | | 0.1633 | 3.43 |
| 21.50 | 3.48 | | 0.1618 | 3.48 |
| 22.00 | 3.53 | | 0.1604 | 3.53 |
| 22.50 | 3.58 | | 0.1590 | 3.58 |
| 23.00 | 3.63 | | 0.1577 | 3.63 |
| 23.50 | 3.68 | | 0.1564 | 3.68 |
| 24.00 | 3.73 | | 0.1553 | 3.73 |
| 24.50 | 3.78 | | 0.1541 | 3.78 |
| 25.00 | 3.83 | | 0.1530 | 3.83 |
| 25.50 | 3.87 | | 0.1519 | 3.87 |
| 26.00 | 3.92 | | 0.1509 | 3.92 |
| 26.50 | 3.97 | | 0.1499 | 3.97 |
| 27.00 | 4.02 | | 0.1490 | 4.02 |
| 27.50 | 4.07 | | 0.1481 | 4.07 |
| 28.00 | 4.12 | | 0.1472 | 4.12 |
| 28.50 | 4.17 | | 0.1464 | 4.17 |
| 29.00 | 4.22 | | 0.1456 | 4.22 |
| 29.50 | 4.27 | | 0.1448 | 4.27 |
| 30.00 | 4.32 | | 0.1440 | 4.32 |
| 30.50 | 4.37 | | 0.1433 | 4.37 |
| 31.00 | 4.42 | | 0.1425 | 4.42 |
| 31.50 | 4.47 | | 0.1419 | 4.47 |
| 32.00 | 4.52 | | 0.1412 | 4.52 |
| 32.50 | 4.57 | | 0.1405 | 4.57 |
| 33.00 | 4.62 | | 0.1399 | 4.62 |
| 33.50 | 4.67 | | 0.1393 | 4.67 |
| 34.00 | 4.72 | | 0.1387 | 4.72 |
| 34.50 | 4.77 | | 0.1381 | 4.77 |

(*) Market value based on hypothetical ten-day average closing price on the NYSE of BankUnited, Inc. common stock.

The examples above are illustrative only. If you are a Herald shareholder, the value of the merger consideration that you actually receive will be based on the actual ten-day average closing price on the NYSE of BankUnited, Inc. common stock immediately prior to the completion date of the merger, as described below. If that average closing price is not included in the table above, including because the price is outside the range of the amounts set forth above, we do not intend to resolicit proxies from Herald shareholders in connection with the merger.

The merger consideration will be based on the arithmetic average of the closing prices of BankUnited, Inc. common stock reported on the NYSE for the ten consecutive trading days immediately preceding the completion date of the merger, which we refer to as the "measuring period." Based on the closing price of BankUnited, Inc. common stock of $[ ] on [ ], 2011, for each of your shares of Herald common stock or preferred stock you would receive either approximately $[ ] in cash or [ ] shares of BankUnited, Inc. common stock, subject to possible adjustment. However, we will compute the actual amount of cash and number of shares of BankUnited, Inc. common stock you will receive in the merger using the formula contained in the

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merger agreement. **For a summary of the formula contained in the merger agreement, see "The Merger Agreement Merger Consideration" beginning on Page [ ].**

The consideration to be paid to shareholders cannot be determined until the close of trading on the trading day immediately prior to the completion of the merger. We intend to announce these amounts when known.

**If You Are a Herald Shareholder, Regardless of Whether You Make a Cash Election or a Stock Election, You May Nevertheless Receive a Mix of Cash and Stock (Page [ ])**

The aggregate number of shares of BankUnited, Inc. common stock that will be issued in the merger is approximately [ ], based on the closing price of BankUnited, Inc. common stock on [ ], 2011 and the number of Herald preferred and common shares outstanding on that date, and the cash that will be paid in the merger is fixed at $22,860,611.10. As a result, if more Herald shareholders elect to receive either BankUnited, Inc. common stock or cash than is available as merger consideration under the merger agreement, those shareholders electing the over-subscribed form of consideration will have the over-subscribed consideration prorated and will receive at least a portion of their consideration in the other form, despite their election. In making these prorations, elections made with respect to Herald preferred stock will be given priority such that all of the elections made with respect to such stock will be given effect before any cash or stock is used to satisfy elections made with respect to shares of Herald common stock. For example, if there is insufficient cash to provide to all of the preferred and common shares with respect to which a cash election has been made, the available cash will first be allocated to shares of preferred stock with respect to which a cash election has been made. Whatever cash, if any, is available after satisfying elections made with respect to Herald preferred stock would then be used to satisfy elections made with respect to Herald common stock.

If, prior to the completion of the merger, shares of Herald common stock are issued upon the exercise of outstanding options to purchase or receive shares of Herald common stock, the aggregate number of shares of BankUnited, Inc. common stock to be issued as consideration in the merger will be increased accordingly. The final number of BankUnited, Inc. shares to be issued in the merger will also differ depending on the average closing price of BankUnited, Inc. common stock during the measuring period. However, the total cash consideration will always remain fixed at $22,860,611.10.

**In Order To Make an Election, Herald Shareholders Must Properly Complete and Deliver the Form of Election that Accompanies this Document (Page [ ])**

If you are a Herald shareholder, a form of election with instructions for making cash and stock elections is being distributed to you concurrently with this proxy statement/prospectus. You must properly complete and deliver to the exchange agent your form of election along with your stock certificates (or a properly completed notice of guaranteed delivery). Do not send your stock certificates or form of election with your proxy card.

Forms of election and stock certificates (or a properly completed notice of guaranteed delivery) must be received by the exchange agent by the election deadline, which is 5:00 p.m., New York City time, on [ ], 2011, the day prior to the date of the Herald special meeting. Once you tender your stock certificates to the exchange agent, you may not transfer your Herald shares until the merger is completed, unless you revoke your election by written notice to the exchange agent that is received prior to the election deadline.

If you fail to submit a properly completed form of election, together with your stock certificates (or a properly completed notice of guaranteed delivery), prior to the election deadline, you will be deemed not to have made an election. As a non-electing holder, you will be paid value per share equivalent to the amount paid per share to holders making elections, but you may be paid all in cash, all in BankUnited, Inc. common stock, or in part cash and in part BankUnited, Inc. common stock, depending on the remaining pool of cash and BankUnited, Inc. common stock available for paying

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merger consideration after honoring the cash elections and stock elections that other shareholders have made.

**What Holders of Herald Stock Options Will Receive (Page [ ])**

At the effective time of the merger, each outstanding option to acquire shares of Herald common stock will vest and be converted into a BankUnited, Inc. option to acquire a number of shares equal to the product obtained by multiplying the number of shares of Herald common stock that were purchasable under such option immediately prior to the merger by the Exchange Ratio (defined on Page [ ]), rounded down to the nearest whole share, and shall continue to be governed by the same terms and conditions as were applicable under such option immediately prior to the effective time. The per share exercise price for each Herald option will equal the quotient obtained by dividing (1) the per share exercise price of the option in effect immediately prior to the effective time of the merger by (2) the Exchange Ratio, rounded up to the nearest whole cent.

**What Holders of Herald Restricted Stock Will Receive (Page [ ])**

At the effective time of the merger, each outstanding share of Herald restricted stock will vest and be entitled to the same merger consideration as the shares of Herald common stock, being treated for these purposes as having not made an election to receive cash or stock consideration in the merger.

**What Holders of Herald Warrants Will Receive (Page [ ])**

At the effective time of the merger, BankUnited, Inc. shall assume and cause to be performed all obligations of Herald pursuant to the Stock Warrant Agreement, dated as of November 24, 2008, by Herald in favor of the parties listed on Exhibit A thereto. Each warrant so assumed by BankUnited, Inc. will continue to have, and be subject to, the same terms and conditions set forth in that agreement immediately prior to the effective time of the merger, except that each such outstanding warrant will be exercisable for shares of BankUnited, Inc. common stock and cash in the same proportion that the holders of Herald common stock receive in the aggregate in the merger as measured as of the effective time.

**Material U.S. Federal Income Tax Consequences of the Merger (Page [ ])**

The integrated mergers should be treated as a single integrated transaction for U.S. federal income tax purposes. Consequently, the integrated mergers will be treated, together, as a reorganization within the meaning of Section 368(a) of the Code. As a result, the U.S. federal income tax consequences of the integrated mergers to each Herald shareholder will vary depending on whether the shareholder receives cash, shares of BankUnited, Inc. common stock or a combination thereof in exchange for the shareholder's Herald stock pursuant to the merger. Herald shareholders generally will not recognize gain or loss on the BankUnited, Inc. common stock received pursuant to the merger, and their basis in and holding periods for the BankUnited, Inc. common stock received may vary among shares if blocks of Herald stock were acquired at different times or for different prices.

Holders receiving solely cash for their Herald stock generally will recognize gain or loss equal to the difference between the amount of cash received and their tax basis in their shares of Herald stock. Holders receiving both BankUnited, Inc. common stock and cash for their Herald stock generally will recognize gain (but not loss) in an amount equal to the lesser of (i) the holder's gain realized (i.e., the excess, if any, of the sum of the amount of cash and the fair market value of the BankUnited, Inc. common stock received over the holder's adjusted tax basis in its shares of Herald stock surrendered) and (ii) the amount of cash received pursuant to the merger.

If, contrary to BankUnited, Inc.'s and Herald's expectations, the subsequent merger does not occur, the merger would be treated as a taxable stock sale by Herald shareholders pursuant to which they would recognize gain or loss equal to the difference between their tax basis in their Herald shares

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and the sum of the amount of cash plus the fair market value, as of the effective date of the merger, of any BankUnited, Inc. common stock received pursuant to the merger. BankUnited, Inc. and Herald intend to report BankUnited, Inc.'s acquisition of Herald as a reorganization within the meaning of Section 368(a) of the Code assuming the subsequent merger occurs, as expected, and will notify former holders of Herald stock in the unlikely event that the subsequent merger does not occur.

This discussion may not be applicable to all Herald shareholders. You should read "Material U.S. Federal Income Tax Consequences of the Merger" beginning on Page [ ] for a more complete discussion of the U.S. federal income tax consequences of the merger**Tax matters can be complicated, and the tax consequences of the merger to you will depend on your particular tax situation. You should consult your tax advisor to determine the tax consequences of the merger to you.**

**Recommendation of Herald's Board of Directors (Page [ ])**

The Herald Board of Directors unanimously determined that the merger agreement, the merger, and the other transactions contemplated by the merger agreement are advisable and in the best interests of Herald and its shareholders, adopted the merger agreement and approved the merger, and recommended that Herald's shareholders ratify and confirm the merger agreement. In connection with the foregoing, the Board considered, among other factors, the opinion of Sandler O'Neill & Partners, L.P., who we refer to in this proxy statement/prospectus as "Sandler O'Neill," Herald's financial advisor.

Herald's Board of Directors also recommends that Herald shareholders vote "FOR" the approval of the adjournment, postponement or continuation of the special meeting, if necessary, to solicit additional proxies in favor of the ratification and confirmation of the merger agreement and "FOR" the non-binding proposal regarding certain merger-related executive compensation arrangements.

For more information concerning the background of the merger, the recommendation of Herald's Board of Directors and the reasons for the merger, and the recommendation, please see the discussions under "The Merger Background of the Merger" and "The Merger Herald's Reasons for the Merger; Recommendation of Herald's Board of Directors," commencing on Page [ ] and Page [ ], respectively.

**Opinion of Herald's Financial Advisor (Page [ ])**

Sandler O'Neill rendered its oral opinion, subsequently confirmed in writing, to Herald's Board of Directors that, as of the date of the opinion and based upon and subject to the procedures followed, assumptions made, matters considered, and qualifications and limitations on the review undertaken by Sandler O'Neill in rendering its opinion, the merger consideration was fair to the holders of Herald common stock from a financial point of view.

The full text of Sandler O'Neill's written opinion, dated June 2, 2011, which sets forth the procedures followed, assumptions made, matters considered, and qualifications and limitations on the review undertaken by Sandler O'Neill in rendering its opinion, is included in this proxy statement/prospectus as Annex C. Sandler O'Neill provided its opinion for the information and assistance of Herald's Board of Directors for purposes of its evaluation of the merger and addressed only the fairness as of the date of the opinion, from a financial point of view, of the merger consideration to the holders of Herald common stock. Sandler O'Neill's opinion does not constitute a recommendation to any Herald shareholder as to how any such holder should vote or act with respect to the merger, any related matter or any other matter. In addition, Sandler O'Neill was not requested to opine as to, and its opinion does not in any manner address, Herald's underlying business decision to proceed with the merger.

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For further information, please see the discussion under the caption "The Merger Opinion of Herald's Financial Advisor," commencing on Page [ ].

**Herald's Directors and Executive Officers May Have Interests in the Merger that Differ from Your Interests (Page [ ])**

Certain members of the Herald management and Board of Directors have financial interests in the merger that are in addition to, and may be different from, any interests they may have as shareholders of Herald, generally. These interests include, among others, provisions in the merger agreement relating to indemnification of the directors and officers, accelerated vesting in stock options and restricted stock awards as the result of the change in control, the assumption of warrants to purchase shares of Herald common stock, payments pursuant to voting agreements entered into by BankUnited, Inc. and affiliates of certain Herald directors, and amended and restated employment agreements for each of Messrs. Nielsen, Carleton, and Perri that will take effect at the effective time of the merger and that provide for transaction bonuses as soon as practicable following the consummation of the merger, and retention bonuses that are payable one year following the merger. The Herald Board was aware of these interests when approving the merger.

**Comparative Market Prices of Securities (Page [ ])**

BankUnited, Inc.'s common stock is listed on the NYSE under the symbol "BKU." Herald's common stock is listed on the NYSE Amex exchange under the symbol "HNB." The following table presents the closing prices of BankUnited, Inc. common stock and Herald common stock on June 1, 2011, the last trading day before we announced the merger, and on [ ], the last practicable date before our printing of this proxy statement/prospectus. The table also presents the implied value of the merger consideration proposed for each share of Herald common and preferred stock on those dates, as determined by multiplying the closing price of BankUnited, Inc. common stock on those dates by 0.0990 and adding $1.35.

| | BankUnited, Inc. Common Stock (NYSE: BKU) | Herald Common Stock (NYSE-AMEX: HNB) | Implied Value of One Herald Share |
|---|---|---|---|
| June 1, 2011 | $ 28.11 | $ 4.13 | $ 4.13 |
| [ ] | $ [ ] | $ [ ] | $ [ ] |

The market prices of both BankUnited, Inc. common stock and Herald common stock will fluctuate prior to the merger. **You should obtain current stock price quotations for BankUnited, Inc. common stock and Herald common stock.** You can get these quotations from a newspaper, on the Internet or by calling your broker.

**Dividends (Page [ ])**

The payment, timing and amount of dividends by BankUnited, Inc. on its common stock or Herald on its preferred or common stock in the future, either before or after the merger is completed, are subject to the determination of the respective BankUnited, Inc. and Herald Boards of Directors and depend on cash requirements, the financial condition and earnings of BankUnited, Inc. and Herald, legal and regulatory considerations, and other factors. In addition, in the merger agreement Herald agreed not to make, declare, pay or set aside for payment any dividend on or in respect of, or declare any distribution on, any shares of Herald stock prior to the effective date of the merger.

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**The Merger Will Be Accounted for as a "Business Combination" (Page [ ])**

The merger will be treated as a "business combination" using the acquisition method of accounting with BankUnited, Inc. treated as the acquirer under generally accepted accounting principles, or "GAAP."

**Special Meeting of Herald Shareholders (Page [ ])**

Herald plans to hold its special meeting of its shareholders on [ ], 2011, at [ ] a.m. local time, at [ ]. At the special meeting you will be asked to approve (i) the ratification and confirmation of the merger agreement, (ii) the adjournment, postponement, or continuation of the special meeting, if necessary, to solicit additional proxies in favor of the merger agreement, and (iii) by non-binding, advisory vote, certain compensation arrangements for Herald's named executive officers in connection with the merger.

You can vote at the Herald special meeting of shareholders if you owned Herald preferred or common stock at the close of business on [ ], 2011. As of that date, there were approximately [ ] shares of Herald common stock outstanding and entitled to vote, approximately [ ] of which, or [ ]%, were owned beneficially or of record by directors and officers of Herald or their affiliates, and [ ] shares of Herald preferred stock outstanding and entitled to vote on the matters described herein, approximately [ ] of which, or [ ]%, were owned beneficially or of record by directors and officers of Herald or their affiliates. You can cast one vote for each share of Herald stock that you owned on that date.

**Appraisal Rights (Page [ ])**

Under Section 215a of Title 12 of the United States Code, referred to in this proxy statement/prospectus as "12 U.S.C. § 215a," holders of Herald common and preferred stock may have the right to obtain an appraisal of the value of their shares of Herald common and preferred stock in connection with the merger. To perfect appraisal rights, a Herald shareholder must not vote for the ratification and confirmation of the merger agreement and must strictly comply with all of the procedures required under 12 U.S.C. § 215a.

We have included a copy of 12 U.S.C. § 215a as Annex B to this proxy statement/prospectus.

**The Merger Requires the Approval of Holders of Two-Thirds of Herald's Outstanding Capital Stock (Page [ ])**

The merger agreement must be ratified and confirmed by the holders of two-thirds of the outstanding capital stock of Herald (i.e., Herald's preferred and common stock voting together as a single class). Herald is calling a special meeting of the preferred and common shareholders to consider and vote on the proposal to ratify and confirm the merger agreement. Herald's Board of Directors has fixed the close of business on [ ], 2011 as the record date for determining the Herald preferred and common shareholders entitled to receive notice of and to vote at the special meeting. As of that date, Herald directors and executive officers and their affiliates beneficially owned approximately [ ], or [ ]%, of the shares entitled to vote at the Herald special meeting.

At the same time BankUnited, Inc. and Herald entered into the merger agreement, BankUnited, Inc. entered into voting agreements with Herald's directors, certain of Herald's officers, and certain Herald shareholders represented on Herald's Board of Directors. Together, these persons had the right to vote approximately 43.1% of Herald's capital stock as of the date the merger agreement was signed.

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**Approval of the Non-Binding Proposal Regarding Certain Merger-Related Executive Compensation Arrangements Requires the Affirmative Vote of the Holders of a Majority of the Outstanding Shares of Herald Common Stock Entitled to Vote on the Matter (Page [ ])**

Approval of the non-binding proposal regarding certain merger-related executive compensation arrangements requires the affirmative vote of the holders of a majority of the outstanding shares of Herald common stock entitled to vote on the matter. Shareholders should note that the non-binding proposal regarding certain merger-related executive compensation arrangements is merely an advisory vote which will not be binding on Herald, Herald's Board of Directors, or BankUnited, Inc. Further, the underlying plans and arrangements are contractual in nature and not, by their terms, subject to shareholder approval. Accordingly, regardless of the outcome of the non-binding, advisory vote, if the merger is consummated, Herald's named executive officers will be eligible to receive the various payments and benefits in accordance with the terms and conditions applicable to those arrangements.

**Conditions That Must Be Satisfied or Waived for the Merger to Occur (Page [ ])**

Currently, we expect to complete the merger by year-end 2011. As more fully described in this proxy statement/prospectus and in the merger agreement, the completion of the merger depends on a number of conditions being satisfied or, where legally permissible, waived. The respective obligations of each of BankUnited, Inc. and Herald to complete the merger are subject to the satisfaction of the following conditions:

- receipt of the requisite affirmative vote of the Herald shareholders on the merger agreement;
- approval for the listing on the NYSE of the BankUnited, Inc. common stock to be issued in the merger;
- the effectiveness of the registration statement on Form S-4, of which this proxy statement/prospectus is a part, and the absence of a stop order or proceeding initiated or threatened by the SEC for that purpose; and
- receipt of required regulatory approvals and the absence of any injunction or other legal prohibition or restraint against the merger.

The obligation of BankUnited, Inc. to complete the merger is also subject to the satisfaction, or waiver by BankUnited, Inc., of the following conditions:

- the accuracy of the representations and warranties of Herald as of the date of the merger agreement and the effective time of the merger, other than, in most cases, those failures to be true and correct that would not reasonably be expected to, individually or in the aggregate, result in a material adverse effect on Herald;
- performance in all material respects by Herald of the obligations required to be performed by it at or prior to the effective time of the merger;
- receipt by BankUnited, Inc. of an opinion of Skadden, Arps, Slate, Meagher & Flom LLP as to certain tax matters;
- the absence of any action taken or determination made, or any law enacted, entered, enforced or deemed applicable to the transactions contemplated by the merger agreement, by any governmental entity, in connection with the grant of a required regulatory approval, which imposes any restriction, requirement or condition that, individually or in the aggregate, would, after the merger, reasonably be expected to restrict or burden BankUnited, Inc. or any of its affiliates (i) in connection with the transactions contemplated by the merger agreement or (ii) with respect to the business or operations of BankUnited, Inc. or any of its affiliates that

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would, in the case of either (i) or (ii), have a material adverse effect on BankUnited, Inc. or any of its affiliates, in each case measured on a scale relative to Herald; and

BankUnited, Inc. having received, in form and substance satisfactory to BankUnited, Inc. in its sole good faith judgment, confirmation from applicable regulatory authorities that consummation of the transactions contemplated by the merger agreement will not cause BankUnited, Inc., its affiliates, or their respective "institution affiliated parties," in each case not affiliated with Herald prior to the merger, or payments or agreements in respect of any of them, to become subject to any restriction or prohibition provided in section 18(k) of the Federal Deposit Insurance Act, as amended, or the "FDIA," 12 C.F.R. Part 359, or any successor or similar law, rule, regulation, order or directive.

The obligation of Herald to complete the merger is also subject to the satisfaction or waiver by Herald of the following conditions:

the accuracy of the representations and warranties of BankUnited, Inc. as of the date of the merger agreement and the effective time of the merger, other than those failures to be true and correct that would not reasonably be expected to, individually or in the aggregate, result in a material adverse effect on BankUnited, Inc.;

performance in all material respects by BankUnited, Inc. of the obligations required to be performed by it at or prior to the effective time of the merger; and

receipt by Herald of an opinion of Luse Gorman Pomerenk & Schick, P.C. as to certain tax matters.

**Termination of the Merger Agreement (Page [ ])**

The merger agreement can be terminated at any time prior to completion by mutual consent in a written instrument, if authorized by each of BankUnited, Inc.'s and Herald's Boards of Directors, or in the following circumstances:

by either Herald or BankUnited, Inc., if any of the required regulatory approvals are denied or completion of the merger has been prohibited or made illegal by a governmental entity (and the denial or prohibition is final and nonappealable);

by either Herald or BankUnited, Inc., if the merger has not been completed by June 2, 2012, unless the failure to complete the merger by that date is due to the terminating party's failure to abide by the merger agreement;

by either Herald or BankUnited, Inc., if there is a breach by the other party that would result in the failure of the conditions of the terminating party's obligation to complete the merger, unless the breach is capable of being, and is, cured within 30 days of written notice of the breach (provided that the terminating party is not then in material breach of the merger agreement);

by BankUnited, Inc., if Herald or Herald's Board of Directors (1) submits the merger agreement to its shareholders without a recommendation for approval, or otherwise withdraws or adversely modifies its recommendation for approval (or discloses such intention), or approves, endorses, or recommends to its shareholders an acquisition proposal other than the merger, (2) materially breaches its obligation to refrain from soliciting acquisition proposals, or (3) materially breaches its obligation to call the shareholder meeting described herein or prepare and mail to its shareholders the proxy statement/prospectus pursuant to the merger agreement;

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by BankUnited, Inc., if Herald's shareholders fail to ratify and confirm the merger agreement at the Herald special meeting, or at any adjournment or postponement thereof; or

by BankUnited, Inc., if a tender or exchange offer for 20% or more of the outstanding shares of Herald common stock is commenced (other than by BankUnited, Inc. or its affiliates), and Herald's Board of Directors recommends that the Herald shareholders tender their shares in such tender or exchange offer or otherwise fails to recommend that such shareholders reject such tender or exchange offer within ten business days.

*Effect of Termination.* If the merger agreement is terminated, it will become void, and there will be no liability on the part of BankUnited, Inc. or Herald, except that (a) both BankUnited, Inc. and Herald will remain liable for any willful breach of the merger agreement and (b) designated provisions of the merger agreement, including with respect to the payment of fees and expenses and the confidential treatment of information, will survive the termination.

**Termination Fees (Page [ ])**

If the merger agreement is terminated under certain circumstances, including circumstances involving a change in recommendation by Herald's Board of Directors, Herald will be required to pay BankUnited, Inc. a termination fee of $3,585,000. The termination fee could discourage other companies from seeking to acquire or merge with Herald.

If the merger agreement is terminated because the merger was not completed by June 2, 2012, Herald's shareholders ratified and confirmed the merger at least five business days prior to termination, and Herald was not in material breach of the agreement at the time of termination, then BankUnited, Inc. will be required to pay Herald a termination fee of $5,000,000. If the merger agreement is terminated under certain circumstances, BankUnited, Inc. will be required to pay certain of Herald's third party litigation expenses.

**Regulatory Approvals Required for the Merger (Page [ ])**

Each of BankUnited, Inc. and Herald has agreed to use its reasonable best efforts to obtain all regulatory approvals required to complete the merger and the other transactions contemplated by the merger agreement. These approvals include approval from the Board of Governors of the Federal System, which we refer to in this proxy statement/prospectus as the "Federal Reserve Board," and the Office of the Comptroller of the Currency, which we refer to in this proxy statement/prospectus as the "OCC," among others. BankUnited, Inc. and Herald have filed, or are in the process of filing, applications and notifications to obtain the required regulatory approvals. Although we do not know of any reason why we cannot obtain these regulatory approvals in a timely manner, we cannot be certain when or if we will obtain them.

**The Rights of Herald Common and Preferred Shareholders Following the Merger Will Be Different (Page [ ])**

The rights of BankUnited, Inc. common stockholders are governed by Delaware law and by BankUnited, Inc.'s amended and restated certificate of incorporation and amended and restated by-laws. The rights of Herald common and preferred shareholders are governed by the laws of the United States, and by Herald's articles of association and by-laws. Upon the completion of the merger, the rights of Herald common and preferred shareholders will be governed by Delaware law and BankUnited, Inc.'s amended and restated certificate of incorporation and amended and restated by-laws.

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**The Parties to the Merger (Page [ ] and Page [ ])**

*BankUnited, Inc.*
*14817 Oak Lane*
*Miami Lakes, Florida 33016*
*(305) 569-2000*

BankUnited, Inc. was organized on April 28, 2009 as the holding company for BankUnited, a federally chartered, federally insured savings association headquartered in Miami Lakes, Florida. On May 21, 2009, BankUnited, Inc. was granted a savings association charter and the newly formed bank acquired substantially all of the assets and assumed all of the nonbrokered deposits and substantially all of the other liabilities of the Failed Bank from the Federal Deposit Insurance Corporation, which we refer to in this proxy statement/prospectus as the "FDIC," a transaction referred to as the "Acquisition." In connection with the Acquisition, BankUnited, Inc. entered into loss sharing agreements with the FDIC that cover single family residential mortgage loans, commercial real estate, commercial and industrial and consumer loans, certain investment securities and other real estate owned, collectively referred to as the "Covered Assets."

BankUnited, Inc.'s wholly-owned subsidiaries include BankUnited and BankUnited Investment Services, Inc. Together with its subsidiaries, BankUnited, Inc. provides a full range of banking and related services to individual and corporate customers through 81 branch offices located in 13 Florida counties.

*Merger Sub*

Merger Sub will be a national banking association that BankUnited, Inc. will organize solely for the purpose of consummating the merger.

*Herald National Bank*
*623 Fifth Avenue*
*New York, New York, 10022*
*(212) 421-0030*

Herald is a national banking association and a full-service independent commercial bank headquartered in the economically active and diverse New York City metropolitan area. Herald's primary service area is comprised of New York, Kings, Nassau and western Suffolk counties. Herald's deposits are insured by the FDIC up to the maximum limits authorized under the FDIA. Herald offers a broad range of commercial and personal banking as well as wealth management services to small and mid-sized businesses, professional service firms, non-profit organizations, governmental entities and their owners, principals, senior managers and employees, who are presently underserved by the major money center banks that operate in the New York metropolitan market.

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## RECENT DEVELOPMENTS

**BankUnited Has Filed an Application with the OCC to Convert its Charter from a Federal Thrift to a National Bank**

In the second quarter of 2011, BankUnited, Inc. began the process to obtain the approval of the OCC to convert the charter of BankUnited from a federal thrift to a national bank. The implications of BankUnited's charter conversion are more fully described in the section of this proxy statement/prospectus entitled "Information About BankUnited, Inc. Information About BankUnited, Inc.'s Business Regulation and Supervision" beginning on Page [ ].

**Herald Amended and Entered into New Employment Agreements with Raymond A. Nielsen, Michael S. Carleton, and Gerard A. Perri and Amended its 2008 Stock Incentive Plan**

On June 1, 2011, Herald entered into a third amendment to the employment agreements with each of Messrs. Raymond A. Nielsen, Michael S. Carleton and Gerard A. Perri. The third amendment was adopted in order to bring the employment agreements into compliance with certain requirements of Section 409A of the Code by including a definition of "specified employee" and requiring a six-month delay for certain severance payments and by modifying the definition of "change in control" to comply with Code Section 409A. In addition, the third amendment memorialized increases in base salary for each executive, such that the new base salary for Mr. Nielsen is $350,000, for Mr. Carleton is $300,000 and for Mr. Perri is $258,637. For Messrs. Nielsen and Carleton, the third amendment also acknowledges that their 2011 base salary increases, which were effective in February 2011, will be paid in stock options and in future years, will be paid in cash, in accordance with normal payroll practices. The third amendment to Mr. Perri's employment agreement acknowledges that the payment due to him on Herald's returning to sustained profitability (as defined in his employment agreement), which occurred in the fourth quarter of 2010, will be paid in a cash payment of $112,998, payable bi-weekly over the remainder of 2011.

In addition, in connection with the entry into the merger agreement, on June 2, 2011, each of Messrs. Nielsen, Carleton and Perri entered into new employment agreements with Herald, which will become effective on the effective date of the merger. Each new employment agreement has a term of one year. Under the terms of his new employment agreement, Mr. Nielsen will continue to receive his current base salary of $350,000, and will receive a transaction bonus of $100,000, payable as soon as practicable after the effective date of the merger, and a retention bonus of $270,000, payable following the one year anniversary of the effective date of the merger, subject, except in certain circumstances, to Mr. Nielsen's continued employment on such date. Mr. Carleton's new employment agreement provides for a base salary of $250,000 (which is a reduction from his current base salary of $300,000), a transaction bonus of $285,000, payable as soon as practicable following the effective date, and a retention bonus of $285,000, payable following the one year anniversary of the effective date of the merger, subject, except in certain circumstances, to Mr. Carleton's continued employment on such date. Mr. Perri's new employment agreement provides for a base salary of $200,000 (which is a reduction from his current base salary of $258,637), a transaction bonus of $230,000, payable as soon as practicable following the effective date, and a retention bonus of $230,000, payable following the one year anniversary of the effective date of the merger, subject, except in certain circumstances, to Mr. Perri's continued employment on such date. In addition, the new employment agreements provide each executive with the continuation of his automobile allowance at the current level, which is $2,000 per month in the case of Mr. Nielsen and $1,000 per month in the case of Messrs. Carleton and Perri.

If on the one year anniversary of the effective date of the merger, the executive is no longer employed by Herald due to the executive's involuntary termination without cause or constructive termination for good reason, the executive will still be entitled to receive his retention bonus on the one year anniversary of the effective date of the merger. Each employment agreement requires the

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executive not to compete for a period of time. Mr. Nielsen will not compete during the employment period and for 12 months following his termination of employment for any reason. Messrs. Carleton and Perri have each agreed not to compete during the employment period. For these purposes, the employment period is defined as the period from the effective date of the agreements through the one-year anniversary of the effective date of the agreement, unless the employee is terminated earlier without cause or due to resignation for good reason. Each employment agreement further requires the executive not to solicit customers or employees of Herald for 18 months following termination of employment.

In addition, on June 1, 2011, Herald amended its 2008 Stock Incentive Plan to eliminate the ability of the Committee that administers the 2008 Stock Incentive Plan to make a determination that a change in control occurs on the signing of a definitive agreement to enter into a merger. After the amendment, a change of control is deemed to occur only on the consummation of a change in control, as defined under the 2008 Stock Incentive Plan. Upon a change in control (as defined), all outstanding stock options issued under the plan will accelerate and become immediately exercisable. The amendment also changed the name of the plan to reflect the current name of Herald.

**Herald's Annual Meeting of Shareholders**

Herald's Annual Meeting of Shareholders was held on May 19, 2011. The matters listed below were submitted to a vote of the shareholders through the solicitation of proxies, and the proposals are described in detail in Herald's Proxy Statement dated April 22, 2011. The final results of the shareholder votes are as follows:

*Proposal 1 Election of Directors*

| | **For** | **Withheld** | **Broker Non-Votes** |
|---|---|---|---|
| Michael S. Carleton | 7,891,234 | 85,166 | 1,935,000 |
| Raymond A. Nielsen | 7,893,634 | 82,766 | 1,935,000 |
| Norman Schulman | 7,926,192 | 50,208 | 1,935,000 |

*Proposal 2 Ratification of Appointment of Independent Registered Public Accounting Firm*

The shareholders approved the ratification of KPMG LLP as Herald's independent registered public accounting firm for the year ending December 31, 2011, as follows.

| | |
|---|---|
| For | 9,766,709 |
| Against | 79,480 |
| Abstain | 65,261 |

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## UNAUDITED COMPARATIVE PER COMMON SHARE DATA

The following table sets forth certain historical, *pro forma* and *pro forma* per equivalent share financial information for BankUnited, Inc. and Herald. The historical information is based on historical financial information and related notes that BankUnited, Inc. and Herald have presented in their prior filings with the SEC, in the case of BankUnited, Inc., and the OCC, in the case of Herald. You should read the financial information provided in the following table together with this historical financial information and related notes. The historical financial information is included as part of this prospectus/proxy statement. See "Financial Statements of BankUnited, Inc. and Herald," beginning on Page F-[ ] for this historical information. The *pro forma* and *pro forma* per equivalent share information give effect to the merger as if the merger had been effective on the date presented in the case of the book value data, and as if the merger had been effective as of January 1, 2010 in the case of the earnings per share and the cash dividends data. The *pro forma* data in the table assumes that the merger is accounted for using the acquisition method of accounting treating BankUnited, Inc. as the acquirer and is derived from, and should be read in conjunction with, the historical consolidated financial statements and related notes of BankUnited, Inc. and Herald, which are included in this proxy statement/prospectus. The *pro forma* data combines the historical results of Herald into BankUnited, Inc.'s consolidated statement of income and, while certain adjustments were made for the estimated impact of certain fair valuation adjustments and other acquisition-related activity, they are not indicative of what could have occurred had the acquisition taken place on January 1, 2010. Where applicable, calculations of the pro forma data are based on the closing price of BankUnited, Inc.'s common stock on June 1, 2011. The *pro forma* adjustments made are subject to change as additional information becomes available and as additional analyses are performed. The *pro forma* information, while helpful in illustrating the financial characteristics of the combined company under one set of assumptions, does not reflect the impact of factors that may result as a consequence of the merger or consider any potential impacts of current market conditions or the merger on revenues, expense efficiencies, asset dispositions, and share repurchases, among other factors, nor the impact of possible business model changes. As a result, the *pro forma* results are not necessarily indicative of what would have occurred had the acquisition taken place on the assumed dates, nor do they represent an attempt to predict or suggest future results.

| | BankUnited, Inc. | | | |
|---|---|---|---|---|
| | March 31, 2011 | | December 31, 2010 | |
| | Historical Data | Pro-Forma Data | Historical Data | Pro-Forma Data |
| Book value per share | $ 14.78 | $ 15.00 | $ 13.48 | $ 13.74 |
| Cash dividends declared per share | $ 0.14 | $ 0.14 | $ 0.37 | $ 0.36 |
| Income (loss) per share, basic and diluted | $ (0.72) | $ (0.70) | $ 1.99 | $ 1.87 |

| | Herald | | | |
|---|---|---|---|---|
| | March 31, 2011 | | December 31, 2010 | |
| | Historical Data | Equivalent Pro-Forma Data | Historical Data | Equivalent Pro-Forma Data |
| Book value per share | $ 3.02 | $ 2.21 | $ 3.00 | $ 2.02 |
| Cash dividends declared per share | | $ 0.02 | | $ 0.05 |
| Income (loss) per share, basic and diluted | $ 0.02 | $ (0.10) | $ (0.50) | $ 0.27 |

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## SELECTED CONSOLIDATED HISTORICAL FINANCIAL DATA OF BANKUNITED, INC.

**Selected Consolidated Historical Financial Data of BankUnited, Inc.**

You should read the following selected consolidated historical financial data in conjunction with the BankUnited, Inc. consolidated financial statements and the notes thereto which can be found in "Financial Statements of BankUnited, Inc. and Herald," beginning on Page F-[ ], and in conjunction with "Information About BankUnited, Inc. Management's Discussion and Analysis of Financial Condition and Results of Operations March 31, 2011" beginning on Page [ ] and "Information About BankUnited, Inc. Management's Discussion and Analysis of Financial Condition and Results of Operations December 31, 2010" beginning on Page [ ]. The selected consolidated historical financial data set forth below at December 31, 2010 and for the year then ended and at December 31, 2009 and for the period then ended, is derived from BankUnited, Inc.'s audited consolidated financial statements beginning on Page F-[ ]. The information set forth below, as of and for the three months ended March 31, 2011 and for the three months ended March 31, 2010, is derived from BankUnited, Inc.'s unaudited consolidated financial statements beginning on Page F-[ ]. Management of BankUnited, Inc. believes that such unaudited consolidated financial statements reflect all adjustments, consisting of normal recurring adjustments, considered necessary for a fair presentation. You should not assume the results of operations for past periods or for the three months ended March 31, 2011 and 2010 are indicative of results that may be achieved in future periods.

The selected consolidated historical financial data set forth below at September 30, 2008, 2007 and 2006, for the period from October 1, 2008 to May 21, 2009 and for the fiscal years ended September 30, 2008, 2007 and 2006 has been derived from the consolidated financial statements of BankUnited, FSB or the "Failed Bank." Neither BankUnited, Inc. nor BankUnited had any substantive operations prior to the Acquisition on May 21, 2009. Results of operations of BankUnited, Inc. for the post-Acquisition periods are not comparable to the results of operations of the Failed Bank for the pre-Acquisition periods. Results of operations for the post-Acquisition periods reflect, among other things, the acquisition method of accounting. See "Information About Bankunited, Inc. Management's Discussion and Analysis of Financial Condition and Results of Operations December 31, 2010 Periods Presented and Factors Affecting Comparability," on Page [ ].

| | BankUnited, Inc. | | | Failed Bank | | |
|---|---|---|---|---|---|---|
| | At March 31, | At December 31, | | At September 30, | | |
| | 2011 | 2010 | 2009 | 2008 | 2007 | 2006 |
| | (unaudited) | | | | | (unaudited) |
| | (dollars in thousands, except per share data) | | | | | |
| **Consolidated Balance Sheet Data:** | | | | | | |
| Cash and cash equivalents | $ 454,049 | $ 564,774 | $ 356,215 | $ 1,223,346 | $ 512,885 | $ 66,600 |
| Investment securities available for sale, at fair value | 3,426,596 | 2,926,602 | 2,243,143 | 755,225 | 1,098,665 | 1,520,294 |
| Loans, net | 3,686,829 | 3,875,857 | 4,588,898 | 11,249,367 | 12,561,693 | 11,400,706 |
| FDIC indemnification asset | 2,427,145 | 2,667,401 | 3,279,165 | | | |
| Goodwill and other intangible assets | 68,919 | 69,011 | 60,981 | 28,353 | 28,353 | 28,353 |
| Total assets | 10,808,443 | 10,869,560 | 11,129,961 | 14,088,591 | 15,107,310 | 13,543,992 |
| Deposits | 6,901,891 | 7,163,728 | 7,666,775 | 8,176,817 | 7,305,788 | 6,110,855 |
| Federal Home Loan Bank advances | 2,250,498 | 2,255,200 | 2,079,051 | 5,279,350 | 6,234,360 | 5,174,350 |
| Total liabilities | 9,371,491 | 9,616,052 | 10,035,701 | 13,689,821 | 13,904,508 | 12,538,156 |

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| | BankUnited, Inc. | | | | | Failed Bank | | |
|---|---|---|---|---|---|---|---|---|
| | At or for the Three Months Ended March 31, 2011 | At or for the Three Months Ended March 31, 2010 | At or for the Year Ended December 31, 2010 | At or for the Period from April 28, 2009 to December 31, 2009(1) | At or for the Period from October 1, 2008 to May 21, 2009(1) | At or for the Year Ended September 30, 2008 | 2007 | 2006 |
| | (unaudited) | (unaudited) | | | | | | (unaudited) |
| **Consolidated Income Statement Data:** | | | | | | | | |
| Interest income | $ 148,206 | $ 133,937 | $ 557,688 | $ 335,524 | $ 339,068 | $ 834,460 | $ 957,897 | $ 712,807 |
| Interest expense | 35,879 | 41,444 | 168,200 | 83,856 | 333,392 | 555,594 | 604,558 | 442,333 |
| Net interest income | 112,327 | 92,493 | 389,488 | 251,668 | 5,676 | 278,866 | 353,339 | 270,474 |
| Provision for loan losses | 11,456 | 8,183 | 51,407 | 22,621 | 919,139 | 856,374 | 31,500 | 10,400 |
| Net interest income (loss) after provision for loan losses | 100,871 | 84,310 | 338,081 | 229,047 | (913,463) | (577,508) | 321,839 | 260,074 |
| Non-interest income (loss) | 64,262 | 82,456 | 297,779 | 253,636 | (81,431) | (128,859) | 28,367 | 32,598 |
| Non-interest expense | 204,339 | 65,702 | 323,320 | 283,262 | 238,403 | 246,480 | 185,634 | 136,668 |
| Income (loss) before income taxes | (39,206) | 101,064 | 312,540 | 199,421 | (1,233,297) | (952,847) | 164,572 | 156,004 |
| Provision (benefit) for income before taxes | 28,454 | 40,345 | 127,805 | 80,375 | | (94,462) | 55,067 | 51,794 |
| Net income (loss) | $ (67,660) | $ 60,719 | $ 184,735 | $ 119,046 | $ (1,233,297) | $ (858,385) | $ 109,505 | $ 104,210 |
| **Share Data:** | | | | | | | | |
| Earnings (loss) per common share, basic and diluted | $ (0.72) | $ 0.65 | $ 1.99 | $ 1.29 | $ (12,332,970) | $ (8,583,850) | $ 1,095,054 | $ 1,042,100 |
| Weighted average common shares outstanding | 94,304,787 | 92,936,842 | 92,950,735 | 92,664,910 | 100 | 100 | 100 | 100 |
| Cash dividends per common share | $ 0.14 | $ | $ 0.37 | $ | n/a | n/a | n/a | n/a |
| **Other Data (unaudited):** | | | | | | | | |
| ***Financial ratios*** | | | | | | | | |
| Return on average assets(2) | (2.51)% | 2.19% | 1.65% | 1.69% | (14.26)% | (5.94)% | 0.78% | 0.86% |
| Return on average common stockholder's equity(2) | (20.17)% | 21.66% | 15.43% | 18.98% | (2041.04)% | (75.43)% | 10.04% | 12.04% |
| Yield on earning assets(2) | 7.63% | 7.11% | 7.23% | 7.42% | 3.91% | 5.91% | 6.96% | 6.06% |
| Cost of interest bearing liabilities(2) | 1.66% | 1.78% | 1.81% | 1.39% | 3.94% | 4.36% | 4.91% | 4.16% |
| Interest rate spread(2) | 5.97% | 5.33% | 5.42% | 6.03% | (0.03)% | 1.55% | 2.05% | 1.90% |
| Net interest margin(2) | 5.76% | 4.89% | 5.05% | 5.58% | 0.06% | 1.98% | 2.57% | 2.30% |
| Loan to deposit ratio(5) | 54.31% | n/a | 54.92% | 60.15% | 128.73% | 146.33% | 172.74% | 189.21% |
| ***Asset quality ratios*** | | | | | | | | |
| Non-performing loans to total loans(3)(5) | 0.94% | n/a | 0.66% | 0.38% | 24.58% | 11.98% | 1.59% | 0.18% |
| Non-performing assets to total assets(4) | 2.01% | n/a | 2.14% | 1.24% | 23.53% | 11.13% | 1.51% | 0.16% |
| Allowance for loan losses to total loans | 1.64% | n/a | 1.48% | 0.49% | 11.14% | 5.98% | 0.46% | 0.32% |

| | | | | | | | | |
|---|---|---|---|---|---|---|---|---|
| Allowance for loan losses to non- performing loans(3) | 175.12% | n/a | 226.35% | 130.22% | 45.33% | 49.96% | 29.15% | 175.40% |
| Net charge-offs to average loans | 0.22% | n/a | 0.37% | | 5.51% | 1.58% | 0.08% | |

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| | BankUnited, Inc. | | | | | Failed Bank | | |
|---|---|---|---|---|---|---|---|---|
| | | | | | | At or for the Year Ended September 30, | | |
| | At or for the Three Months Ended March 31, 2011 | At or for the Three Months Ended March 31, 2010 | At or for the Year Ended December 31, 2010 | At or for the Period from April 28, 2009 to December 31, 2009(1) | At or for the Period from October 1, 2008 to May 21, 2009(1) | 2008 | 2007 | 2006 |
| | (unaudited) | (unaudited) | | | | | | (unaudited) |
| ***Capital ratios*(6)** | | | | | | | | |
| Tier 1 common capital to total risk weighted assets | 44.04% | n/a | 41.30% | 40.42% | n/a | 4.90% | 14.64% | 13.79% |
| Tier 1 risk-based capital | 44.04% | n/a | 41.30% | 40.42% | n/a | 4.90% | 14.64% | 13.79% |
| Total risk-based capital | 44.92% | n/a | 42.04% | 40.55% | n/a | 6.21% | 15.37% | 14.28% |
| Tier 1 leverage | 10.62% | n/a | 10.34% | 8.78% | n/a | 2.89% | 7.84% | 7.31% |
| Equity to assets ratio | 13.29% | n/a | 11.53% | 9.83% | n/a | 2.83% | 7.96% | 7.43% |

(1) BankUnited, Inc. was incorporated on April 28, 2009, but neither BankUnited, Inc. nor BankUnited had any substantive operations prior to the Acquisition on May 21, 2009. The period from May 22, 2009 to December 31, 2009 contained 224 days. The period from October 1, 2008 to May 21, 2009 contained 233 days.

(2) Ratio is annualized for the three month periods ended March 31, 2011 and 2010, for the period from October 1, 2008 to May 21, 2009 and for the period from May 22, 2009 to December 31, 2009. See note 1 above.

(3) Non-performing loans include nonaccrual loans, loans past due 90 days or more and still accruing and, for the pre-Acquisition periods, certain other impaired loans still accruing interest. For the pre-Acquisition periods, restructured 1-4 single family residential loans in compliance with modified terms are excluded from non-performing loans. For the post-Acquisition periods, contractually delinquent ACI (defined on Page [ ]) loans on which interest continues to be accreted are excluded from non-performing loans. The carrying value of ACI loans contractually delinquent by more than 90 days but still accruing was $0.6 billion, $0.7 billion and $1.2 billion at March 31, 2011, December 31, 2010 and December 31, 2009, respectively.

(4) Non-performing assets include non-performing loans and OREO (defined on Page [ ]).

(5) Total loans is net of unearned discounts and deferred fees and costs.

(6) All capital ratios presented are ratios of BankUnited except the equity to assets ratio, which is that of BankUnited, Inc.

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## SELECTED HISTORICAL FINANCIAL DATA OF HERALD

You should read the following selected historical financial data in conjunction with the Herald financial statements and the notes thereto which can be found in "Financial Statements of BankUnited, Inc. and Herald" beginning on Page F-[ ], and in conjunction with "Information About Herald Management's Discussion and Analysis of Financial Condition and Results of Operations March 31, 2011" beginning on Page [ ] and "Information About Herald Management's Discussion and Analysis of Financial Condition and Results of Operations December 31, 2010" beginning on Page [ ]. The selected historical financial data set forth below at December 31, 2010 and for the year then ended and at December 31, 2009 and 2008 and for the periods then ended, is derived from Herald's audited financial statements beginning on Page F-[ ]. The information set forth below, as of and for the three months ended March 31, 2011 and for the three months ended March 31, 2010, is derived from Herald's unaudited financial statements beginning on Page F-[ ]. Management of Herald believes that such unaudited financial statements reflect all adjustments, consisting of normal recurring adjustments, considered necessary for a fair presentation. You should not assume the results of operations for past periods or for the three months ended March 31, 2011 and 2010 are indicative of results that may be achieved in future periods.

| | Three Months Ended March 31, | | Year Ended December 31, | | |
|---|---|---|---|---|---|
| | 2011 | 2010 | 2010 | 2009 | 2008(1) |
| **Earnings (in 000's)** | | | | | |
| Net interest income | $ 4,522 | $ 4,179 | $ 17,969 | $ 5,908 | $ 224 |
| Provision for loan losses | 100 | 687 | 4,357 | 4,022 | 105 |
| Net interest income after Provision for loan losses | 4,422 | 3,492 | 13,612 | 1,886 | 119 |
| Non-interest income | 343 | 105 | 861 | 319 | 1 |
| Non-interest expense | 4,526 | 5,470 | 19,748 | 26,058 | 10,424 |
| Income/(loss) before income tax expense | 239 | (1,873) | (5,275) | (23,853) | (10,304) |
| Income tax expense | 33 | 25 | 102 | 57 | 79 |
| Net income/(loss) | $ 206 | $ (1,898) | $ (5,377) | $ (23,910) | $ (10,383) |
| **Per common share data** | | | | | |
| Basic income/(loss) | | | | | |
| Net (loss) income | $ 0.02 | $ (0.29) | $ (0.44) | $ (3.86) | $ (0.46) |
| **Period end balances (in 000's)** | | | | | |
| Total assets | $ 501,114 | $ 452,536 | $ 504,690 | $ 443,194 | $ 74,817 |
| Total deposits | 437,145 | 392,227 | 430,569 | 404,627 | 22,069 |
| Total borrowed funds | 10,000 | | 20,000 | | |
| Total shareholders' equity | 51,066 | 55,569 | 50,680 | 35,226 | 50,430 |

(1) All information except period end balances is for the period starting November 24, 2008, the date Herald began operations as a nationally chartered commercial bank.

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## RISK FACTORS

*In addition to general investment risks and the other information contained in this proxy statement/prospectus, including the matters addressed under the heading "Cautionary Statement Regarding Forward-Looking Statements" commencing on Page [ ] and the matters discussed under the caption "Risk Factors" in the Annual Reports on Forms 10-K filed by BankUnited, Inc. and Herald, respectively, for the year ended December 31, 2010, as updated by subsequently filed Forms 10-Q and other reports filed with the SEC, in the case of BankUnited, Inc., and the OCC, in the case of Herald, you should carefully consider the following risk factors in deciding how to vote on the ratification and confirmation of the merger agreement.*

### Risks Associated with the Merger

***Because the market price of BankUnited, Inc. common stock will fluctuate, Herald shareholders cannot be sure of the value of the merger consideration they will receive.***

Upon completion of the merger, each share of Herald preferred and common stock will be converted into merger consideration consisting of shares of BankUnited, Inc. common stock or cash pursuant to the terms of the merger agreement. The value of the merger consideration to be received by all Herald shareholders will be based on the average closing price of BankUnited, Inc. common stock on the NYSE during the ten trading days ending on the day before the completion of the merger. This average price may vary from the closing price of BankUnited, Inc. common stock on the date we announced the merger, on the date that this proxy statement/prospectus was mailed to Herald shareholders, and on the date of the special meeting of the Herald shareholders. Any change in the market price of BankUnited, Inc. common stock prior to completion of the merger will affect the value of the merger consideration that all Herald shareholders will receive upon completion of the merger. Stock price changes may result from a variety of factors, including general market and economic conditions, changes in our respective businesses, operations and prospects, and regulatory considerations. Many of these factors are beyond our control.

Accordingly, at the time of the Herald special meeting, Herald shareholders will not necessarily know or be able to calculate the amount of the cash consideration they would receive or the exchange ratio used to determine the number of any shares of BankUnited, Inc. common stock they would receive upon completion of the merger.

See the table on Page [ ] for examples demonstrating how the 10 day average closing price of BankUnited, Inc. common stock will effect the value of the merger consideration you receive on a per share basis.

***Herald shareholders may receive a form of consideration different from what they elect.***

While each Herald shareholder may elect to receive all cash or all BankUnited, Inc. common stock in the merger, the amounts of cash and BankUnited, Inc. common stock available for all Herald shareholders will be fixed amounts. As a result, if either a cash or stock election is oversubscribed by Herald shareholders, and you choose the election that is oversubscribed, you might receive a portion of your consideration in cash and a portion of your consideration in BankUnited, Inc. common stock or all of your consideration in either cash or BankUnited, Inc. common stock. Furthermore, the elections made with respect to Herald preferred stock will be given priority such that such elections will be given effect before determining the amount of cash and BankUnited, Inc. common stock that is available for distribution to Herald common shareholders.

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***If you tender shares of Herald common or preferred stock to make an election, you will not be able to sell those shares, unless you revoke your election prior to the election deadline.***

If you are a Herald shareholder and want to make a cash or stock election, you must deliver your stock certificates (or follow the procedures for guaranteed delivery) and a properly completed and signed form of election to the exchange agent. The deadline for doing this is 5:00 p.m., New York City time, on [ ], 2011, the day before the special meeting of Herald shareholders. You will not be able to sell any shares of Herald common or preferred stock that you have delivered, unless you revoke your election before the deadline by providing written notice to the exchange agent. If you do not revoke your election, you will not be able to liquidate your investment in Herald common or preferred stock for any reason until you receive cash or BankUnited, Inc. common stock in the merger. In the time between delivery of your shares and the closing of the merger, the trading price or value of Herald preferred and common stock or BankUnited, Inc. common stock may decrease, and you might otherwise want to sell your Herald shares to gain access to cash, make other investments, or reduce the potential for a decrease in the value of your investment.

The date that you will receive your merger consideration depends on the completion date of the merger, which is uncertain. The completion date of the merger might be later than expected due to unforeseen events, such as delays in obtaining regulatory approvals.

***Herald will be subject to business uncertainties and contractual restrictions while the merger is pending.***

Uncertainty about the effect of the merger on employees and customers may have an adverse effect on Herald and consequently on BankUnited, Inc. These uncertainties may impair Herald's ability to attract, retain and motivate key personnel until the merger is consummated, and could cause customers and others that deal with Herald to seek to change existing business relationships with Herald. Retention of certain employees by Herald may be challenging while the merger is pending, as certain employees may experience uncertainty about their future roles with BankUnited, Inc. If key employees depart because of issues relating to the uncertainty and difficulty of integration or a desire not to remain with BankUnited, Inc., BankUnited, Inc.'s business following the merger could be harmed. In addition, the merger agreement restricts Herald operating its business other than in the ordinary course, and prohibits it from taking specified actions until the merger occurs without the consent of BankUnited, Inc. These restrictions may prevent Herald from pursuing business opportunities that may arise prior to the completion of the merger. Please see the section entitled "Merger Agreement Covenants and Agreements" commencing on Page [ ] of this proxy statement/prospectus for a description of the restrictive covenants applicable to Herald.

***The opinion of Herald's financial advisor will not reflect changes in circumstances between the signing of the merger agreement and the completion of the merger.***

Herald has not obtained an updated opinion from its financial advisor as of the date of this proxy statement/prospectus. Changes in the operations and prospects of Herald or BankUnited, Inc., general market and economic conditions and other factors that may be beyond the control of Herald or BankUnited, Inc., and on which Herald's financial advisor's opinion was based, may significantly alter the value of Herald or the prices of shares of BankUnited, Inc. common stock or Herald preferred or common stock by the time the merger is completed. The opinion does not speak as of the time the merger will be completed or as of any date other than the date of such opinion. For a description of the opinion that Herald received from its financial advisor, please refer to "The Merger Opinion of Herald's Financial Advisor," commencing on Page [ ]. The complete opinion of Sandler O'Neill, Herald's financial advisor, can be found in Annex C. For a description of the other factors considered by Herald's Board of Directors in determining to approve the merger and the other transactions contemplated in the merger agreement, please refer to "The Merger Background of the Merger," and "The Merger Herald's Reasons for the Merger; Recommendation of Herald's Board of Directors," commencing on Page [ ] and Page [ ], respectively.

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***Regulatory approvals may not be received, may take longer than expected or impose conditions that are not presently anticipated.***

Before the merger may be completed, we must obtain various approvals or consents from the Federal Reserve Board and the OCC. These governmental entities may impose conditions on the completion of the merger or require changes to the terms of the merger agreement or the manner in which Herald or BankUnited, Inc. conducts it business. Although BankUnited, Inc. and Herald do not currently expect that any such conditions or changes would be imposed, there can be no assurance that they will not be. Such conditions or changes could have the effect of delaying completion of the merger or imposing additional costs on or limiting the revenues of BankUnited, Inc., any of which might have a material adverse effect on BankUnited, Inc. following the merger. BankUnited, Inc. may not be obligated to complete the merger if certain such conditions are imposed. See "The Merger Agreement Conditions to Complete the Merger" commencing on Page [ ].

There can be no assurance as to whether the regulatory approvals will be received, the timing of those approvals, or whether any conditions will be imposed in connection with such approvals.

***Pending litigation against Herald, the current members of Herald's Board of Directors, and BankUnited, Inc. could result in an injunction preventing completion of the merger, the payment of damages in the event the merger is completed and/or may adversely affect the combined company's business, financial condition or results of operations following the merger.***

In connection with the merger, purported shareholders of Herald filed putative shareholder class action lawsuits against Herald, the current members of Herald's Board of Directors, and BankUnited, Inc. Among other relief, the plaintiffs in these actions seek to enjoin the merger. One of the conditions to the closing of the merger is that no order, injunction or decree issued by any court or agency of competent jurisdiction prevents or makes illegal the consummation of the merger or any of the other transactions contemplated by the merger agreement. If either of the plaintiffs is successful in obtaining an injunction prohibiting the defendants from completing the merger, then such injunction may prevent the merger from becoming effective, or from becoming effective within the expected time frame. If completion of the merger is prevented or delayed, it could result in substantial costs to BankUnited, Inc. and Herald. In addition, BankUnited, Inc. and Herald could incur costs associated with the indemnification of Herald's directors and officers. See "The Merger Litigation Relating to the Merger" on Page [ ].

***Termination of the merger agreement could negatively impact Herald.***

If the merger agreement is terminated, there may be various consequences. For example, Herald's businesses may have been impacted adversely by the failure to pursue other beneficial opportunities due to the focus of management on the merger, without realizing any of the anticipated benefits of completing the merger, or the market price of Herald stock could decline to the extent that the current market price reflects a market assumption that the merger will be completed. If the merger agreement is terminated and Herald's Board of Directors seeks another merger or business combination, Herald shareholders cannot be certain that Herald will be able to find a party willing to pay an equivalent or greater price than the price BankUnited, Inc. has agreed to pay in the merger. See "The Merger Agreement Termination of the Merger Agreement" commencing on Page [ ].

***Some of the directors and executive officers of Herald may have interests and arrangements that may have influenced their decisions to support the merger or recommend that you ratify and confirm the merger agreement.***

The interests of some of the directors and executive officers of Herald may be different from those of Herald shareholders, and directors and officers of Herald may be participants in arrangements that are different from, or in addition to, those of Herald shareholders. These interests are described in more detail in the section of this proxy statement/prospectus entitled "The Merger Interests of Herald's Directors and Executive Officers in the Merger" beginning on Page [ ].

***The shares of BankUnited, Inc. common stock to be received by Herald common and preferred shareholders as a result of the merger will have different rights from the shares of Herald common and preferred stock they currently hold.***

The rights associated with Herald common and preferred stock are different from the rights associated with BankUnited, Inc. common stock. See the section of this proxy statement/prospectus entitled "Comparison of Bankunited, Inc. Common Stockholder Rights to Herald Common and Preferred Shareholder Rights" beginning on Page [ ].

***The market price of BankUnited, Inc. common stock after the merger may be affected by factors different from those affecting Herald common and preferred stock or BankUnited, Inc. common stock currently.***

The businesses of BankUnited, Inc. and Herald differ in several respects and, accordingly, the results of operations of the combined company and the market price of BankUnited, Inc.'s shares of common stock after the merger may be affected by factors different from those currently affecting the independent results of operations and market price of each of BankUnited, Inc. and Herald. For a discussion of the businesses of BankUnited, Inc. and Herald and of certain factors to consider in connection with those businesses, see "Information About BankUnited, Inc. Information About BankUnited, Inc.'s Business" and "Information About Herald Information About Herald's Business" on Page [ ] and Page [ ], respectively, and "Risk Factors" beginning on Page [ ].

***Certain of BankUnited, Inc.'s key executives are subject to non-compete arrangements which purport to restrict them in their individual capacities from engaging in the consumer and commercial banking business in Herald's market.***

John A. Kanas, BankUnited, Inc.'s Chairman, President and Chief Executive Officer, and John Bohlsen, BankUnited, Inc.'s Vice Chairman and Chief Lending Officer and a director, are subject to non-compete agreements which expire in August 2012. These agreements purport to restrict Messrs. Kanas and Bohlsen in their individual capacities from engaging in the consumer and commercial banking businesses in New York. Until the expiration of these agreements, it is BankUnited, Inc.'s expectation that Herald will not be merged with, and will be held separately from, BankUnited, BankUnited, Inc.'s wholly-owned banking subsidiary. During that period, neither Mr. Kanas nor Mr. Bohlsen will be an officer, director or employee of Herald, nor will they have any decision-making authority with respect to or otherwise participate in the affairs of Herald. As a result, neither Mr. Kanas nor Mr. Bohlsen will be able to direct Herald's affairs or provide advice and guidance on matters involving Herald. Until the expiration of Messrs. Kanas's and Bohlsen's non-compete agreements, Herald's management will report to Rajinder P. Singh, BankUnited, Inc.'s Chief Operating Officer, who will report to Herald's Board of Directors. Subject to certain approvals and conditions, the merger agreement provides that Herald will be merged with and into BankUnited at the end of August 2012, and the parties expect such merger to occur at such time.

***Herald common and preferred shareholders will have a reduced ownership and voting interest after the merger and will exercise less influence over management of the combined organization.***

Herald's common shareholders currently have the right to vote in the election of the Board of Directors of Herald and on other matters affecting Herald. Herald's preferred shareholders may also have voting rights in certain circumstances. Upon the completion of the merger, each Herald shareholder that receives shares of BankUnited, Inc. common stock will become a stockholder of BankUnited, Inc. with a percentage ownership of the combined organization that is much smaller than the shareholder's percentage ownership of Herald. It is expected that the former common and preferred shareholders of Herald as a group will receive shares in the merger constituting less than 2%

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of the outstanding shares of BankUnited, Inc. common stock immediately after the merger. Because of this, Herald's shareholders will have significantly less influence on the management and policies of BankUnited, Inc. than they now have on the management and policies of Herald.

**Risks Associated with BankUnited, Inc.'s Business**

***Failure to comply with the terms of BankUnited, Inc.'s and its subsidiaries' loss sharing agreements with the FDIC may result in significant losses.***

In May 2009, BankUnited purchased substantially all of the assets and assumed all of the non-brokered deposits and substantially all other liabilities of the Failed Bank in an FDIC-assisted transaction, and presently a substantial portion of BankUnited's revenue is derived from such assets. The purchased loans, commitments, foreclosed assets, and certain securities are covered by two loss sharing agreements with the FDIC, which provide that a significant portion of the losses related to the assets covered by the loss sharing agreements will be borne by the FDIC. Under the loss sharing agreements, BankUnited is obligated to comply with certain loan servicing standards, including requirements to participate in government-sponsored loan modification programs. As these standards evolve, BankUnited may experience difficulties in complying with the requirements of the loss sharing agreements, which could result in the assets covered by the loss sharing agreements losing some or all of their coverage. BankUnited is subject to audits of its compliance with the terms of the loss sharing agreements by the FDIC through its designated agent. The required terms of the agreements are extensive and failure to comply with any of the guidelines could result in a specific asset or group of assets losing their loss sharing coverage.

***The geographic concentration of BankUnited, Inc.'s and its subsidiaries' markets in the coastal regions of Florida makes BankUnited, Inc.'s and its subsidiaries' business highly susceptible to local economic conditions and natural disasters.***

Unlike larger financial institutions that are more geographically diversified, BankUnited, Inc.'s and its subsidiaries' branch offices are primarily concentrated in the coastal regions of Florida. Additionally, a significant portion of BankUnited, Inc.'s and its subsidiaries' loans secured by real estate are secured by commercial and residential properties in Florida. The Florida economy and BankUnited, Inc.'s and its subsidiaries' market in particular have been affected by the downturn in commercial and residential property values, and the decline in real estate values in Florida during the downturn has been higher than the national average. Additionally, the Florida economy relies heavily on tourism and seasonal residents, which have also been affected by recent market disruptions. Continued deterioration in economic conditions in the markets BankUnited, Inc. serves or the occurrence of a natural disaster, such as a hurricane, or a man-made catastrophe, such as the Gulf of Mexico oil spill, could result in one or more of the following:

- an increase in loan delinquencies;
- an increase in problem assets and foreclosures;
- a decrease in the demand for BankUnited, Inc.'s and its subsidiaries' products and services; or
- a decrease in the value of collateral for loans, especially real estate, in turn reducing customers' borrowing power, the value of assets associated with problem loans and collateral coverage.

Hurricanes and other catastrophes to which BankUnited, Inc.'s and its subsidiaries' markets in the coastal regions of Florida are susceptible also can disrupt BankUnited, Inc.'s and its subsidiaries' operations, result in damage to BankUnited, Inc.'s and its subsidiaries' properties, reduce or destroy the value of collateral and negatively affect the local economies in which BankUnited, Inc. and its subsidiaries operate, which could have a material adverse effect on BankUnited, Inc.'s and its subsidiaries' results of operations.

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A decline in existing and new real estate sales decreases lending opportunities, may delay the collection of BankUnited's cash flow from the loss sharing agreements, and negatively affects BankUnited, Inc.'s and its subsidiaries' income. BankUnited, Inc. does not anticipate that the real estate market will improve in the near-term and, accordingly, this could lead to additional valuation adjustments on BankUnited, Inc.'s and its subsidiaries' loan portfolios.

***Delinquencies and defaults in residential mortgages have recently increased, creating a backlog in courts and an increase in the amount of legislative action that might restrict or delay BankUnited, Inc.'s and its subsidiaries' ability to foreclose and hence delay the collection of payments for single family residential loans under the loss sharing agreements.***

For the single family residential loans covered by the loss sharing agreements, BankUnited cannot collect loss share payments until BankUnited liquidates the properties securing those loans. These loss share payments could be delayed by an extended foreclosure process, including delays resulting from a court backlog, local or national foreclosure moratoriums or other delays, and these delays could have a material adverse effect on BankUnited, Inc.'s and its subsidiaries' results of operations. Homeowner protection laws may also delay the initiation or completion of foreclosure proceedings on specified types of residential mortgage loans. Any such limitations are likely to cause delayed or reduced collections from mortgagors. Any restriction on BankUnited, Inc.'s or its subsidiaries' ability to foreclose on a loan, any requirement that BankUnited, Inc. and its subsidiaries forgo a portion of the amount otherwise due on a loan or any requirement that BankUnited, Inc. and its subsidiaries modify any original loan terms could negatively impact BankUnited, Inc.'s and its subsidiaries' business, financial condition, liquidity, and results of operations.

***BankUnited, Inc.'s and its subsidiaries' loan portfolio has and will continue to be affected by the ongoing correction in residential and commercial real estate prices and reduced levels of residential and commercial real estate sales.***

Soft residential and commercial real estate markets, higher delinquency and default rates, and increasingly volatile and constrained secondary credit markets have affected the mortgage industry generally, and Florida in particular, which is where BankUnited, Inc.'s and its subsidiaries' businesses are currently most heavily concentrated. BankUnited, Inc.'s and its subsidiaries' financial results may be adversely affected by changes in real estate values. BankUnited, Inc. and its subsidiaries make credit and reserve decisions based on the current conditions of borrowers or projects combined with BankUnited, Inc.'s and its subsidiaries' expectations for the future. If the slowdown in the real estate market continues, BankUnited, Inc. and its subsidiaries could experience higher charge-offs and delinquencies beyond that which is provided in the allowance for loan losses. Although BankUnited, Inc. and its subsidiaries have the loss sharing agreements with the FDIC, these agreements do not cover 100% of the losses attributable to the assets covered by those agreements. In addition, the loss sharing agreements will not mitigate any losses on BankUnited, Inc.'s and its subsidiaries' assets which are not covered by those agreements and BankUnited, Inc.'s and its subsidiaries' earnings could be adversely affected through a higher than anticipated provision for loan losses on such assets.

***BankUnited, Inc.'s and its subsidiaries' business is highly susceptible to credit risk on the assets not covered by the loss sharing agreements.***

As lenders, BankUnited, Inc. and its subsidiaries are exposed to the risk that their customers will be unable to repay their loans according to their terms and that the collateral securing the payment of their loans (if any) may not be sufficient to assure repayment. Similarly, BankUnited Inc. and its subsidiaries have credit risk embedded in their securities portfolio. BankUnited, Inc.'s and its subsidiaries' credit standards, procedures and policies may not prevent them from incurring substantial credit losses, particularly in light of market developments in recent years. Recent economic and market

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developments and the potential for continued economic disruption present considerable risks to BankUnited, Inc. and its subsidiaries and it is difficult to determine the depth and duration of the economic and financial market problems and the many ways in which they may impact BankUnited, Inc.'s and its subsidiaries' business in general. The loss sharing agreements only cover certain assets acquired in the Acquisition, and credit losses on assets not covered by the loss sharing agreements could have a material adverse effect on BankUnited, Inc.'s and its subsidiaries' operating results.

***Changes in interest rates could have an adverse impact on BankUnited, Inc.'s and its subsidiaries' results of operations and financial condition.***

BankUnited, Inc.'s and its subsidiaries' earnings and cash flows depend to a great extent upon the level of their net interest income. Changes in interest rates can increase or decrease their net interest income, because different types of assets and liabilities may react differently, and at different times, to market interest rate changes. Net interest income is the difference between the interest income BankUnited, Inc. and its subsidiaries earn on loans, investments and other interest earning assets, and the interest BankUnited, Inc. and its subsidiaries pay on interest bearing liabilities, such as deposits and borrowings. When interest bearing liabilities mature or reprice more quickly than interest earning assets in a period, an increase in interest rates could reduce net interest income. Similarly, when interest earning assets mature or reprice more quickly than interest bearing liabilities, falling interest rates could reduce net interest income. Additionally, an increase in interest rates may, among other things, reduce the demand for loans and BankUnited, Inc.'s and its subsidiaries' ability to originate loans and decrease loan repayment rates. A decrease in the general level of interest rates may affect BankUnited, Inc. and its subsidiaries through, among other things, increased prepayments on BankUnited, Inc.'s and its subsidiaries' loan and mortgage-backed securities portfolios and increased competition for deposits. Accordingly, changes in the level of market interest rates affect BankUnited, Inc.'s and its subsidiaries' net yield on interest earning assets, loan origination volume, loan and mortgage-backed securities portfolios, and their overall results. Interest rates are highly sensitive to many factors beyond BankUnited, Inc.'s and its subsidiaries' control, including general economic conditions and policies of various governmental and regulatory agencies, particularly the Federal Reserve.

BankUnited, Inc. and its subsidiaries attempt to manage their risk from changes in market interest rates by adjusting the rates, maturity, repricing, and balances of the different types of interest-earning assets and interest bearing liabilities; however, interest rate risk management techniques are not precise, and BankUnited, Inc. and its subsidiaries may not be able to successfully manage their interest rate risk. As a result, a rapid increase or decrease in interest rates could have an adverse effect on their net interest margin and results of operations.

***BankUnited, Inc. and its subsidiaries depend on BankUnited, Inc.'s and its subsidiaries' executive officers and key personnel to continue the implementation of BankUnited, Inc.'s and its subsidiaries' long-term business strategy and could be harmed by the loss of their services.***

BankUnited, Inc. and its subsidiaries believe that their continued growth and future success will depend in large part on the skills of their senior management team. BankUnited, Inc. and its subsidiaries believe their senior management team possesses valuable knowledge about and experience in the banking industry and that their knowledge and relationships would be very difficult to replicate. Although BankUnited, Inc.'s and its subsidiaries' senior management team has entered into employment agreements with BankUnited, Inc. and its subsidiaries, they may not complete the term of their employment agreements or renew them upon expiration. BankUnited, Inc.'s and its subsidiaries' success also depends on the experience of their branch managers and lending officers and on their relationships with the customers and communities they serve. The loss of service of one or more of BankUnited, Inc.'s and its subsidiaries' executive officers or key personnel, or the inability to recruit and retain qualified personnel in the future, could have an adverse effect on BankUnited, Inc.'s and its subsidiaries' business, financial condition, or operating results and the value of BankUnited, Inc.'s and its subsidiaries' common stock.

As discussed on Page [ ], until August 2012, certain of BankUnited, Inc.'s senior executive officers will not participate in the affairs of Herald.

***BankUnited, Inc.'s and its subsidiaries' allowance for credit losses may not be adequate to cover actual credit losses.***

BankUnited, Inc.'s and its subsidiaries' maintain an allowance for loan losses that represents management's estimate of probable losses inherent in BankUnited, Inc.'s and its subsidiaries' credit portfolio. This estimate requires management to make certain assumptions and involves a high degree of judgment, particularly as BankUnited, Inc.'s and its subsidiaries' originated loan portfolio is not yet seasoned and has not yet developed an observable loss trend and the loans covered by the loss sharing agreements that did not exhibit evidence of deterioration in credit quality at acquisition, or "non-ACI" loans, have limited delinquency statistics. Management considers numerous factors, including, but not limited to, internal risk ratings, loss forecasts, collateral values, geographic location, borrower FICO scores, delinquency rates, the proportion of non-performing and restructured loans in the loan portfolio, origination channels, product mix, underwriting practices, industry conditions, economic trends and net charge-off trends.

If management's assumptions and judgments prove to be incorrect, BankUnited, Inc.'s and its subsidiaries' current allowance may be insufficient and BankUnited, Inc. and its subsidiaries may be required to increase their allowance for loan losses. In addition, federal and state regulators periodically review BankUnited, Inc.'s and its subsidiaries' allowance for loan losses and may require BankUnited, Inc. and its subsidiaries to increase their provision for loan losses or recognize further loan charge-offs, based on judgments different than those of BankUnited, Inc.'s and its subsidiaries' management. Continued adverse economic conditions could make management's estimate even more complex and difficult to determine. Any increase in BankUnited, Inc.'s and its subsidiaries' allowance for loan losses will result in a decrease in net income and capital and could have a material adverse effect on their financial condition and results of operations. See "Information About BankUnited, Inc. Management's Discussion and Analysis of Financial Condition and Results of Operations March 31, 2011 Analysis of the Allowance for Loan Losses," "Information About BankUnited, Inc. Management's Discussion and Analysis of Financial Condition and Results of Operations December 31, 2010 Analysis of the Allowance for Loan Losses," and "Information About BankUnited, Inc. Management's Discussion and Analysis of Financial Condition and Results of Operations December 31, 2010 Critical Accounting Policies and Estimates Accounting for Covered Loans" commencing on Page [ ], Page [ ], and Page [ ], respectively.

***BankUnited, Inc. and its subsidiaries may not be able to find suitable acquisition candidates and may be unable to manage their growth due to acquisitions.***

A key component of BankUnited, Inc.'s and its subsidiaries' growth strategy, including in New York, which market BankUnited, Inc. is first entering through its acquisition of Herald, is to pursue acquisitions of complementary businesses, like Herald's. As consolidation of the banking industry continues, the competition for suitable acquisition candidates may increase. BankUnited, Inc. and its subsidiaries compete with other banking companies for acquisition opportunities and there are a limited number of candidates that meet their acquisition criteria. Consequently, BankUnited, Inc. and its subsidiaries may not be able to identify other suitable candidates for acquisitions. If BankUnited, Inc. and its subsidiaries are unable to locate other suitable acquisition candidates willing to sell on terms acceptable to them, their net income could decline and they would be required to find other methods to grow their business.

Even if other suitable candidates are identified and BankUnited, Inc. and its subsidiaries succeed in consummating future acquisitions, acquisitions involve risks that the acquired business may not achieve anticipated revenue, earnings or cash flows. There may also be unforeseen liabilities relating to the acquired institution or arising out of the acquisition, asset quality problems of the acquired entity, difficulty operating in markets in which BankUnited, Inc. and its subsidiaries have had no or only limited experience and other conditions not within their control, such as adverse personnel relations, loss of customers because of change in identity, and deterioration in local economic conditions.

In addition, the process of integrating acquired entities will divert significant management time and resources. BankUnited, Inc. and its subsidiaries may not be able to integrate successfully or operate profitably any financial institutions they may acquire. They may experience disruption and incur unexpected expenses in integrating acquisitions. Any acquisitions they do make may not enhance their cash flows, business, financial condition, results of operations, or prospects and may have an adverse effect on their results of operations, particularly during periods in which the acquisitions are being integrated into BankUnited, Inc.'s and its subsidiaries' operations.

***BankUnited, Inc. and its subsidiaries face significant competition from other financial institutions and financial services providers, which may decrease BankUnited, Inc.'s and its subsidiaries' growth or profits.***

The primary market BankUnited, Inc. and its subsidiaries serve is Florida. Consumer and commercial banking in Florida is highly competitive. BankUnited, Inc.'s and its subsidiaries' market contains not only a large number of community and regional banks, but also a significant presence of the country's largest commercial banks. BankUnited, Inc. and its subsidiaries compete with other state and national financial institutions located in Florida and adjoining states as well as savings and loan associations, savings banks and credit unions for deposits and loans. In addition, they compete with financial intermediaries, such as consumer finance companies, mortgage banking companies, insurance companies, securities firms, mutual funds, and several government agencies as well as major retailers, all actively engaged in providing various types of loans and other financial services.

The financial services industry could become even more competitive as a result of legislative, regulatory and technological changes and continued consolidation. Banks, securities firms and insurance companies can merge under the umbrella of a financial holding company, which can offer virtually any type of financial service, including banking, securities underwriting, insurance (both agency and underwriting), and merchant banking. Increased competition among financial services companies due to the recent consolidation of certain competing financial institutions may adversely affect BankUnited, Inc.'s and its subsidiaries' ability to market their products and services. Also, technology has lowered barriers to entry and made it possible for banks to compete in BankUnited, Inc.'s and its subsidiaries' market without a retail footprint by offering competitive rates, as well as non-banks to offer products and services traditionally provided by banks. Many of BankUnited, Inc.'s and its subsidiaries' competitors have fewer regulatory constraints and may have lower cost structures. Additionally, due to their size, many competitors may offer a broader range of products and services as well as better pricing for certain products and services than BankUnited, Inc. and its subsidiaries can.

BankUnited, Inc.'s and its subsidiaries' ability to compete successfully depends on a number of factors, including:

- the ability to develop, maintain and build upon long-term customer relationships based on quality service, high ethical standards and safe and sound assets;
- the ability to attract and retain qualified employees to operate BankUnited, Inc.'s and its subsidiaries' business effectively;
- the ability to expand BankUnited, Inc.'s and its subsidiaries' market position;
- the scope, relevance, and pricing of products and services offered to meet customer needs and demands;
- the rate at which BankUnited, Inc. and its subsidiaries introduce new products and services relative to BankUnited, Inc.'s and its subsidiaries' competitors;

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- customer satisfaction with BankUnited, Inc.'s and its subsidiaries' level of service; and
- industry and general economic trends.

Failure to perform in any of these areas could significantly weaken BankUnited, Inc.'s and its subsidiaries' competitive position, which could adversely affect BankUnited, Inc.'s and its subsidiaries' growth and profitability, which, in turn, could harm their business, financial condition, and results of operations.

***Since BankUnited, Inc. and its subsidiaries engage in lending secured by real estate and may be forced to foreclose on the collateral property and own the underlying real estate, BankUnited, Inc. and its subsidiaries may be subject to the increased costs and risks associated with the ownership of real property, which could have an adverse effect on their business or results of operations.***

A significant portion of BankUnited, Inc.'s and its subsidiaries' loan portfolio is secured by real property. During the ordinary course of business, BankUnited, Inc. and its subsidiaries may foreclose on and take title to properties securing certain loans, in which case, they are exposed to the risks inherent in the ownership of real estate. The amount that they, as a mortgagee, may realize after a default is dependent upon factors outside of BankUnited, Inc.'s and its subsidiaries' control, including:

- general or local economic conditions;
- environmental cleanup liability;
- neighborhood values;
- interest rates;
- real estate tax rates;
- operating expenses of the mortgaged properties;
- supply of and demand for rental units or properties;
- ability to obtain and maintain adequate occupancy of the properties;
- zoning laws;
- governmental rules, regulations, and fiscal policies; and
- hurricanes or other natural or man-made disasters.

Certain expenditures associated with the ownership of real estate, principally real estate taxes and maintenance costs, may also adversely affect BankUnited, Inc.'s and its subsidiaries' operating expenses.

***BankUnited, Inc. and its subsidiaries are dependent on their information technology and telecommunications systems and third-party servicers, and systems failures, interruptions or breaches of security could have an adverse effect on their financial condition and results of operations.***

BankUnited, Inc.'s and its subsidiaries' businesses are highly dependent on the successful and uninterrupted functioning of their information technology and telecommunications systems and third-party servicers. BankUnited, Inc. and its subsidiaries outsource their major systems including their electronic funds transfer, or "EFT," transaction processing, cash management and online banking services. They rely on these systems to process new and renewal loans, gather deposits, provide customer service, facilitate collections and share data across BankUnited, Inc.'s and its subsidiaries' organization. The failure of these systems, or the termination of a third-party software license or service agreement on which any of these systems is based, could interrupt BankUnited, Inc.'s and its subsidiaries' operations. Because BankUnited, Inc.'s and its subsidiaries' information technology and telecommunications systems interface with and depend on third-party systems, BankUnited, Inc. and its subsidiaries could experience service denials if demand for such services exceeds capacity or such third-party systems fail or experience interruptions. If sustained or repeated, a system failure or service denial could result in a deterioration of BankUnited, Inc.'s and its subsidiaries' ability to process new and renewal loans, gather deposits and provide customer service, compromise their ability to operate effectively, damage their reputation, result in a loss of customer business, and/or subject them to additional regulatory scrutiny and possible financial liability, any of which could have a material adverse effect on their financial condition and results of operations.

In addition, BankUnited, Inc. and its subsidiaries provide their customers the ability to bank remotely, including online and over the telephone. The secure transmission of confidential information over the Internet and other remote channels is a critical element of remote banking. BankUnited, Inc.'s and its subsidiaries' network could be vulnerable to unauthorized access, computer viruses, phishing schemes and other security breaches. They may be required to spend significant capital and other resources to protect against the threat of security breaches and computer viruses, or to alleviate problems caused by security breaches or viruses. To the extent that BankUnited, Inc.'s and its subsidiaries' activities or the activities of their customers involve the storage and transmission of confidential information, security breaches and viruses could expose BankUnited, Inc. and its subsidiaries to claims, litigation and other possible liabilities. Any inability to prevent security breaches or computer viruses could also cause existing customers to lose confidence in BankUnited, Inc.'s and its subsidiaries' systems and could adversely affect their reputation and their ability to generate business.

***BankUnited is a de novo bank, which could be mistaken for BankUnited, FSB, and this and other reputational risks could affect BankUnited, Inc.'s and its subsidiaries' results.***

BankUnited was established as a de novo federal savings association in order to participate in the FDIC-assisted acquisition of the Failed Bank. There is a reputational risk in being incorrectly associated with the Failed Bank. BankUnited, Inc.'s and its subsidiaries' ability to originate and maintain accounts is highly dependent upon consumer and other external perceptions of their business practices and/or their financial health. Adverse perceptions regarding their business practices and/or BankUnited, Inc.'s and its subsidiaries' financial health could damage their reputation in both the customer and funding markets, leading to difficulties in generating and maintaining accounts as well as in financing them. Adverse developments with respect to the consumer or other external perceptions regarding the practices of BankUnited, Inc.'s and its subsidiaries' competitors, or BankUnited, Inc.'s and its subsidiaries' industry as a whole, may also adversely impact BankUnited, Inc.'s and its subsidiaries' reputation. In addition, adverse reputational impacts on third parties with whom BankUnited, Inc. and its subsidiaries have important relationships may also adversely impact their reputation. Adverse reputational impacts or events may also increase BankUnited, Inc.'s and its subsidiaries' litigation risk. BankUnited, Inc. and its subsidiaries carefully monitor internal and external developments for areas of potential reputational risk and have established governance structures to assist in evaluating such risks in BankUnited, Inc.'s and its subsidiaries' business practices and decisions.

***BankUnited Investment Services offers third-party products including mutual funds, annuities, life insurance, individual securities and other wealth management services which could experience significant declines in value, subjecting BankUnited, Inc. and its subsidiaries to reputational damage and litigation risk.***

Through BankUnited, Inc.'s subsidiary, BankUnited Investment Services, BankUnited, Inc. and its subsidiaries offer third-party products including mutual funds, annuities, life insurance, individual securities and other wealth management products and services. If these products do not generate competitive risk-adjusted returns that satisfy clients in a variety of asset classes, BankUnited, Inc. and its subsidiaries will have difficulty maintaining existing business and attracting new business. Additionally, BankUnited, Inc.'s and its subsidiaries' investment services businesses involve the risk that clients or others may sue BankUnited, Inc. or its subsidiaries, claiming that they have failed to perform under a contract or otherwise failed to carry out a duty owed to them. BankUnited, Inc.'s and its

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subsidiaries' investment services businesses are particularly subject to this risk and this risk may be heightened during periods when credit, equity or other financial markets are deteriorating in value or are particularly volatile, or when clients or investors are experiencing losses. Significant declines in the performance of these third-party products could subject BankUnited, Inc. and its subsidiaries to reputational damage and litigation risk.

**Risks Relating to the Regulation of BankUnited, Inc.'s Industry**

***The enactment of the Dodd-Frank Wall Street Reform and Consumer Protection Act of 2010 may have a material effect on BankUnited, Inc.'s and its subsidiaries' operations.***

On July 21, 2010, President Obama signed into law the Dodd-Frank Wall Street Reform and Consumer Protection Act of 2010, which we refer to in this proxy statement/prospectus as the "Dodd-Frank Act," which imposes significant regulatory and compliance changes. The key effects of the Dodd-Frank Act on BankUnited, Inc.'s and its subsidiaries' businesses are:

- changes to the thrift supervisory structure;
- changes to regulatory capital requirements;
- creation of new government regulatory agencies;
- limitation on federal preemption;
- changes in insured depository institution regulations; and
- mortgage loan origination and risk retention.

The changes resulting from the Dodd-Frank Act may impact the profitability of BankUnited, Inc.'s and its subsidiaries' business activities, require changes to certain of their business practices, impose upon them more stringent capital, liquidity and leverage requirements or otherwise adversely affect their business. These changes may also require BankUnited, Inc. and its subsidiaries to invest significant management attention and resources to evaluate and make any changes necessary to comply with new statutory and regulatory requirements. Failure to comply with the new requirements or with any future changes in laws or regulations may negatively impact BankUnited, Inc.'s and its subsidiaries' results of operations and financial condition. For a more detailed description of the Dodd-Frank Act, see "Information About BankUnited, Inc. Information About BankUnited, Inc.'s Business Regulation and Supervision" commencing on Page [ ] for more information.

***BankUnited, Inc. and its subsidiaries operate in a highly regulated environment and the laws and regulations that govern their operations, corporate governance, executive compensation and accounting principles, or changes in them, or BankUnited, Inc.'s and its subsidiaries' failure to comply with them, may adversely affect us.***

BankUnited, Inc. and its subsidiaries are subject to extensive regulation, supervision, and legislation that govern almost all aspects of their operations. Intended to protect customers, depositors, and deposit insurance funds, these laws and regulations, among other matters, prescribe minimum capital requirements, impose limitations on the business activities in which BankUnited, Inc. and its subsidiaries can engage, limit the dividend or distributions that BankUnited can pay to BankUnited, Inc., restrict the ability of institutions to guarantee BankUnited, Inc.'s and its subsidiaries' debt, and impose certain specific accounting requirements on BankUnited, Inc. and its subsidiaries that may be more restrictive and may result in greater or earlier charges to earnings or reductions in BankUnited, Inc.'s and its subsidiaries' capital than generally accepted accounting principles. Compliance with laws and regulations can be difficult and costly, and changes to laws and regulations often impose additional compliance costs. BankUnited, Inc.'s and its subsidiaries' failure to comply with these laws and regulations, even if the failure follows good faith effort or reflects a difference in interpretation, could subject BankUnited, Inc. and its subsidiaries to restrictions on their business

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activities, fines and other penalties, any of which could adversely affect BankUnited, Inc.'s and its subsidiaries' results of operations, capital base, and the price of their securities. Further, any new laws, rules and regulations could make compliance more difficult or expensive or otherwise adversely affect BankUnited, Inc.'s and its subsidiaries' business and financial condition.

***The FDIC's restoration plan and the related increased assessment rate could adversely affect BankUnited, Inc.'s and its subsidiaries' earnings.***

Market developments have significantly depleted the FDIC's deposit insurance fund, which we refer to in this proxy statement/prospectus as the "DIF," and reduced the ratio of reserves to insured deposits. As a result of recent economic conditions and the enactment of the Dodd-Frank Act, the FDIC has increased the deposit insurance assessment rates and thus raised deposit premiums for insured depository institutions. If these increases are insufficient for the DIF to meet its funding requirements, further special assessments or increases in deposit insurance premiums may be required. BankUnited, Inc. and its subsidiaries are generally unable to control the amount of premiums that they are required to pay for FDIC insurance. If there are additional bank or financial institution failures, BankUnited, Inc. and its subsidiaries may be required to pay even higher FDIC premiums than the recently increased levels. Any future additional assessments, increases or required prepayments in FDIC insurance premiums may materially adversely affect results of operations.

***Federal banking agencies periodically conduct examinations of BankUnited, Inc.'s and its subsidiaries' business, including compliance with laws and regulations, and failure to comply with any supervisory actions to which BankUnited, Inc. and its subsidiaries are or become subject as a result of such examinations may adversely affect BankUnited, Inc. and its subsidiaries.***

Federal banking agencies, including the Federal Reserve, the OCC, and the Office of Thrift Supervision, referred to in this proxy statement/prospectus as the "OTS," periodically conduct examinations of BankUnited, Inc.'s and its subsidiaries' business, including compliance with laws and regulations. If, as a result of an examination, a federal banking agency were to determine that the financial condition, capital resources, asset quality, earnings prospects, management, liquidity or other aspects of any of BankUnited, Inc.'s and its subsidiaries' operations had become unsatisfactory, or that BankUnited, Inc. and its subsidiaries or their management was in violation of any law or regulation, it may take a number of different remedial actions as it deems appropriate. These actions include the power to enjoin "unsafe or unsound" practices, to require affirmative actions to correct any conditions resulting from any violation or practice, to issue an administrative order that can be judicially enforced, to direct an increase in BankUnited's capital, to restrict BankUnited, Inc.'s and its subsidiaries' growth, to assess civil monetary penalties against BankUnited, Inc.'s and its subsidiaries' officers or directors, to remove officers and directors and, if it is concluded that such conditions cannot be corrected or there is an imminent risk of loss to depositors, to terminate BankUnited's deposit insurance. If BankUnited, Inc. and its subsidiaries become subject to such regulatory actions, BankUnited, Inc.'s and its subsidiaries' business, results of operations, and reputation may be negatively impacted.

***Many of BankUnited, Inc.'s and its subsidiaries' new activities and expansion plans require regulatory approvals, and failure to obtain them may restrict BankUnited, Inc.'s and its subsidiaries' growth.***

BankUnited, Inc. and its subsidiaries intend to complement and expand their business by pursuing strategic acquisitions of banks and other financial institutions. They must generally receive federal regulatory approval before they can acquire an institution or business. In determining whether to approve a proposed acquisition, federal bank regulators will consider, among other factors, the effect of the acquisition on the competition, BankUnited, Inc.'s and its subsidiaries' financial condition, and their future prospects. The regulators also review current and projected capital ratios and levels, the competence, experience, and integrity of management and its record of compliance with laws and regulations, the convenience and needs of the communities to be served (including the acquiring

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institution's record of compliance under the Community Reinvestment Act) and the effectiveness of the acquiring institution in combating money laundering activities. Such regulatory approvals may not be granted on terms that are acceptable to BankUnited, Inc. and its subsidiaries, or at all. BankUnited, Inc. and its subsidiaries may also be required to sell branches as a condition to receiving regulatory approval, which condition may not be acceptable to them or, if acceptable to them, may reduce the benefit of any acquisition.

In addition to the acquisition of existing financial institutions, as opportunities arise, BankUnited, Inc. and its subsidiaries plan to continue de novo branching as a part of their internal growth strategy and possibly enter into new markets through de novo branching. De novo branching and any acquisition carries with it numerous risks, including the inability to obtain all required regulatory approvals. The failure to obtain these regulatory approvals for potential future strategic acquisitions and de novo branches may impact BankUnited, Inc.'s and its subsidiaries' business plans and restrict BankUnited, Inc.'s and its subsidiaries' growth.

***Financial institutions, such as BankUnited, face a risk of noncompliance and enforcement action with the Bank Secrecy Act and other anti-money laundering statutes and regulations.***

The federal Bank Secrecy Act, the USA PATRIOT Act, and other laws and regulations require financial institutions, among other duties, to institute and maintain an effective anti-money laundering program and file suspicious activity and currency transaction reports as appropriate. The federal Financial Crimes Enforcement Network, established by the U.S. Treasury Department to administer the Bank Secrecy Act, is authorized to impose significant civil money penalties for violations of those requirements, and has recently engaged in coordinated enforcement efforts with the individual federal banking regulators, as well as the U.S. Department of Justice, Drug Enforcement Administration, and the Internal Revenue Service, which we refer to in this proxy/statement prospectus as the "IRS." There is also increased scrutiny of compliance with the rules enforced by the Office of Foreign Assets Control.

In order to comply with regulations, guidelines and examination procedures in this area, BankUnited, Inc. and its subsidiaries have enhanced their anti-money laundering program by adopting new policies and procedures and selecting a new, robust automated anti-money laundering software solution that is scheduled to be implemented in 2011. If BankUnited, Inc.'s and its subsidiaries' policies, procedures and systems are deemed deficient or the policies, procedures and systems of the financial institutions that BankUnited, Inc. and its subsidiaries have already acquired or may acquire in the future are deficient, BankUnited, Inc. and its subsidiaries would be subject to liability, including fines and regulatory actions such as restrictions on their ability to pay dividends and the necessity to obtain regulatory approvals to proceed with certain aspects of BankUnited, Inc.'s and its subsidiaries' business plan, including their acquisition plans.

***BankUnited, Inc. and its subsidiaries are subject to the Community Reinvestment Act and fair lending laws, and failure to comply with these laws could lead to material penalties.***

The Community Reinvestment Act, the Equal Credit Opportunity Act, the Fair Housing Act and other fair lending laws and regulations impose nondiscriminatory lending requirements on financial institutions. The Department of Justice and other federal agencies are responsible for enforcing these laws and regulations. A successful challenge to an institution's performance under the Community Reinvestment Act or fair lending laws and regulations could result in a wide variety of sanctions, including the required payment of damages and civil money penalties, injunctive relief, imposition of restrictions on mergers and acquisitions activity, and restrictions on expansion activity. Private parties may also have the ability to challenge an institution's performance under fair lending laws in private class action litigation.

## CAUTIONARY STATEMENT REGARDING FORWARD-LOOKING STATEMENTS

Some of the statements contained or incorporated by reference into this proxy statement/prospectus contain forward-looking statements within the meaning of the Private Securities Litigation Reform Act of 1995 that reflect the current views of BankUnited, Inc. and Herald with respect to, among other things, future events and financial performance. BankUnited, Inc. and Herald generally identify forward-looking statements by terminology such as "outlook," "believes," "expects," "potential," "continues," "may," "will," "could," "should," "seeks," "approximately," "predicts," "intends," "plans," "estimates," "anticipates" or the negative version of those words or other comparable words. These forward-looking statements are subject to numerous assumptions, risks and uncertainties which change over time. Forward-looking statements speak only as of the date they are made and we assume no duty to update forward-looking statements.

In addition to factors previously disclosed in BankUnited, Inc.'s reports filed with the SEC and Herald's reports filed with the OCC and those identified elsewhere in this proxy statement/prospectus, the following factors, among others, could cause actual results to differ materially from forward-looking statements or historical performance:

- fluctuations in the market price of BankUnited, Inc. common stock and the related effect on the market value of the merger consideration that Herald shareholders will receive upon completion of the merger;
- business uncertainties and contractual restrictions while the merger is pending;
- changes in circumstances between the signing of the merger agreement and the completion of the merger, which will not be reflected in the opinion obtained by Herald from its financial advisor;
- ability to obtain regulatory approvals and meet other closing conditions to the merger, including approval by Herald shareholders, on the expected terms and schedule;
- delay in closing the merger, difficulties and delays in integrating BankUnited, Inc. and Herald businesses or fully realizing cost savings and other benefits;
- business disruption following the merger;
- changes in asset quality and credit risk;
- the inability to sustain revenue and earnings growth;
- potential negative impacts on Herald if the merger agreement is terminated;
- changes in interest rates and capital markets;
- inflation;
- the introduction, withdrawal, success, and timing of business initiatives;

competitive conditions;

the exposure of litigation, including the possibility that litigation related to the merger agreement and related transactions could delay or impede completion of the merger;

the inability to maintain relationships with customers and key employees;

economic conditions;

the reduced ownership percentage and voting interest that Herald shareholders will have in the combined organization following completion of the merger;

BankUnited, Inc.'s failure to comply with the terms of its loss sharing agreements with the FDIC;

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backlogs in courts and an increases in the amount of legislative action that might restrict or delay BankUnited, Inc.'s ability to foreclose and hence delay the collection of payments for single family residential loans under the loss sharing agreements with the FDIC;

the ongoing correction in residential and commercial real estate prices and reduced levels of residential and commercial real estate sales;

BankUnited, Inc.'s loss of the services of its executive officers and key personnel;

BankUnited, Inc.'s allowance for credit losses not being adequate to cover actual credit losses, including credit risk on BankUnited, Inc.'s non-Covered Assets;

competition from other financial institutions and financial services providers;

environmental cleanup liability;

neighborhood values;

real estate tax rates;

operating expenses of the mortgaged properties;

supply of and demand for rental units or properties;

ability to obtain and maintain adequate occupancy of the properties;

zoning laws;

governmental rules, regulations and fiscal policies;

hurricanes or other natural or man-made disasters; and

the factors set forth in this proxy statement/prospectus in the section entitled "Risk Factors" beginning on Page [ ].

Additional factors that could cause BankUnited, Inc.'s or Herald's results to differ materially from those described in the forward-looking statements can be found in the 2010 Annual Reports on Form 10-K of BankUnited, Inc. and Herald, and in the Quarterly Reports on Form 10-Q of BankUnited, Inc. and Herald, filed by BankUnited, Inc. with the SEC and available at the SEC's website (www.sec.gov) and filed by Herald with the OCC and available at Herald's website (www.heraldnb.com). See "Where You Can Find More Information" on Page [ ] for a description of where you can find this information. All subsequent written and oral forward-looking statements concerning the proposed transaction or other matters and attributable to BankUnited, Inc. or Herald or any person acting on their behalf are expressly qualified in their entirety by the cautionary statements contained or referred to within this proxy statement/prospectus. Forward-looking statements speak only as of the date on which such statements are made. BankUnited, Inc. and Herald undertake no obligation to update any forward-looking statement to reflect events or circumstances after the date on which such statement is made, or to reflect the occurrence of unanticipated events.

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# HERALD SPECIAL MEETING

This section contains information from Herald for Herald shareholders about the special meeting Herald has called for shareholders to consider and vote upon a proposal to ratify and confirm the merger agreement. We are mailing this proxy statement/prospectus to you, as a Herald shareholder, on or about [ ]. Together with this proxy statement/prospectus, we are also sending to you a notice of the special meeting of Herald shareholders and a form of proxy card that Herald's Board of Directors is soliciting for use at the special meeting and at any adjournments, postponements or continuations of the special meeting. The special meeting will be held at [ ] on [ ], at [ ] a.m. local time.

This proxy statement/prospectus is also being furnished by BankUnited, Inc. to Herald shareholders as a prospectus in connection with the issuance of shares of BankUnited, Inc. common stock upon completion of the merger.

## Matters to Be Considered

The only matters to be considered at the Herald special meeting are the ratification and confirmation of the merger agreement, a proposal to adjourn, postpone or continue the special meeting, and a non-binding proposal regarding certain merger-related executive compensation arrangements. Herald could use any adjournment, postponement, or continuation of the special meeting, if necessary, to permit more time to solicit votes in favor of the ratification and confirmation of the merger agreement.

## Recommendation of Herald's Board of Directors

Herald's Board of Directors has unanimously declared advisable the merger agreement and the transactions contemplated thereby, including the merger, and recommends that Herald preferred and common shareholders vote "FOR" the ratification and confirmation of the merger agreement, and that Herald common shareholders vote "FOR" the approval of the adjournment, postponement or continuation of the special meeting, if necessary, to solicit additional proxies in favor of the ratification and confirmation of the merger agreement, and "FOR" the non-binding proposal regarding certain merger-related executive compensation arrangements.

## Record Date

Herald's Board of Directors has fixed the close of business on [ ], 2011 as the record date for determining the Herald preferred and common shareholders entitled to receive notice of and to vote at the special meeting. Only Herald preferred and common shareholders of record as of the record date are entitled to and are being requested to vote at the special meeting. As of the record date, [ ] shares of Herald common stock were issued and outstanding and held by approximately [ ] record holders and [ ] shares of Herald preferred stock were issued and outstanding and held by three record holders. Herald common and preferred shareholders are entitled to one vote on the ratification and confirmation of the merger agreement for each share of Herald common or preferred stock held of record at the close of business on the record date, and Herald common shareholders are entitled to one vote on each of the adjournment, postponement, or continuation of the special meeting and the approval by a non-binding, advisory vote, of certain compensation arrangements for Herald's named executive officers in connection with the merger. Holders of Herald preferred stock are not entitled to vote on the adjournment, postponement, or continuation of the special meeting or the approval by a non-binding, advisory vote of certain compensation arrangements for Herald's named executive officers in connection with the merger.

## Quorum

The presence, in person or by properly executed proxy, of the holders of a majority of the outstanding capital stock of Herald is necessary to constitute a quorum at the special meeting. For purposes of determining the presence of a quorum, abstentions and broker non-votes will be counted as shares present. Abstentions and broker non-votes will have the same effect as votes against the ratification and confirmation of the merger agreement. A "broker non-vote" occurs when a nominee holding shares for a beneficial owner does not receive instructions with respect to the merger proposal from the beneficial owner.

**Required Vote**

The merger agreement must be ratified and confirmed by the affirmative vote of the shareholders of Herald owning at least two-thirds of Herald's outstanding capital stock. Approval of the proposal to adjourn, postpone or continue the special meeting, if necessary for the purpose of soliciting additional proxies, requires the affirmative vote of the holders of a majority of the outstanding shares of Herald common stock entitled to vote on the matter. Approval of the non-binding proposal regarding certain merger-related executive compensation arrangements requires the affirmative vote of the holders of a majority of the outstanding shares of Herald common stock entitled to vote on the matter.

**Stock Ownership of Directors and Officers**

As of the record date, Herald directors and executive officers and their affiliates held approximately [ ] shares (or [ ]% of the outstanding shares) of Herald capital stock entitled to vote at the special meeting. See "The Merger Interests of Herald's Directors and Executive Officers in the Merger" commencing on Page [ ].

As of the record date, BankUnited, Inc. and its subsidiaries held [ ] shares of Herald common or preferred stock (other than shares held as fiduciary, custodian or agent as described below) and its directors and executive officers or their affiliates held approximately [ ] shares (or [ ]% of the outstanding shares) of Herald preferred and common stock. As of the record date, subsidiaries of BankUnited, Inc., as fiduciaries, custodians or agents, held a total of approximately [ ] shares of Herald common stock, representing approximately [ ]% of the shares entitled to vote at the Herald special meeting, and maintained sole or shared voting power over approximately [ ] of these shares.

**Proxies**

Each copy of this document mailed to holders of Herald preferred and common stock is accompanied by a form of proxy with instructions for voting. If you hold stock in your name as a shareholder of record, you may complete, sign, date and mail your proxy card in the enclosed postage-paid return envelope as soon as possible, vote by telephone by calling the toll-free number listed on the proxy card, vote by accessing the Internet site listed on the proxy card or vote in person at the Herald special meeting. If you hold your stock in "street name" through a bank or broker, you must direct your bank or broker to vote in accordance with the instruction form provided by your bank or broker included with these materials. This voting instruction form provides instructions on voting by mail, telephone or the Internet. To vote using the proxy card, you must sign, date and return it in the enclosed postage-paid envelope. Instructions on how to vote by telephone or by the Internet are included with your proxy card.

Shares of Herald preferred or common stock represented by properly executed proxies will be voted in accordance with the instructions indicated on the enclosed proxy cards. If no instructions are indicated, such proxies will be voted "FOR" the ratification and confirmation of the merger agreement, "FOR" any motion to adjourn, postpone or continue the special meeting, if necessary, to solicit additional proxies in favor of the ratification and confirmation of the merger agreement, and "FOR" the non-binding proposal regarding certain merger-related executive compensation arrangements.

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**Revocation of Proxies**

A Herald common or preferred shareholder who is a shareholder of record and has given a proxy may revoke it at any time before its exercise at the special meeting by (i) giving written notice of revocation to Herald's Corporate Secretary, (ii) properly submitting to Herald a duly executed proxy bearing a later date, or (iii) attending the special meeting and voting in person. If you hold your shares in "street name" through a bank or broker, you should contact your bank or broker to revoke your proxy. Any written notices of revocation and other communications with respect to revocation of proxies should be addressed to Herald as follows: [ ], and must be received by 11:59 p.m., Eastern Standard Time, on [ ], 2011, or the day before the meeting date, if the special meeting is adjourned, postponed or continued. Proxies may also be revoked via the Internet or telephone by following the instructions on your proxy card.

**Solicitation of Proxies**

The costs and expenses of printing and mailing this proxy statement/prospectus will be borne equally by Herald and BankUnited, Inc., and Herald will bear all other costs incurred by it in the solicitation of proxies from its shareholders on behalf of its Board of Directors. In addition to solicitation of proxies by mail, Herald will request that banks, brokers and other record holders send proxies and proxy materials to the beneficial owners of Herald preferred and common stock and secure their voting instructions. Herald will reimburse the record holders for their reasonable expenses in taking those actions. Herald has also made arrangements with [ ], a proxy solicitation firm, to assist it in soliciting proxies and has agreed to pay them approximately $[ ] plus reasonable expenses for these services. Herald may use its directors, officers and employees, who will not be specially compensated, to solicit proxies from Herald shareholders, either personally or by telephone, facsimile, letter or other electronic means.

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## THE MERGER (PROPOSAL 1)

*The following discussion contains material information about the merger. The discussion is subject, and qualified in its entirety by reference, to the merger agreement included as Annex A to this document. We urge you to read carefully this entire document, including the merger agreement included as Annex A to this document, for a more complete understanding of the merger.*

### Terms of the Merger

BankUnited, Inc.'s and Herald's Boards of Directors have approved the merger agreement. The merger agreement provides for the acquisition of Herald by BankUnited, Inc. through the merger of Merger Sub with and into Herald, with Herald continuing as the surviving entity. Following the merger, Herald will be wholly-owned by BankUnited, Inc. and will be held separately from BankUnited, BankUnited, Inc.'s wholly-owned banking subsidiary, until the last business day of August 2012. On the last business day of August 2012, subject to the receipt of requisite regulatory approvals and confirmations, Herald will merge with and into BankUnited, with BankUnited surviving. We expect to complete the merger of Merger Sub and Herald in the fourth quarter of 2011, and we expect to complete the merger of Herald and BankUnited on the last business day of August 2012. In the merger of Merger Sub and Herald, each share of Herald common stock and preferred stock issued and outstanding at the effective time of the merger will be converted into either cash or BankUnited, Inc. common stock, as described below. See "The Merger Agreement Merger Consideration" beginning on Page [ ] of this proxy statement/prospectus. Shares of BankUnited, Inc. common stock issued and outstanding as of the completion of the merger will remain outstanding and will be unaffected by the merger. BankUnited, Inc. common stock will continue to trade on the NYSE under the symbol "BKU" following the merger. See the section of this proxy statement/prospectus entitled "The Merger Agreement" for additional and more detailed information regarding the legal documents that govern the merger, including information about the conditions to the completion of the merger and the provisions for terminating or amending the merger agreement.

### Background of the Merger

Throughout 2010, Herald continued to focus on its core operating strategy of serving its clients through a full-service private client team model operating through strategically placed private-client offices. In an effort to improve the operational efficiency of Herald and achieve sustained profitability, Herald made several key executive management changes beginning in February 2010 and made several staff reductions throughout 2010. Additionally, during the last quarter of 2009 and the first quarter of 2010, Herald raised additional capital to bolster its capital position and stabilize its financial condition. Over two closings occurring on December 30, 2009 and March 31, 2010, Herald received gross proceeds of approximately $32.0 million from a private placement of preferred and common stock to both existing shareholders and new institutional investors.

On April 22, 2010, as a result of an on-site examination of Herald by the OCC during the fourth quarter of 2009, Herald entered into a formal agreement, which we refer to in this proxy statement/prospectus as the "Formal Agreement," with the OCC. Pursuant to the terms of the Formal Agreement, Herald agreed to take the following actions: (i) appoint a compliance committee to oversee and monitor compliance with the Formal Agreement, (ii) conduct a written assessment of Board and management supervision, (iii) adopt and implement a three year strategic plan and capital program, (iv) implement control systems to mitigate risks associated with planned new products, growth, and the operating environment and conduct a written analysis prior to implementation of any new products and services, (v) implement a risk-based audit program, (vi) review Herald's credit risk management practices and develop and implement a written program to enhance credit risk management practices and manage its credit risk, (vii) review and revise Herald's allowance for loan losses policy, and (viii) provide quarterly progress reports to the OCC detailing steps taken to comply with the Formal Agreement. Shortly after executing the Formal Agreement, Herald's Board of Directors and executive

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management initiated the corrective measures mandated by the Formal Agreement (including taking certain actions prior to entering into the Formal Agreement), which included: (i) the submission to the OCC of a revised business plan and a capital plan, (ii) the appointment of a Compliance Committee to oversee Herald's compliance with the Formal Agreement, and (iii) the submission of quarterly progress reports to the OCC.

Throughout the remainder of 2010, Herald continued to focus its attention on the implementation of its revised business plan and its compliance with the Formal Agreement. The results of this strategy enabled Herald to record its first quarterly profit during the three months ended September 30, 2010.

During the second quarter of 2010, Herald's Board of Directors and executive management invited Sandler O'Neill to work with management and prepare presentation materials on the following topics: (i) a banking industry performance and trends analysis, (ii) a capital markets overview, (iii) an overview of the current bank mergers and acquisitions environment, and (iv) an analysis of Herald on a stand-alone basis. At various Board meetings during the third and fourth quarters of 2010, the Board of Directors discussed an array of strategic alternatives available to Herald, including a potential capital raise or a strategic merger or acquisition. In the November 18, 2010 Board meeting, the directors discussed and considered the alternative of raising additional capital, but delayed proceeding with this alternative until after completion of the OCC examination which had begun in October 2010.

In December 2010, Sandler O'Neill made another presentation to the Board of Directors regarding strategic alternatives and capital raising options. As a result of that meeting and another held in early January 2011, Sandler O'Neill was retained by the Board to act as its financial advisor in further evaluating potential strategic partners for Herald. The Herald Board of Directors determined to discontinue the pursuit of capital raising alternatives given that the decreased trading price of Herald's common stock would likely result in an inability to raise capital on attractive terms, but to continue to pursue a possible strategic merger or acquisition given the economic and regulatory environment in which the Bank was pursuing its business plan. As part of its engagement, the Herald Board of Directors emphasized that Sandler O'Neill should focus on potential partners that had strong currencies and growth potential. Sandler O'Neill discussed the current state of the bank merger market and identified potential merger partners that may have the interest and capacity to pursue a merger with Herald. Ultimately it was determined that Sandler O'Neill would contact five potential strategic partners to gauge their respective interest in pursuing a strategic alliance with Herald. During the prior six months, each of the prospective strategic partners to be contacted by Sandler O'Neill had, on an unsolicited basis, previously expressed to the management of Herald their interest in pursuing a strategic business combination with Herald. Sandler O'Neill was not authorized at this time to contact other potential partners but it was instructed to keep the Herald Board of Directors informed and report any inquiries made by other parties or strategic partners that may be interested in a transaction with Herald. At this time, the Herald Board of Directors had not made any determination as to whether to pursue a strategic merger or partnership or a sale of Herald, and was considering additional alternatives, including remaining independent.

During February 2011, the Herald Board of Directors established a Strategic Planning Committee, comprised solely of independent Board members, who would guide Herald through the next steps of the strategic planning process. Herald's advisory Board member was also invited to participate in the discussions of the Strategic Planning Committee. The Strategic Planning Committee engaged its own legal advisor for the limited purpose of assessing the extent to which the Committee was properly established, advising as to the role of the Committee and explaining the fiduciary duties of the Committee and Herald's Board of Directors in general in the context of a merger or other strategic transaction. Of the five parties contacted by Sandler O'Neill, four parties executed confidentiality agreements and conducted various degrees of due diligence. After a predetermined period of time for initial due diligence, two of the parties contacted submitted preliminary non-binding indications of interest which detailed the terms and conditions of their respective interests. Bank A presented a

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proposal based on Herald's "adjusted tangible book value" as the basis of the aggregate merger consideration to be offered for the outstanding common and preferred shares of Herald, subject to additional downward revisions based on a variety of factors. As an integral provision of its proposal, Bank A required a 90 day exclusivity period during which Herald could not entertain or solicit other strategic proposals. Herald, through Sandler O'Neill, advised Bank A that it was unwilling to agree to the required exclusivity period, as it had received more than one preliminary indication of interest. Herald's position was consistent with the advice provided by its financial advisor and legal counsel. On March 29, 2011, Bank A withdrew its non-binding indication of interest.

Bank B made a preliminary indication of interest with aggregate merger consideration of $59.0 million, or $3.50 per share, for the outstanding common and preferred shares of Herald, with common stock of Bank B representing between 75% and 90% of the aggregate merger consideration, and the remainder in cash. All in-the-money stock options of Herald would be cashed out at closing and no merger consideration was offered to out-of the money warrant holders or option holders, although both had expiration dates in excess of five years.

Herald, in consultation with its investment banking firm and legal counsel, analyzed both preliminary indications of interest from a variety of perspectives, primarily the economic value provided to the shareholders of Herald, as well as the ability of each party to complete the merger in a timely and efficient manner and the anticipated pro forma entity from a longer-term shareholder value perspective. Additional information was solicited from both parties in order to better understand their respective offers.

On May 12, 2011, Bank B presented a revised indication of interest to Herald following its enhanced due diligence investigation of Herald. The proposal increased the aggregate merger consideration offered by Bank B to approximately $65.1 million, or $3.85 per share, for all of the outstanding common and preferred shares of Herald. The consideration offered consisted of Bank B common stock representing between 75% and 90% of the aggregate consideration, with the remainder being cash. All in-the-money stock options of Herald would be cashed out at closing and no merger consideration was offered to holders of out-of the money warrants or options. Sandler O'Neill reviewed the financial and other terms of Bank B's proposal with the Strategic Planning Committee.

On May 17, 2011, Herald received a non-binding indication of interest from BankUnited, Inc. to acquire all of the outstanding common and preferred shares of Herald in a merger transaction that would result in Herald becoming a wholly-owned subsidiary of BankUnited, Inc., ultimately to be combined with BankUnited, Inc.'s existing banking subsidiary. As described in BankUnited, Inc.'s non-binding indication of interest, the merger transaction would value each share of Herald common and preferred stock at between $4.00 and $4.50 per share, or aggregate merger consideration ranging from $68.0 million to $76.0 million. BankUnited, Inc. indicated in its proposal that it was willing to discuss all forms of consideration, including an all-stock or all-cash transaction or a mix thereof. BankUnited, Inc.'s proposal provided that all options issued by Herald would be converted to BankUnited, Inc. options based on the agreed-upon exchange ratio. BankUnited, Inc. also provided that any merger consideration paid to Herald's common and preferred shareholders would also apply to Herald's warrant holders. BankUnited, Inc.'s preliminary indication of interest was premised on the completion of an in-depth due diligence review of Herald.

The Strategic Planning Committee held several meetings following receipt of BankUnited, Inc.'s preliminary indication of interest. Present at these meetings were Sandler O'Neill and Luse Gorman Pomerenk & Schick, P.C., legal counsel to Herald, who we refer to in this proxy statement/prospectus as "Luse Gorman." In addition to discussing the proposals received, these meetings also addressed the prospects of Herald continuing as an independent entity while remaining subject to the terms of the Formal Agreement and the impact the restrictions of the Formal Agreement would have on the earning potential of Herald. Sandler O'Neill reviewed the financial terms of each proposal, including analyzing each offer with varying degrees of the potential purchasers' common stock as the merger consideration and the liquidity of each potential purchaser's common stock. Luse Gorman discussed the legal standards applicable to the decisions and action of Herald's Strategic Planning Committee and the Board of Directors and reviewed the proposed terms and conditions and other relevant factors for each indication of interest, including, in the case of BankUnited, Inc., the non-compete arrangements applicable to certain executive officers of BankUnited, Inc. in their individual capacities. The Strategic Planning Committee authorized Sandler O'Neill to continue conversations with both parties and to allow the due diligence of Herald to continue. In addition, the Strategic Planning Committee indicated to Sandler O'Neill that it would pursue a merger transaction but that its preference would be to receive a majority of the merger consideration in the form of the common stock of a potential purchaser.

On May 23, 2011, Herald received BankUnited, Inc.'s final non-binding indication of interest to acquire 100% of the outstanding common and preferred shares of Herald at a value of $4.25 per share, or aggregate merger consideration of approximately $71.8 million. Based on prior conversations with BankUnited, Inc. regarding delays or impediments to the transaction, BankUnited, Inc.'s revised proposal stated it would pay a fee of $5.0 million in the event the transaction was not completed under certain circumstances. In addition, BankUnited, Inc. also agreed to reimburse Herald for certain expenses related to the proposed transaction should the transaction be terminated. Sandler O'Neill reviewed the financial terms of the revised proposal with the Strategic Planning Committee and Luse Gorman discussed the legal and regulatory standards applicable to the decisions and action of the Herald Strategic Planning Committee and the Board of Directors and reviewed the proposed terms and conditions for the proposal.

Subsequent to receiving BankUnited, Inc.'s revised indication of interest on May 23, 2011, Herald and its legal and financial advisors conducted a due diligence review of BankUnited, Inc.

During the next several days, representatives of Sandler O'Neill had numerous discussions with representatives of BankUnited, Inc. regarding the specifics of BankUnited, Inc.'s bid and the potential for BankUnited, Inc. to increase the price contained in its most recent proposal and its ability to offer price protections for its offer. BankUnited, Inc. clarified that the final value of its offer would be based on an exchange ratio determined during the ten trading days prior to the closing of the transaction, and that it would not increase its proposed purchase price or offer pricing protections.

On May 25, 2011, the Strategic Planning Committee of Herald met to discuss the final proposals received from both BankUnited, Inc. and Bank B. Each director had been notified of the revised terms of the proposal from BankUnited, Inc. in advance of the meeting and was provided with a copy of the presentation materials prepared by Sandler O'Neill for this meeting. Sandler O'Neill reviewed with the Strategic Planning Committee its presentation materials, including the terms of both proposals. As part of its presentation Sandler O'Neill expressed its view that it did not believe that there were other banks interested in entering or expanding their presence in the New York City marketplace that had both the financial ability and the interest to acquire Herald under terms comparable to BankUnited, Inc.'s proposal. Sandler O'Neill notified the Committee of a revised verbal bid from Bank B that it would consider increasing its bid to $3.90 per share if that would enable it to proceed and negotiate a definitive agreement with Herald. In the course of its presentation, Sandler O'Neill reviewed a number of key financial metrics relating to both BankUnited, Inc.'s and Bank B's proposals. Sandler O'Neill also discussed various scenarios of Herald's performance as an independent entity assuming that Herald was operating under the terms of the Formal Agreement. Sandler O'Neill also reviewed the historical trading prices of BankUnited, Inc.'s common stock, which had been trading on the New York Stock Exchange only since January 28, 2011, and the fact that BankUnited, Inc.'s common stock was currently trading near the lower end of its limited trading range, which could provide Herald shareholders with potential upside if they received BankUnited, Inc.'s common stock in a merger. Sandler O'Neill then provided an updated overview of BankUnited, Inc.'s and Bank B's respective franchises, including branch footprint, financial performance, loan portfolios, deposit composition, comparison of financial performance compared to a peer group, and management teams. Sandler O'Neill also reviewed the

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current analyst ratings on BankUnited, Inc. and Bank B and current institutional holdings of each. Luse Gorman again provided the Strategic Planning Committee with a detailed overview of the directors' fiduciary duties. After extensive discussion, the Committee unanimously voted to proceed with a transaction under the terms of BankUnited, Inc.'s most recent proposal, and to request that the merger consideration consist of approximately 65% BankUnited, Inc. common stock and 35% cash, based upon BankUnited, Inc.'s stock price at the time, contingent on the satisfactory conclusion of due diligence on BankUnited, Inc. and the negotiation of a definitive merger agreement.

During the next several days, representatives of Sandler O'Neill had numerous discussions with representatives of BankUnited, Inc. regarding the specifics of BankUnited, Inc.'s proposal and the potential for BankUnited, Inc. to increase the price contained in that proposal as well as it ability to offer price protection for its offer. BankUnited, Inc. clarified that the final value of its offer would be based on an exchange ratio determined during the ten trading days prior to the closing of the transaction, and that it would not increase its proposed purchase price.

On May 27, 2011, BankUnited, Inc.'s legal counsel transmitted an initial draft merger agreement to Herald's advisors. The parties and their legal advisors negotiated the terms and conditions of the merger agreement and related documents over the course of the next several days.

During the course of the negotiations, BankUnited, Inc. clarified its position that certain ongoing contractual rights belonging to two significant Herald preferred shareholders, Palladium Equity Partners III, L.P. and SBAV LP, would need to be eliminated or waived by such parties in order to successfully complete a merger. Specifically, BankUnited, Inc. wanted these preferred shareholders to release their rights under stock purchase agreements executed by and between the preferred shareholders and Herald whereby such holders had rights to purchase the securities of Herald, or any successor thereof, including at a discounted price of 25% from any proposed offering price, in the event of any future stock offering, which we refer to in this proxy statement/prospectus as the "Stock Purchase Discount." At that time, the representatives of these two preferred shareholders, who were also members of Herald's Strategic Planning Committee and Board of Directors, resigned as members of the Strategic Planning Committee, but not as Board members. Subsequent to receiving the initial draft of the merger agreement, the Strategic Planning Committee and representatives of these preferred shareholders and their counsel held a series of negotiations, culminating on May 31, 2011, resulting in Herald's agreement that at the closing of the merger, these preferred shareholders would receive $2.3 million in cash in the aggregate in exchange for the release of the Stock Purchase Discount rights and other rights and the execution of agreements to vote their shares of Herald common and preferred stock in favor of the ratification and confirmation of the merger agreement. This information was communicated to BankUnited, Inc. on June 1, 2011, which led to a concommitent decrease in the aggregate merger consideration that BankUnited, Inc. was willing to pay, decreasing the merger consideration on a per share basis from $4.25 to $4.13.

On the morning of June 1, 2011, the Herald Strategic Planning Committee held a meeting to review and consider the proposed transaction with BankUnited, Inc. Representatives of Sandler O'Neill provided an update on the negotiations with BankUnited, Inc. Luse Gorman provided the Strategic Planning Committee with a detailed overview of the directors' fiduciary duties, and reviewed the material terms of the merger and the proposed draft merger agreement, including remaining outstanding issues. The Strategic Planning Committee authorized its executive management, Sandler O'Neill and Luse Gorman to continue negotiations with BankUnited, Inc.'s representatives, and not to pursue further negotiations with Bank B.

On the evening of June 1, 2011, the Herald Strategic Planning Committee and, subsequently, the full Herald Board of Directors, held meetings to review and consider the proposed transaction with BankUnited, Inc. Copies of presentation materials from Sandler O'Neill, as well as the merger agreement and related materials, were distributed to the members of the Board in advance of the meeting. Luse Gorman discussed the status of negotiations with BankUnited, Inc. regarding certain

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provisions of the merger agreement and related documents and summarized the key terms that had been arrived at by the parties, including those related to price and the voting agreements that BankUnited, Inc. required to be executed by all of the members of Herald's Board of Directors and institutional holders affiliated with certain of such directors pursuant to which such persons would agree to vote all of their shares of Herald preferred and common stock in favor of the ratification and confirmation of the merger agreement. Luse Gorman also reviewed several other issues that had recently been resolved, including negotiating employment agreements for Herald's executive officers to take effect at the closing of the transaction. Sandler O'Neill then presented its financial analysis of the proposed transaction. Sandler O'Neill reviewed the financial terms of the proposed transaction and summarized the strategic and financial rationale for the transaction for both Herald and BankUnited, Inc. and responded to questions by the Herald Board. Sandler O'Neill then delivered its verbal opinion, which was subsequently confirmed in writing, that, as of the date of its opinion and subject to the limitations, qualifications, factors and assumptions set forth therein, the merger consideration to be paid to the holders of Herald's common stock was fair, from a financial point of view, to such shareholders. After further discussion among the directors, Sandler O'Neill and Luse Gorman including with respect to the factors described under "The Merger Herald's Reasons for the Merger; Recommendation of Herald's Board of Directors," the Herald Board of Directors unanimously determined that the merger and the merger agreement were advisable, and fair to, and in the best interests of, Herald and its shareholders, and unanimously approved the merger agreement and related actions.

The parties entered into the merger agreement on June 2, 2011 and announced the transaction in a joint press release prior to the opening of trading on that day. Each company filed a Current Report on Form 8-K with the SEC or the OCC, as applicable, which summarized the material terms of the merger agreement and included a copy of the executed merger agreement as an exhibit to the report.

## Herald's Reasons for the Merger; Recommendation of Herald's Board of Directors

### *Recommendation of Herald's Board of Directors*

The Herald Board of Directors unanimously determined that the merger agreement, the merger, and the other transactions contemplated by the merger agreement are advisable and in the best interests of Herald and its shareholders, adopted the merger agreement and approved the merger, and recommended that Herald's shareholders ratify and confirm the merger agreement. In connection with the foregoing, the Board considered, among other factors, the opinion of Sandler O'Neill, Herald's financial advisor. For more information on Sandler O'Neill's opinion, see the section of this proxy statement/prospectus titled "The Merger Opinion of Herald's Financial Advisor" beginning on Page [ ].

**THE HERALD NATIONAL BANK BOARD OF DIRECTORS UNANIMOUSLY RECOMMENDS THAT YOU VOTE "FOR" THE RATIFICATION AND CONFIRMATION OF THE MERGER AGREEMENT.**

### *Reasons for the Merger*

The Herald Board of Directors, in reaching its determination, consulted with Herald's senior management, Sandler O'Neill and Luse Gorman, drew on its knowledge of Herald's business, operations, properties, assets, financial condition, operating results, historical market prices and prospects, and considered the following factors in favor of the merger, which are not presented in order of priority:

- a review of the historical financial statements of Herald and BankUnited, Inc. and certain other internal information, primarily financial in nature, relating to the respective businesses, earnings, and financial condition of Herald and BankUnited, Inc.;

the respective business strategies of Herald and BankUnited, Inc., prospects for the future, including expected financial results, and expectations relating to the proposed merger, based on discussions with management of Herald and BankUnited, Inc.;

the compatibility of the banking cultures and business and management philosophies of Herald and BankUnited, Inc., particularly with respect to customer service and convenience, and the meeting of local banking needs;

the effect of the merger on Herald customers and the communities served by Herald, including the effect of an increase in the legal lending limit available to borrowers of the combined bank by reason of the merger;

the amount of the merger consideration, its premium to Herald's trading price in the period preceding the announcement of the merger and its comparability with respect to other premiums paid in comparable merger transactions, and the belief of the Herald Board of Directors that BankUnited, Inc. common stock represents an investment in a well-capitalized institution which should result in long-term value and significantly increased liquidity for Herald shareholders;

the fact that the merger consideration is expected to be tax-free to Herald shareholders to the extent that they receive BankUnited, Inc. common stock in exchange for their Herald shares;

the fact that Herald will exist until August 2012 as an independent, stand-alone bank, with current executive management expected to remain in place during that time;

the fact that Herald shareholders who receive shares of BankUnited, Inc. common stock in the merger will participate in the growth of BankUnited, Inc. and in any synergies resulting from the merger and retain the potential to receive an additional market premium if at some future time BankUnited, Inc. is acquired;

the quarterly dividend paid by BankUnited, Inc.;

the then current financial market conditions, and historical market prices, volatility and trading information with respect to Herald common stock, including the possibility that if Herald remained as an independent publicly-owned company, in the event of a decline in the market price of Herald common stock or the stock market in general, the price that might be received by holders of Herald common stock in the open market or in a future transaction might be less than the merger consideration;

the fact that the merger agreement and the transactions contemplated thereby were the product of arms' length negotiations between representatives of Herald and representatives of BankUnited, Inc.;

the presentation of Sandler O'Neill (including the assumptions and methodologies underlying the analyses in connection therewith) and the opinion of Sandler O'Neill to Herald's Board dated June 2, 2011, a copy of which is attached to this proxy statement/prospectus as Annex C and which you should read carefully in its entirety, which expresses Sandler O'Neill's view that, as of June 2, 2011, and based on and subject to the factors, limitations and assumptions set forth in its opinion, the merger consideration was fair, from a financial point of view, to holders of Herald common stock;

the anticipated effect of the acquisition on Herald employees, particularly in light of BankUnited, Inc. entering into a new market;

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the ability of Herald to operate efficiently in the current and anticipated regulatory environment;

the terms and conditions of the merger agreement, including:

o the ability of the Herald Board of Directors under certain circumstances to furnish information to and conduct negotiations with a third party;

o the Herald Board of Directors' belief that the termination fee payable to BankUnited, Inc. was reasonable in the context of termination fees that were payable in other comparable transactions and likely would not preclude another party from making a competing proposal;

o the likelihood that the merger will be consummated in light of the conditions to BankUnited, Inc.'s obligation to consummate the merger;

o the fact that BankUnited, Inc. will pay a $5.0 million fee in certain circumstances if the merger is not consummated by June 2, 2012;

o the treatment of Herald equity awards under the merger agreement; and

o the fact that ratification and confirmation of the merger agreement would require the affirmative vote of the holders of two-thirds of the shares of Herald capital stock.

The Herald Board of Directors also was aware that all Herald directors and executive officers, and certain Herald shareholders would enter into voting agreements with BankUnited, Inc. contemporaneously with the execution of the merger agreement and that pursuant to such voting agreements, Herald's directors and executive officers and such shareholders would agree to vote the shares held by them in favor of the ratification and confirmation of the merger agreement. The Herald Board of Directors understood that such voting agreements were a condition to BankUnited, Inc. entering into the merger agreement and such voting agreements will terminate in the event that the merger agreement is terminated in accordance with its terms.

In the course of the Herald Board of Directors' deliberations, it also considered a variety of risks and other countervailing factors, including:

the risks and costs to Herald if the merger is not completed, including:

o the diversion of management and employee attention, potential employee attrition and the resulting effect on Herald's customers and business relationships; and

o the market price of Herald common stock, as the market price could be affected by many factors, including (1) the reason or reasons for which the merger agreement was terminated and whether such termination resulted from factors adversely affecting Herald; (2) Herald's then current operating and financial results, which could be variable; (3) the possibility that, as a result of the termination of the merger agreement, the marketplace would consider Herald to be an unattractive acquisition candidate; and (4) the possible sale of shares of Herald common stock by short-term investors (such as arbitrageurs) following an announcement of termination of the merger agreement;

the fact that the merger consideration, consisting primarily of shares of BankUnited, Inc. common stock, provides less certainty of value to Herald shareholders compared to a transaction in which they would receive only cash consideration;

the restrictions that the merger agreement imposes on Herald actively soliciting competing acquisition proposals, and the fact that Herald would be obligated to pay a $3,585,000 termination fee following the termination of the merger agreement in certain circumstances;

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- the fact that gains from the cash component of the merger consideration would generally be taxable to Herald's U.S. shareholders for U.S. federal income tax purposes; and

- the interests of Herald's officers and directors in the merger described in the section of this proxy statement/prospectus titled "The Merger Interests of Herald's Directors and Executive Officers in the Merger" beginning on Page [ ].

The foregoing discussion of the factors considered by the Herald Board of Directors is not intended to be exhaustive, but does set forth the principal factors considered by Herald's Board of Directors. The Herald Board of Directors collectively reached the unanimous conclusion to adopt the merger agreement and approve the merger in light of the various factors described above and other factors that each member of the Herald Board of Directors determined was appropriate. In view of the numerous factors considered by the Herald Board of Directors in connection with its evaluation of the merger and the complexity of those matters, the Herald Board of Directors did not consider it practical, and therefore did not attempt, to quantify, rank, or otherwise assign relative weights to each specific factors it considered in reaching its decision. Rather, the Herald Board of Directors is making its recommendation based on the totality of information presented to and the investigation conducted by it. In considering the factors discussed above, individual Herald directors may have given different weights to each of the factors discussed in the Board meeting and their evaluation of the merger.

**Opinion of Herald's Financial Advisor**

By letter dated January 28, 2011, Herald retained Sandler O'Neill to act as its financial advisor in connection with a possible business combination with another financial institution. Sandler O'Neill is a nationally recognized investment banking firm whose principal business specialty is financial institutions. In the ordinary course of its investment banking business, Sandler O'Neill is regularly engaged in the valuation of financial institutions and their securities in connection with mergers and acquisitions and other corporate transactions.

Sandler O'Neill acted as financial advisor to Herald in connection with the proposed transaction and participated in certain of the negotiations leading to the execution of the merger agreement. At the June 1, 2011 meeting at which Herald's Board considered and approved the merger agreement, Sandler O'Neill delivered to the Board its oral opinion, confirmed in writing on June 2, 2011, that, as of such date, the merger consideration was fair to the holders of Herald common stock from a financial point of view. **The full text of Sandler O'Neill's opinion is attached as Annex C to this proxy statement/prospectus. The opinion outlines the procedures followed, assumptions made, matters considered and qualifications and limitations on the review undertaken by Sandler O'Neill in rendering its opinion. The description of the opinion set forth below is qualified in its entirety by reference to the full text of the opinion. Herald shareholders are urged to read the entire opinion carefully in connection with their consideration of the proposed merger.**

**Sandler O'Neill's opinion speaks only as of the date of the opinion. The opinion was directed to Herald's Board of Directors and is directed only to the fairness of the merger consideration to Herald's common shareholders from a financial point of view. Sandler O'Neill's opinion does not address the underlying business decision of Herald to engage in the merger or any other aspect of the merger and is not a recommendation to any Herald shareholder as to how such shareholder should vote at the special meeting with respect to the merger or any other matter.**

In connection with rendering its opinion, Sandler O'Neill reviewed and considered, among other things:

- the merger agreement;

- certain publicly available financial statements and other historical financial information of Herald that Sandler O'Neill deemed relevant;

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certain publicly available financial statements and other historical financial information of BankUnited, Inc. that Sandler O'Neill deemed relevant;

internal financial projections for Herald for the years ending December 31, 2011 through 2015 as prepared by and reviewed with senior management of Herald;

publicly available consensus financial projections for BankUnited, Inc. for the years ending December 31, 2011 through 2013 and the publicly available consensus estimates of BankUnited, Inc.'s long-term growth rate for the years thereafter;

the pro forma financial impact of the merger on BankUnited, Inc., based on assumptions relating to transaction expenses, purchase accounting adjustments and cost savings assumed by the senior management of Herald and BankUnited, Inc.;

the publicly reported historical price and trading activity for Herald's and BankUnited, Inc.'s common stock, including a comparison of certain financial and stock market information for Herald and BankUnited, Inc. with similar publicly available information for certain other companies the securities of which are publicly traded;

the financial terms of certain recent business combinations in the commercial banking industry, to the extent publicly available;

the current market environment generally and the banking environment in particular; and

such other information, financial studies, analyses and investigations, and financial, economic, and market criteria as Sandler O'Neill considered relevant.

Sandler O'Neill also discussed with certain members of senior management of Herald the business, financial condition, results of operations, and prospects of Herald and held similar discussions with certain members of senior management of BankUnited, Inc. regarding the business, financial condition, results of operations, and prospects of BankUnited, Inc.

In performing its reviews and analyses and in rendering its opinion, Sandler O'Neill relied upon the accuracy and completeness of all of the financial and other information that was available to it from public sources, that was provided to Sandler O'Neill by Herald, BankUnited, Inc. or their respective representatives, or that was otherwise reviewed by Sandler O'Neill, and assumed such accuracy and completeness for purposes of rendering its opinion. Sandler O'Neill further relied on the assurances of the respective managements of Herald and BankUnited, Inc. that they are not aware of any facts or circumstances that would make any such information inaccurate or misleading.

Sandler O'Neill was not asked to and did not undertake an independent verification of any of such information and Sandler O'Neill did not assume any responsibility or liability for the accuracy or completeness thereof. Sandler O'Neill did not make an independent evaluation or appraisal of the specific assets, or the collateral securing the assets or the liabilities (contingent or otherwise) of Herald and BankUnited, Inc., or any of their respective subsidiaries, or the collectability of any such assets, nor was Sandler O'Neill furnished with any such evaluations or appraisals. Sandler O'Neill did not make an independent evaluation of the adequacy of the allowance for loan losses of Herald and BankUnited, Inc., nor did Sandler O'Neill review any individual credit files relating to Herald and BankUnited, Inc. Sandler O'Neill assumed, with Herald's consent, that the respective allowances for loan losses for both Herald and BankUnited, Inc. were adequate to cover such losses and will be adequate on a pro forma basis for the combined entity.

With respect to (i) the internal financial projections for Herald as provided by the senior management of Herald, (ii) the publicly available consensus earnings estimates for BankUnited, Inc., and (iii) the projections of transaction costs, purchase accounting adjustments, and expected cost savings reviewed with the managements of Herald and BankUnited, Inc., and used by Sandler O'Neill

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in its analyses, the respective managements of Herald and BankUnited, Inc. confirmed to Sandler O'Neill that they reflected the best currently available estimates and judgments of such respective managements of the future financial performance of Herald and BankUnited, Inc., respectively, and Sandler O'Neill assumed that such performance would be achieved. Sandler O'Neill expressed no opinion as to such financial projections and estimates or the assumptions on which they were based. Sandler O'Neill also assumed that there had been no material change in Herald's and BankUnited, Inc.'s assets, financial condition, results of operations, business, or prospects since the date of the most recent financial statements made available to Sandler O'Neill. Sandler O'Neill assumed in all respects material to its analysis that Herald and BankUnited, Inc. will remain as going concerns for all periods relevant to Sandler O'Neill's analyses, that all of the representations and warranties contained in the merger agreement and all related agreements are true and correct, that each party to the agreements will perform all of the covenants required to be performed by such party under the agreements, and that the conditions precedent in the agreements are not waived. Finally, with Herald's consent, Sandler O'Neill relied upon the advice Herald received from its legal, accounting, and tax advisors as to all legal, accounting, and tax matters relating to the merger and the other transactions contemplated by the merger agreement.

Sandler O'Neill's opinion was necessarily based on financial, economic, market, and other conditions as they existed on, and could be evaluated as of, the date of its opinion. Events occurring after the date of the opinion could materially affect the opinion. Sandler O'Neill did not undertake to update, revise, reaffirm, or withdraw its opinion or otherwise comment upon events occurring after the date thereof. Sandler O'Neill expressed no opinion as to what the value of BankUnited, Inc.'s common stock will be when issued to Herald's shareholders pursuant to the merger agreement or the prices at which the common stock of Herald or BankUnited, Inc. may trade at any time.

In rendering its opinion, Sandler O'Neill performed a variety of financial analyses. The following is a summary of the material analyses performed by Sandler O'Neill, but is not a complete description of all the analyses underlying Sandler O'Neill's opinion. The summary includes information presented in tabular format. **In order to fully understand the financial analyses, these tables must be read together with the accompanying text. The tables alone do not constitute a complete description of the financial analyses.** The preparation of a fairness opinion is a complex process involving subjective judgments as to the most appropriate and relevant methods of financial analysis and the application of those methods to the particular circumstances. The process, therefore, is not necessarily susceptible to a partial analysis or summary description. Sandler O'Neill believes that its analyses must be considered as a whole and that selecting portions of the factors and analyses to be considered without considering all factors and analyses, or attempting to ascribe relative weights to some or all such factors and analyses, could create an incomplete view of the evaluation process underlying its opinion. Also, no company included in Sandler O'Neill's comparative analyses described below is identical to Herald or BankUnited, Inc. and no transaction is identical to the merger. Accordingly, an analysis of comparable companies or transactions involves complex considerations and judgments concerning differences in financial and operating characteristics of the companies and other factors that could affect the public trading values or merger transaction values, as the case may be, of Herald and BankUnited, Inc. and the companies to which they are being compared.

In performing its analyses, Sandler O'Neill also made numerous assumptions with respect to industry performance, business and economic conditions, and various other matters, many of which cannot be predicted and are beyond the control of Herald, BankUnited, Inc., and Sandler O'Neill. The analyses performed by Sandler O'Neill are not necessarily indicative of actual values or future results, both of which may be significantly more or less favorable than suggested by such analyses. Sandler O'Neill prepared its analyses solely for purposes of rendering its opinion and provided such analyses to the Herald Board at the Board's June 1, 2011 meeting. Estimates on the values of companies do not purport to be appraisals or necessarily reflect the prices at which companies or their securities may

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actually be sold. Such estimates are inherently subject to uncertainty and actual values may be materially different. Accordingly, Sandler O'Neill's analyses do not necessarily reflect the value of Herald's common stock or the prices at which Herald's common stock may be sold at any time. The analyses of Sandler O'Neill and the opinion provided by it were among a number of factors taken into consideration by Herald's Board in making its determination to approve and recommend the merger agreement and the analyses described below should not be viewed as determinative of the decision of Herald's Board or management with respect to the fairness of the merger.

At the June 1, 2011 meeting of Herald's Board of Directors, Sandler O'Neill presented certain financial analyses of the merger. The summary below is not a complete description of the analyses underlying the opinion of Sandler O'Neill or the presentation made by Sandler O'Neill to Herald's Board, but is instead a summary of the material analyses performed and presented in connection with the opinion.

In arriving at its opinion, Sandler O'Neill did not attribute any particular weight to any analysis or factor that it considered. Rather it made qualitative judgments as to the significance and relevance of each analysis and factor. The financial analyses summarized below include information presented in tabular format. Sandler O'Neill did not form an opinion as to whether any individual analysis or factor (positive or negative) considered in isolation supported or failed to support its opinion; rather Sandler O'Neill made its determination as to the fairness of the per share consideration on the basis of its experience and professional judgment after considering the results of all of its analyses taken as a whole. Accordingly, Sandler O'Neill believes that the analyses and the summary of the analyses must be considered as a whole and that selecting portions of the analyses and factors or focusing on the information presented below in tabular format, without considering all analyses and factors or the full narrative description of the financial analyses, including methodologies and assumptions underlying the analyses, could create a misleading or incomplete view of the process underlying its analyses and opinion. The tables alone do not constitute complete descriptions of the financial analyses presented in such tables.

***Summary of Proposal***

Sandler O'Neill reviewed the financial terms of the proposed transaction. Based on the closing price of BankUnited, Inc.'s common stock on the NYSE on June 1, 2011 of $28.11 and the per share amount, as defined in the merger agreement as the sum of $1.35 per share plus 0.0990 times the closing price of BankUnited, Inc.'s common stock as of the measuring period, Sandler O'Neill calculated an implied transaction value of $4.13 per share of Herald common stock. Based upon financial information as of or for the twelve month period ended March 31, 2011, Sandler O'Neill calculated the following transaction ratios:

| | |
|---|---|
| Transaction Value/Book Value Per Share | 137% |
| Transaction Value/Tangible Book Value Per Share | 137% |
| Transaction Value/Last Twelve Months Earnings Per Share | NM |
| Transaction Value/Estimated 2011 Earnings Per Share | NM |
| 1-Day Market Premium(1) | 38.2% |
| 30-Day Market Premium(2) | 92.2% |
| Core Deposit Premium | 5.5% |

(1) Based on May 27, 2011 closing price due to media reports on the potential transaction (Herald stock price closed at $3.79 on May 31, 2011)

(2) Based on April 27, 2011 closing price

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***Herald Comparable Company Analysis***

Sandler O'Neill used publicly available information to perform a comparison of selected financial and market trading information for Herald.

Sandler O'Neill also used publicly available information to compare selected financial and market trading information for Herald and a group of financial institutions selected by Sandler O'Neill. The Herald peer group consisted of publicly traded commercial banks headquartered in the Mid-Atlantic (New York, Pennsylvania, New Jersey, Maryland and Delaware) and Connecticut with total assets, as of the most recently reported period, between $360 million and $700 million and with a non-performing assets to total assets ratio of 4.00% or less:

Stewardship Financial Corporation
Evans Bancorp, Inc.
Mid Penn Bancorp, Inc.
1st Summit Bancorp of Johnstown, Inc.
Community Partners Bancorp
Somerset Trust Holding Company
CCFNB Bancorp, Inc.
DNB Financial Corporation
Fidelity D & D Bancorp, Inc.
Solvay Bank Corporation
Salisbury Bancorp, Inc.
Orange County Bancorp, Inc.
Lyons Bancorp, Inc.
Honat Bancorp, Inc.
Embassy Bancorp, Inc.
Emclaire Financial Corp.
Juniata Valley Financial Corp.
Northumberland Bancorp
Ballston Spa Bancorp, Inc.
Gotham Bank of New York
IBW Financial Corporation
Hamlin Bank and Trust Company
Steuben Trust Corporation
CBT Financial Corporation
Commercial National Financial Corp.

The analysis compared publicly available financial and market trading information for Herald with the high, low, mean, and median financial and market trading data for the Herald peer group as of or for the twelve-month period ended March 31, 2011 or the most recently reported period. The table below sets forth the data for Herald and the median data for Herald's peer group as of or for the twelve-month period ended March 31, 2011 or the most recently reported period, with pricing data as of May 27, 2011.

**Comparable Company Analysis**

| | Herald National Bank | Comparable Group Medians |
|---|---|---|
| Total Assets (in millions) | $ 501 | $ 528 |
| Non-Performing Assets/Total Assets | 0.33% | 1.40% |
| Price/Tangible Book Value | 96% | 98% |
| Market Capitalization (in millions) | $ 36.5 | $ 42.6 |
| Price/LTM Earnings Per Share | NM | 10.6x |
| Price/2011E Earnings Per Share | NA | 10.0x |
| Price/52 Week High Price | 83.3% | 91.4% |

***BankUnited, Inc. Comparable Company Analysis***

Sandler O'Neill also used publicly available information to compare selected financial and market trading information for BankUnited, Inc. and a group of financial institutions selected by Sandler O'Neill. The BankUnited, Inc. peer group consisted of nationwide publicly traded commercial banks with assets between $8 billion and $15 billion as of March 31, 2011 or the most recently reported period:

| | |
|---|---|
| First National of Nebraska, Inc. | IBERIABANK Corporation |
| FirstMerit Corporation | F.N.B. Corporation |
| Valley National Bancorp | Citizens Republic Bancorp, Inc. |
| Wintrust Financial Corporation | Prosperity Bancshares, Inc. |
| Susquehanna Bancshares, Inc. | Central Bancompany, Inc. |
| BancorpSouth, Inc. | Trustmark Corporation |
| UMB Financial Corporation | Sterling Financial Corporation |
| Bank of Hawaii Corporation | CapitalSource Inc. |
| PrivateBancorp, Inc. | National Penn Bancshares, Inc. |
| Signature Bank | First Citizens Bancorporation, Inc. |
| International Bancshares Corporation | Doral Financial Corporation |
| Umpqua Holdings Corporation | Hancock Holding Company |
| Cathay General Bancorp | Old National Bancorp |
| MB Financial, Inc. | First Midwest Bancorp, Inc. |

The analysis compared publicly available financial and market trading information for BankUnited, Inc. and the high, low, mean, and median financial and market trading data for BankUnited, Inc.'s peer group as of or for the twelve-month period ended March 31, 2011 or the most recently reported period. The table below sets forth the data for BankUnited, Inc. and the median data for BankUnited, Inc.'s peer group as of or for the twelve-month period ended March 31, 2011 or the most recently reported period, with pricing data as of May 27, 2011.

**Comparable Company Analysis**

| | BankUnited, Inc. | Comparable Group Medians |
|---|---|---|
| Total Assets (in millions) | $ 10,808 | $ 10,008 |
| Price/Tangible Book Value | 197% | 141% |
| Market Capitalization (in millions) | $ 2,700 | $ 1,134 |
| Price/2011E Earnings Per Share | 16.1x | 16.8x |
| Price/2012E Earnings Per Share | 18.0x | 13.5x |
| Price/52 Week High Price | 92.9% | 87.4% |

The 2011 and 2012 earning per share estimates used in the table above were based on "FactSet" median estimates for BankUnited, Inc.

***Herald Stock Price Performance***

Sandler O'Neill reviewed the history of the publicly reported trading prices of Herald's common stock for the one-year period ended May 27, 2011. Sandler O'Neill also reviewed the history of the publicly reported trading prices of Herald's common stock for the period since the date of its initial public offering through May 27, 2011. Sandler O'Neill then compared the relationship between the movements in the price of Herald's common stock against the movements in the prices of Herald's peer group (as defined on Page [ ]) and the NASDAQ Bank Index.

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**Herald's One Year Stock Performance**

| | Beginning Index Value May 27, 2010 | Ending Index Value May 27, 2011 |
|---|---|---|
| Herald | 100.0% | 94.9% |
| Herald Peer Group | 100.0% | 107.8% |
| NASDAQ Bank Index | 100.0% | 96.6% |

**Herald's Stock Performance Since its Initial Public Offering**

| | Beginning Index Value December 9, 2008 | Ending Index Value May 27, 2011 |
|---|---|---|
| Herald | 100.0% | 28.9% |
| Herald Peer Group | 100.0% | 99.5% |
| NASDAQ Bank Index | 100.0% | 91.1% |

***BankUnited, Inc. Stock Price Performance***

Sandler O'Neill reviewed the history of the publicly reported trading prices of BankUnited, Inc.'s common stock for the period since its initial public offering in January of 2011 through May 27, 2011. Sandler O'Neill then compared the relationship between the movements in the price of BankUnited, Inc.'s common stock against the movements in the prices of BankUnited, Inc.'s peer group (as defined on Page [ ]) and the NASDAQ Bank Index.

**BankUnited, Inc.'s Stock Performance Since its Initial Public Offering**

| | Beginning Index Value January 27, 2011 | Ending Index Value May 27, 2011 |
|---|---|---|
| BankUnited, Inc. | 100.0% | 102.8% |
| BankUnited, Inc. Peer Group | 100.0% | 96.9% |
| NASDAQ Bank Index | 100.0% | 95.5% |

***Herald Net Present Value Analysis***

Sandler O'Neill performed an analysis that estimated the net present value per share of Herald common stock under various circumstances. The analysis assumed that Herald performed in accordance with the financial projections for the years ending December 31, 2011 through 2015 as prepared by and reviewed with senior management of Herald. To approximate the terminal value of Herald common stock at December 31, 2015, Sandler O'Neill applied price to forward earnings multiples of 8.0x to 18.0x and multiples of tangible book value ranging from 75% to 175%. The income streams and terminal values were then discounted to present values using different discount rates, ranging from 13.0% to 17.0%, chosen to reflect different assumptions regarding required rates of return of holders or prospective buyers of Herald's common stock.

As illustrated in the following tables, the analysis indicates an imputed range of values per share of Herald common stock of $0.21 to $0.57 when applying the price to forward earnings multiples to the management budget, and $1.51 to $4.16 when applying the multiples of tangible book value to the management budget.

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***Earnings Per Share Multiples***

| Discount Rate | 8.0x | 10.0x | 12.0x | 14.0x | 16.0x | 18.0x |
|---|---|---|---|---|---|---|
| 13.0% | $ 0.25 | $ 0.32 | $ 0.38 | $ 0.44 | $ 0.51 | $ 0.57 |
| 14.0% | $ 0.24 | $ 0.30 | $ 0.36 | $ 0.42 | $ 0.48 | $ 0.55 |
| 15.0% | $ 0.23 | $ 0.29 | $ 0.35 | $ 0.41 | $ 0.46 | $ 0.52 |
| 16.0% | $ 0.22 | $ 0.28 | $ 0.33 | $ 0.39 | $ 0.45 | $ 0.50 |
| 17.0% | $ 0.21 | $ 0.27 | $ 0.32 | $ 0.37 | $ 0.43 | $ 0.48 |

***Tangible Book Value Multiples***

| Discount Rate | 75% | 95% | 115% | 135% | 155% | 175% |
|---|---|---|---|---|---|---|
| 13.0% | $ 1.78 | $ 2.26 | $ 2.73 | $ 3.21 | $ 3.69 | $ 4.16 |
| 14.0% | $ 1.71 | $ 2.17 | $ 2.62 | $ 3.08 | $ 3.53 | $ 3.99 |
| 15.0% | $ 1.64 | $ 2.08 | $ 2.52 | $ 2.95 | $ 3.39 | $ 3.83 |
| 16.0% | $ 1.57 | $ 1.99 | $ 2.41 | $ 2.83 | $ 3.25 | $ 3.67 |
| 17.0% | $ 1.51 | $ 1.91 | $ 2.32 | $ 2.72 | $ 3.12 | $ 3.53 |

Sandler O'Neill also considered and discussed with the Herald Board of Directors how this analysis would be affected by changes in the underlying assumptions, including variations with respect to net income. To illustrate this impact, Sandler O'Neill performed a similar analysis assuming Herald's net income varied from 25% above projections to 25% below projections. This analysis resulted in the following range of per share values for Herald common stock, using the same price to forward earnings multiples of 8.0x to 18.0x and a discount rate of 15.23%:

***Earnings Per Share Multiples***

| Annual Budget Variance | 8.0x | 10.0x | 12.0x | 14.0x | 16.0x | 18.0x |
|---|---|---|---|---|---|---|
| (25.0)% | $ 0.17 | $ 0.22 | $ 0.26 | $ 0.30 | $ 0.35 | $ 0.39 |
| (20.0)% | $ 0.18 | $ 0.23 | $ 0.28 | $ 0.32 | $ 0.37 | $ 0.41 |
| (15.0)% | $ 0.20 | $ 0.24 | $ 0.29 | $ 0.34 | $ 0.39 | $ 0.44 |
| (10.0)% | $ 0.21 | $ 0.26 | $ 0.31 | $ 0.36 | $ 0.41 | $ 0.47 |
| (5.0)% | $ 0.22 | $ 0.27 | $ 0.33 | $ 0.38 | $ 0.44 | $ 0.49 |
| 0.0% | $ 0.23 | $ 0.29 | $ 0.35 | $ 0.40 | $ 0.46 | $ 0.52 |
| 5.0% | $ 0.24 | $ 0.30 | $ 0.36 | $ 0.42 | $ 0.48 | $ 0.54 |
| 10.0% | $ 0.25 | $ 0.32 | $ 0.38 | $ 0.44 | $ 0.51 | $ 0.57 |
| 15.0% | $ 0.26 | $ 0.33 | $ 0.40 | $ 0.46 | $ 0.53 | $ 0.60 |
| 20.0% | $ 0.28 | $ 0.35 | $ 0.41 | $ 0.48 | $ 0.55 | $ 0.62 |
| 25.0% | $ 0.29 | $ 0.36 | $ 0.43 | $ 0.50 | $ 0.58 | $ 0.65 |

During the Herald Board meeting on June 1, 2011, Sandler O'Neill noted that the discounted dividend stream and terminal value analysis is a widely used valuation methodology, but the results of such methodology are highly dependent upon the numerous assumptions that must be made, and the results thereof are not necessarily indicative of actual values or future results.

***BankUnited, Inc. Net Present Value Analysis***

Sandler O'Neill also performed an analysis that estimated the net present value per share of BankUnited, Inc. common stock under various circumstances. The analysis assumed that BankUnited, Inc. performed in accordance with the mean of analyst estimates for 2011 through 2013, and applied a 10% long-term growth rate for 2014.

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To approximate the terminal value of BankUnited, Inc. common stock at December 31, 2014, Sandler O'Neill applied price to forward earnings multiples of 14.0x to 26.5x and multiples of tangible book value ranging from 150% to 250%. The income streams and terminal values were then discounted to present values using different discount rates ranging from 9.0% to 14.0% chosen to reflect different assumptions regarding required rates of return of holders or prospective buyers of BankUnited, Inc.'s common stock.

As illustrated in the following tables, the analysis indicates an imputed range of values per share of BankUnited, Inc. common stock of $15.22 to $32.32 when applying the price to forward earnings multiples to median earnings estimates, and $17.68 to $34.71 when applying the multiples of tangible book value to the resulting estimated tangible book value assuming a constant dividend rate of $0.56 per year.

***Earnings Per Share Multiples***

| Discount Rate | 14.0x | 16.5x | 19.0x | 21.5x | 24.0x | 26.5x |
|---|---|---|---|---|---|---|
| 9.0% | $ 17.88 | $ 20.77 | $ 23.66 | $ 26.55 | $ 29.43 | $ 32.32 |
| 10.0% | $ 17.30 | $ 20.09 | $ 22.88 | $ 25.68 | $ 28.47 | $ 31.26 |
| 11.0% | $ 16.75 | $ 19.45 | $ 22.14 | $ 24.84 | $ 27.54 | $ 30.23 |
| 12.0% | $ 16.22 | $ 18.83 | $ 21.43 | $ 24.04 | $ 26.65 | $ 29.26 |
| 13.0% | $ 15.71 | $ 18.23 | $ 20.75 | $ 23.27 | $ 25.80 | $ 28.32 |
| 14.0% | $ 15.22 | $ 17.66 | $ 20.10 | $ 22.54 | $ 24.98 | $ 27.42 |

***Tangible Book Value Multiples***

| Discount Rate | 150% | 170% | 190% | 210% | 230% | 250% |
|---|---|---|---|---|---|---|
| 9.0% | $ 21.67 | $ 24.28 | $ 26.88 | $ 29.49 | $ 32.10 | $ 34.71 |
| 10.0% | $ 20.78 | $ 23.28 | $ 25.78 | $ 28.28 | $ 30.78 | $ 33.28 |
| 11.0% | $ 19.95 | $ 22.34 | $ 24.73 | $ 27.13 | $ 29.52 | $ 31.91 |
| 12.0% | $ 19.15 | $ 21.45 | $ 23.74 | $ 26.03 | $ 28.33 | $ 30.62 |
| 13.0% | $ 18.40 | $ 20.59 | $ 22.79 | $ 24.99 | $ 27.19 | $ 29.39 |
| 14.0% | $ 17.68 | $ 19.78 | $ 21.89 | $ 24.00 | $ 26.11 | $ 28.22 |

Sandler O'Neill also considered and discussed with the Herald Board of Directors how this analysis would be affected by changes in the underlying assumptions, including variations with respect to net income. To illustrate this impact, Sandler O'Neill performed a similar analysis, assuming BankUnited, Inc.'s net income varied from 25% above projections to 25% below projections. This analysis resulted in the following range of per share values for BankUnited, Inc. common stock, using the same price to forward earnings multiples of 14.0x to 26.5x and a discount rate of 12.27%:

***Earnings Per Share Multiples***

| Annual Budget Variance | 14.0x | 16.5x | 19.0x | 21.5x | 24.0x | 26.5x |
|---|---|---|---|---|---|---|
| (25.0)% | $ 12.55 | $ 14.44 | $ 16.34 | $ 18.24 | $ 20.13 | $ 22.03 |
| (20.0)% | $ 13.26 | $ 15.28 | $ 17.30 | $ 19.33 | $ 21.35 | $ 23.37 |
| (15.0)% | $ 13.96 | $ 16.11 | $ 18.26 | $ 20.41 | $ 22.56 | $ 24.71 |
| (10.0)% | $ 14.67 | $ 16.95 | $ 19.22 | $ 21.50 | $ 23.78 | $ 26.05 |
| (5.0)% | $ 15.38 | $ 17.78 | $ 20.19 | $ 22.59 | $ 24.99 | $ 27.39 |
| 0.0% | $ 16.09 | $ 18.62 | $ 21.15 | $ 23.68 | $ 26.20 | $ 28.73 |
| 5.0% | $ 16.80 | $ 19.45 | $ 22.11 | $ 24.76 | $ 27.42 | $ 30.07 |
| 10.0% | $ 17.50 | $ 20.29 | $ 23.07 | $ 25.85 | $ 28.63 | $ 31.41 |
| 15.0% | $ 18.21 | $ 21.12 | $ 24.03 | $ 26.94 | $ 29.85 | $ 32.75 |
| 20.0% | $ 18.92 | $ 21.96 | $ 24.99 | $ 28.02 | $ 31.06 | $ 34.09 |
| 25.0% | $ 19.63 | $ 22.79 | $ 29.95 | $ 29.11 | $ 32.37 | $ 35.43 |

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At the June 1, 2011 Board of Directors meeting of Herald, Sandler O'Neill noted that the discounted dividend stream and terminal value analysis is a widely used valuation methodology, but the results of such methodology are highly dependent upon the numerous assumptions that must be made, and the results thereof are not necessarily indicative of actual values or future results. Additionally, Sandler O'Neill reviewed the unique attributes of BankUnited, Inc.'s valuation, including: (i) the majority of BankUnited, Inc.'s loans are covered by a loss share agreement with the FDIC which provides for reimbursement of 80% of losses on covered assets; (ii) BankUnited, Inc. is likely to be a significant consolidator in the future given its robust capital position and capable management team; (iii) BankUnited, Inc.'s management team has been successful in creating shareholder value at previous institutions; and (iv) positive research analyst commentary regarding BankUnited, Inc.'s growth prospects.

***Analysis of Selected Merger Transactions***

Sandler O'Neill reviewed several sets of comparable merger and acquisition transactions. The sets of transactions included: (i) 17 transactions announced from January 1, 2010 through May 27, 2011 involving Mid-Atlantic (New York, Pennsylvania, New Jersey, Maryland and Delaware) and Connecticut commercial banks and thrifts with announced deal values greater than $15 million; (ii) 11 transactions announced from January 1, 2010 through May 27, 2011 involving Mid-Atlantic (New York, Pennsylvania, New Jersey, Maryland and Delaware) and Connecticut commercial banks and thrifts with announced deal values greater than $15 million where the selling bank's or thrift's ratio of non-performing assets to total assets was less than 2.00%; and (iii) 23 transactions announced from January 1, 2010 through May 27, 2011 involving nationwide commercial banks and thrifts with announced deal values greater than $15 million where the selling bank's or thrift's ratio of non-performing assets to total assets was less than 2.00%. Sandler O'Neill reviewed the following multiples: transaction price to book value, transaction price to tangible book value, transaction price to last twelve months' earnings per share, transaction price to seller's stock price the day before and thirty days before transaction announcement, and tangible book premium to core deposits. As illustrated in the following table, Sandler O'Neill compared the proposed merger multiples to the median multiples of comparable transaction groups.

| | Herald National Bank/ BankUnited, Inc. | Median Mid-Atlantic & CT Deals | Median Mid-Atlantic & CT Deals (Target NPAs/ Assets <2.0%) | Median Nationwide Deals (Target NPAs/ Assets <2.0%) |
|---|---|---|---|---|
| Transaction Value | | | | |
| Book Value Per Share | 137% | 120% | 126% | 143% |
| Tangible Book Value Per Share | 137% | 125% | 129% | 153% |
| Last Twelve Months Earnings Per Share | NM | 24.1x | 23.7x | 20.8x |
| 1-Day Market Premium | 38.2%(1) | 37.2% | 67.8% | 57.1% |
| 30-Day Market Premium | 92.2%(2) | 58.3% | 64.2% | 67.1% |
| Core Deposit Premium | 5.5% | 4.5% | 4.4% | 7.2% |

(1) Based on May 27, 2011 closing price due to media reports on the potential transaction (Herald stock price closed at $3.79 on May 31, 2011)

(2) Based on April 27, 2011 closing price

***Pro Forma Results and Capital Ratios***

Sandler O'Neill analyzed certain potential pro forma effects of the merger, assuming the following: (i) the merger closes on December 31, 2011; (ii) the deal value per share is equal to a $4.13 per Herald share, based upon the total cash component of $22.9 million, a 0.0990x fixed exchange ratio

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component, and BankUnited, Inc.'s stock price on June 1, 2011 of $28.11; (iii) 20% cost savings of Herald projected operating expense which is fully-realized in 2012; (iv) approximately $5.2 million in pre-tax transaction costs and expenses to be recognized at closing; (v) a core deposit intangible of approximately $12.0 million (10 year, straight-line amortization method); (vi) a 3.00% pre-tax opportunity cost of cash; (vii) Herald performing in accordance with Herald management's budget and guidance; (viii) BankUnited, Inc. performing in accordance with 2011 and 2012 median earnings per share estimates and BankUnited, Inc.'s management guidance; and (ix) BankUnited, Inc. recognizing a portion of Herald's deferred tax asset at closing as a purchase accounting adjustment. The analyses indicated that for the year ending December 31, 2012, the merger (including transaction expenses) would be modestly accretive to BankUnited, Inc.'s projected earnings per share and, at December 31, 2011 the merger would be modestly dilutive to BankUnited, Inc.'s tangible book value per share. The analyses also indicated that for the year ending December 31, 2011, after giving effect to the merger, BankUnited, Inc.'s regulatory capital ratios would continue to be significantly in excess of the guidelines for "well capitalized" status. The actual results achieved by the combined company, however, may vary from projected results and the variations may be material.

***Miscellaneous***

Sandler O'Neill acted as Herald's financial advisor in connection with the merger and will receive a transaction fee in connection with the merger of 1.00% of the aggregate purchase price, subject to a minimum transaction fee of $500,000, payment of which is subject to completion of the merger, and a $100,000 fee associated with Sandler O'Neill's rendering a fairness opinion. The entire $100,000 fairness opinion fee is to be credited against the transaction fee owed at closing. Herald has also agreed to reimburse Sandler O'Neill for reasonable out-of-pocket expenses incurred in connection with its engagement and to indemnify Sandler O'Neill and its affiliates and their respective partners, directors, officers, employees, and agents against certain expenses and liabilities, including liabilities under the securities laws.

In the ordinary course of Sandler O'Neill's broker and dealer businesses, Sandler O'Neill may purchase securities from and sell securities to Herald and BankUnited, Inc. and their respective affiliates. Sandler O'Neill may also actively trade the debt and/or equity securities of Herald or BankUnited, Inc. or their respective affiliates for its own account and for the accounts of its customers and, accordingly, may at any time hold a long or short position in such securities.

**BankUnited, Inc.'s Reasons for the Merger**

BankUnited, Inc. believes that the acquisition of Herald furthers BankUnited, Inc.'s goal of expanding its branch network outside of Florida, particularly in New York, and that Herald's focus on relationship banking is consistent with BankUnited, Inc.'s core vision. The Board of Directors of BankUnited, Inc. approved the merger agreement after BankUnited, Inc.'s senior management discussed with the Board of Directors a number of factors, including those described above and the business, assets, liabilities, results of operations, financial performance, strategic direction, and prospects of Herald. BankUnited, Inc.'s Board of Directors did not consider it practicable to, and did not attempt to, quantify or otherwise assign relative weights to the specific factors it considered in reaching its determination. BankUnited, Inc.'s Board of Directors viewed its position as being based on all the information and the factors presented to and considered by it. In addition, individual directors may have given different weights to different information and factors.

**Board of Directors and Management of BankUnited, Inc. Following Completion of the Merger**

Upon completion of the merger, the current directors and officers of BankUnited, Inc. are expected to continue in their current positions, and the number of directors constituting the whole Board of Directors of BankUnited, Inc. will not be changed. Information about the current BankUnited, Inc. directors and executive officers can be found in the section labeled "Information About BankUnited, Inc. Executive Officers and Directors" commencing on Page [ ] of this proxy statement/prospectus.

**Public Trading Markets**

BankUnited, Inc. common stock is listed on the NYSE under the symbol "BKU." Herald common stock is listed on the NYSE Amex under the symbol "HNB." Upon completion of the merger, Herald common stock will be delisted from the NYSE Amex and thereafter will be deregistered under the Exchange Act. The BankUnited, Inc. common stock issuable in the merger will be listed on the NYSE.

**Herald Shareholders' Appraisal Rights in the Merger**

Under the National Bank Act, Herald shareholders have the right to dissent from the merger and to receive, in lieu of the merger consideration described under "The Merger Agreement Merger Consideration" beginning on Page [ ], payment in cash for the value of their shares of Herald common and preferred stock. Herald shareholders electing to do so must comply with the provisions of 12 U.S.C. § 215a in order to perfect their rights of appraisal. Herald shareholders who elect to exercise appraisal rights must vote against the proposal to ratify and confirm the merger agreement or give written notice in writing at or prior to the special meeting to the presiding officer that the shareholder dissents from the merger agreement and must comply with the provisions of 12 U.S.C. § 215a, in order to perfect their rights. Strict compliance with the statutory procedures in 12 U.S.C. § 215a is required. Failure to follow precisely any of the statutory requirements will result in the loss of your appraisal rights. A copy of 12 U.S.C. § 215a is attached as Annex B of this proxy statement/prospectus.

This section is intended as a brief summary of the material provisions of the federal statutory procedures that a shareholder must follow in order to seek and perfect appraisal rights. This summary, however, is not a complete statement of all applicable requirements, and it is qualified in its entirety by reference to 12 U.S.C. § 215a. The following summary does not constitute any legal or other advice, nor does it constitute a recommendation that Herald shareholders exercise their appraisal rights under 12 U.S.C. § 215a.

Payment to dissenting shareholders of the value of their Herald shares will be made only if the merger is ratified and confirmed by the Herald shareholders and is completed.

Any shareholder of Herald who desires to exercise his or her dissenters' rights must do the following:

- vote against the merger agreement at the special meeting or give written notice at or prior to the special meeting to the presiding officer that he or she dissents from the merger agreement;

- make written request for the cash value of his or her shares to the surviving bank, Herald, at any time before thirty days after the effective date of the merger; and

- accompany the above written request with the surrender of his or her Herald stock certificates.

If you fail to comply with any of these conditions and the merger is completed, you will be entitled to receive payment for your shares of Herald stock as provided for in the merger agreement, but you will have no appraisal rights with respect to your shares of Herald stock.

For the purpose of determining the amount to be received in connection with the exercise of statutory dissenters' rights under 12 U.S.C. § 215a, the law provides that the value of a dissenting Herald shareholder's stock shall be determined as of the effective date of the merger by an appraisal made by a committee of three persons. One appraiser on the committee is selected by the vote of the dissenting shareholders holding a majority of the shares with respect to which appraisal rights have been exercised and a second individual is selected by the directors of Herald. These two persons select the third member of the appraisal committee. The valuation agreed upon by two of the three appraisers shall govern. If the appraised value presented by the committee of appraisers is not satisfactory to any dissenting shareholder who has requested payment, that shareholder may appeal the appraisal to the OCC within five days after notification of the appraised value. The OCC shall cause a reappraisal, and that reappraisal shall be final and binding as to that shareholder.

If within 90 days after the consummation of the merger, one or more of the appraisers are not selected or the appraisers fail to determine the value of the shares, the OCC shall, upon the written request of any interested party, cause an appraisal to be made which shall be the final appraisal and binding on all parties. The expenses of the OCC in making the reappraisal or the appraisal, as the case may be, shall be paid by Herald. The value of the shares ascertained shall be promptly paid to the dissenting shareholders by Herald.

**In view of the complexity of 12 U.S.C. § 215a, Herald shareholders who may wish to pursue appraisal rights should consult their legal and financial advisors.**

### Regulatory Approvals Required for the Merger

Each of BankUnited, Inc. and Herald has agreed to use its reasonable best efforts to obtain all regulatory approvals required to complete the merger and the other transactions contemplated by the merger agreement. These approvals include approval from the Federal Reserve Board and the OCC, among others. BankUnited, Inc. and Herald have filed, or are in the process of filing, applications and notifications to obtain these regulatory approvals.

***Federal Reserve Board***

The transactions contemplated by the merger agreement are subject to approval by the Federal Reserve Board pursuant to Section 3 and Section 4 of the Bank Holding Company Act of 1956, as amended.

***Additional Regulatory Approvals and Notices***

The transactions contemplated by the merger agreement are also subject to approval by the OCC.

BankUnited, Inc. and Herald believe that the transactions contemplated by the merger agreement do not raise substantial antitrust or other significant regulatory concerns and that they will be able to obtain all requisite regulatory approvals on a timely basis without the imposition of any condition that would have a material adverse effect on BankUnited, Inc. or Herald. However, there can be no assurances that such approvals will be received on a timely basis, or as to our ability to obtain the approvals on satisfactory terms or the absence of litigation challenging such approvals. There can likewise be no assurances that U.S. regulatory authorities will not attempt to challenge the merger on antitrust grounds or for other reasons, or, if such a challenge is made, as to the result of such challenge. The parties' obligations to complete the transactions contemplated by the merger agreement are subject to a number of conditions, including the receipt of all required regulatory consents and approvals, and, in the case of BankUnited, Inc., any such approval must not impose any restriction, requirement, or condition that, individually or in the aggregate, would, after the effective time of the merger, reasonably be expected to restrict or burden BankUnited, Inc. or Herald or any of their respective affiliates (i) in connection with the transactions contemplated by the merger agreement or (ii) with respect to the business or operations of BankUnited, Inc. or Herald or any of their affiliates that would, in the case of either (i) or (ii), have a material adverse effect on BankUnited, Inc., Herald or any of their affiliates, in each case measured on a scale relative to Herald.

Separately, BankUnited, Inc. on June 14, 2011 submitted an application to the OCC to convert BankUnited's charter from a federal savings association to a national bank. The conversion to a national bank will, among other things, facilitate BankUnited, Inc.'s shift to business banking. This shift has evolved over the past two years as BankUnited has focused on expanding its commercial core deposits as well as transitioning its focus from residential lending to business relationship lending. Approval of this conversion application is not required to complete the merger and the other transactions contemplated by the merger agreement and discussed herein.

**Dividends**

The payment, timing and amount of dividends with respect to BankUnited, Inc. after the merger is subject to the determination of BankUnited, Inc.'s Board of Directors and may change at any time. In the first and second quarters of 2011, BankUnited, Inc. declared a dividend of $0.14 per share of BankUnited, Inc. common stock. For comparison, if the merger had occurred prior to the dividend paid by BankUnited, Inc. in the first quarter of 2011, Herald common shareholders who elected to receive stock and were in receipt of the merger consideration (based on the exchange ratio) would hypothetically have received a dividend in the first quarter of 2011 equivalent to $0.02 per share of Herald common stock, if the closing price of BankUnited, Inc.'s stock price on June 1, 2011 was used as the basis for calculating the exchange ratio and without giving effect to any adjustment or proration.

The merger agreement permits BankUnited, Inc. to continue to pay regular quarterly cash dividends to its stockholders prior to the completion of the merger. The merger agreement contains limitations on Herald's payment of cash dividends. Herald's ability to pay dividends on its common stock is also restricted by federal law, the FDIA and OCC regulations. The payment, timing and amount of dividends by BankUnited, Inc. or Herald on their common stock or preferred stock, in the case of Herald, in the future, either before or after the merger is completed, are subject to the determination of each company's respective Board of Directors and depend on cash requirements, contractual restrictions, financial condition and earnings, legal and regulatory considerations and other factors.

For further information, please see "Comparative Market Prices And Dividends" on Page [ ].

**Interests of Herald's Directors and Executive Officers in the Merger**

***New Employment Agreements with Raymond Nielsen, Michael Carleton and Gerard Perri***

On June 2, 2011, each of Messrs. Nielsen, Carleton and Perri entered into new employment agreements with Herald, which will become effective on the effective date of the merger. Each new employment agreement has a term of one year. Under the terms of his new employment agreement, Mr. Nielsen will continue to receive his current base salary of $350,000, and will receive a transaction bonus of $100,000, payable as soon as practicable after the effective date of the merger, and a retention bonus of $270,000, payable following the one year anniversary of the effective date of the merger, subject, except in certain circumstances, to Mr. Nielsen's continued employment on such date. Mr. Carleton's new employment agreement provides for a base salary of $250,000 (which is a reduction from his current base salary of $300,000), a transaction bonus of $285,000, payable as soon as practicable following the effective date, and a retention bonus of $285,000, payable following the one year anniversary of the effective date of the merger, subject, except in certain circumstances, to Mr. Carleton's continued employment on such date. Mr. Perri's new employment agreement provides for a base salary of $200,000 (which is a reduction from his current base salary of $258,637), a transaction bonus of $230,000, payable as soon as practicable following the effective date, and a retention bonus of $230,000, payable following the one year anniversary of the effective date of the merger, subject, except in certain circumstances, to Mr. Perri's continued employment on such date. In addition, the new employment agreements provide each executive with the continuation of his automobile allowance at the current level, which is $2,000 per month in the case of Mr. Nielsen and $1,000 per month in the case of Messrs. Carleton and Perri.

If on the one year anniversary of the effective date of the merger, the executive is no longer employed by Herald due to the executive's involuntary termination without cause or constructive termination for good reason, the executive will still be entitled to receive his retention bonus on the one year anniversary of the effective date of the merger. Each employment agreement requires the executive not to compete for a period of time. Mr. Nielsen will not compete during the employment period and for 12 months following his termination of employment for any reason. Messrs. Carleton and Perri have each agreed not to compete during the employment period. For these purposes, the employment period is defined as the period from the effective date of each agreement through the one-year anniversary of the effective date of the agreement, unless the employee is terminated earlier without cause or due to resignation for good reason. Each employment agreement further requires the executive not to solicit customers or employees of Herald for 18 months following termination of employment.

***Restricted Stock***

At the effective time of the merger, [ ] restricted shares of Herald common stock, held by Messrs. Nielsen, Carleton, and Perri, will become fully vested and will be treated, for purposes of the election and proration provisions of the merger agreement, as shares of Herald common stock for which no election has been made.

***Options***

In connection with the merger, all outstanding options to purchase shares of Herald common stock, including those held by all non-employee directors and executive officers of Herald, will be converted into fully vested and exercisable options to purchase shares of BankUnited, Inc. common stock. Each holder of such an option to purchase shares of Herald common stock will receive an option to purchase shares of BankUnited, Inc. common stock equal to the product of the number of shares of Herald common stock subject to the Herald option and the exchange ratio in the merger (rounded down to the nearest share). The exercise price per share of the converted option will equal the quotient obtained by dividing the exercise price per share of the Herald option by the exchange ratio (rounded up to the nearest cent). Assuming the merger is completed on [ ], 2011, options held by all non-employee directors and executive officers of Herald to acquire an aggregate of [ ] shares of Herald common stock at option prices ranging from $[ ] to $[ ] per share will vest and become fully exercisable in connection with the merger.

***Warrants***

At the effective time of the merger, BankUnited, Inc. will assume and cause to be performed all obligations of Herald pursuant to the Stock Warrant Agreement, dated as of November 24, 2008, by Herald in favor of the parties listed on Exhibit A thereto, including certain non-employee directors and executive officers of Herald. Each warrant so assumed by BankUnited, Inc. will continue to have, and be subject to, the same terms and conditions set forth in that agreement immediately prior to the effective time of the merger, except that each such outstanding warrant will be exercisable for shares of BankUnited, Inc. common stock and cash in the same proportion that the holders of Herald common stock receive in the aggregate in the merger, as measured as of the effective date of the merger. Assuming the merger is completed on [ ], 2011, warrants held by all non-employee directors and executive officers of Herald to acquire an aggregate of [ ] shares of Herald common stock at a price of $9.47 per share will be converted as described above.

***Indemnification***

Pursuant to the merger agreement, BankUnited, Inc. has agreed that from and after the effective date of the merger, it will indemnify, defend, and hold harmless, to the fullest extent permitted by law (and shall also advance expenses as incurred to the fullest extent permitted under applicable law provided the person to whom expenses are advanced provides an undertaking to repay such advances if it is ultimately determined that such person is not entitled to indemnification), each present and former director and officer of Herald (in each case, when acting in such capacity) against any costs and expenses (including reasonable attorney's fees), judgments, fines, losses, claims, damages, or liabilities incurred in connection with any claim, action, suit, proceeding, or investigation, arising out of, or pertaining to, matters existing or occurring at or prior to the effective date of the merger, including transactions contemplated by the merger agreement.

***Directors' and Officers' Insurance***

BankUnited, Inc. has further agreed that, for a period of six years after the effective date of the merger, BankUnited, Inc. will provide directors' and officers' liability insurance that serves to reimburse the present and former officers and directors of Herald (determined as of the effective date of the merger) with respect to claims against such directors and officers arising from facts or events occurring before the effective date of the merger (including the transactions contemplated by the merger agreement). The insurance coverage will contain terms and conditions which are no less advantageous than the insurance coverage being currently provided by Herald, provided, however, that BankUnited, Inc. is not required to spend, on an annual basis, an amount that exceeds 175% of the annual premium currently incurred by Herald for its insurance coverage.

***Voting Agreements***

Concurrently with the execution of the merger agreement, BankUnited, Inc. executed voting agreements with Messrs. Arnold, Carleton, Green, Leistner, Nielsen, Perri, Schulman, and Seiden as well as Dr. Aswad, each of whom is a director or officer of Herald but entered into the voting agreements in their capacities as shareholders, to facilitate the merger. BankUnited, Inc. also entered into a voting agreement with Mr. Maidman and Maidman Ventures I, LLC concurrently with the execution of the merger agreement. Mr. Maidman is a Herald director but entered into his voting agreement in his capacity as a shareholder to facilitate the merger. BankUnited, Inc. also entered into voting agreements with Palladium Equity Partners III, LP, an affiliate of Palladium Equity Partners, of which Mr. Green is a Vice President, and SBAV LP, which is an affiliate of Mr. Arnold through its affiliation with Clinton Group, Inc., of which Mr. Arnold is a managing director. As of the record date, Mr. Arnold held [ ] shares of Herald common stock, Dr. Aswad held [ ] shares of Herald common stock, Mr. Carleton held [ ] shares of Herald common stock, Mr. Green held [ ] shares of Herald common stock, Mr. Leistner held [ ] shares of Herald common stock, Mr. Maidman and Maidman Ventures I, LLC together held [ ] shares of Herald common stock, Mr. Nielsen held [ ] shares of Herald common stock, Mr. Perri held [ ] shares of Herald common stock, Mr. Schulman held [ ] shares of Herald common stock, Mr. Seiden held [ ] shares of Herald common stock, Palladium Equity Partners III, LP held [ ] shares of Herald common stock and [ ] shares of Herald preferred stock, and SBAV LP held [ ] shares of Herald common stock and [ ] shares of Herald preferred stock. Collectively, such persons held approximately [ ]% of Herald's outstanding capital stock as of the record date.

Each of the directors and officers and their affiliates who is a party to a voting agreement has agreed that until the expiration date of his or its voting agreement, such individual and/or entity, as applicable, will vote his or its shares of Herald common stock and/or preferred stock:

- in favor of the ratification and confirmation of the merger agreement;

- against any acquisition proposal, without regard to any recommendation to the shareholders of Herald by the Board of Directors of Herald concerning such acquisition proposal, and without regard to the terms of such acquisition proposal, or other proposal made in opposition to or that is otherwise in competition or inconsistent with the transactions contemplated by the merger agreement;

- against any agreement, amendment of any agreement, or any other action that is intended or would reasonably be expected to prevent, impede, or, in any material respect, interfere with, delay, postpone, or discourage the transactions contemplated by the merger agreement; and

- against any action, agreement, transaction, or proposal that would reasonably be expected to result in a breach of any representation, warranty, covenant, agreement or other obligation of Herald in the merger agreement.

In its voting agreement, Palladium Equity Partners III, LP agreed to the termination of all of its rights under the Purchase and Investment Agreement, dated as of March 31, 2010, by and between Herald and Palladium Equity Partners III, LP, as well as the registration rights agreement and all other agreements entered into in connection therewith and BankUnited, Inc. agreed to pay Palladium Equity Partners III, LP $669,466.75 within two business days of the effective time of the merger.

In its voting agreement, SBAV LP agreed to the termination of all of SBAV LP's rights under the Purchase and Investment Agreement, dated as of December 30, 2009, by and between the Bank and SBAV LP, as amended, the registration rights agreement, and all other agreements entered into in connection therewith; SBAV GP LLC, SBAV LP's general partner, agreed to the termination of the Second Amended and Restated Service Agreement, dated March 31, 2010, between SBAV GP LLC and Herald; and BankUnited, Inc. agreed to pay SBAV LP $1,630,533.25 within two business days of the effective time of the merger.

The voting agreements will terminate upon the earliest of (1) the merger agreement being ratified and confirmed by the requisite affirmative vote of the shareholders of Herald or (2) the date of termination of the merger agreement in accordance with its terms.

***Golden Parachute Payments by an Institution Designated as Being in Troubled Condition***

Due to Herald's entering into the Formal Agreement with the OCC, Herald is designated as being in "troubled condition." Therefore, Herald's officers and employees are prohibited from receiving any golden parachute payments, within the meaning of 12 U.S.C. § 1828(k) and the regulations of the FDIC issued thereunder, without prior written regulatory approval. For purposes of the FDIC regulations, golden parachute payments generally include any payment (or an agreement to make a payment) in the nature of compensation by any insured depository institution or an affiliated holding company for the benefit of any current or former director, officer, or employee that is contingent on, or by its terms, is payable on or after, the termination of such person's employment with the institution and is received after the institution is designated in troubled condition. None of Herald's named executive officers will have a termination of employment in connection with the merger.

***Change in Control Payments***

The following table sets forth the estimated potential benefits to Herald's named executive officers in connection with the change in control. These payments are not conditioned on the executives' termination of employment. This table does not include the value of benefits in which the named executive officers are vested without regard to the occurrence of a change in control nor does it include the value of base salary or other perquisites that the executives are receiving prior to the change in control that will be continued following the change in control for the benefit of the executives who will remain employed by Herald following consummation of the merger:

| Executive | Cash ($) | Equity ($)(1) | Pension/ NQDC ($) | Perquisites/ Benefits ($) | Tax Reimbursements ($) | Other ($)(2) | Total ($) |
|---|---|---|---|---|---|---|---|
| Raymond A. Nielsen | | $ 551,967 | $ | $ | $ | $ 370,000 | $ 921,967 |
| Michael S. Carleton | | $ 332,155 | $ | $ | $ | $ 570,000 | $ 902,155 |
| Gerald A. Perri | | $ 169,677 | $ | $ | $ | $ 460,000 | $ 629,677 |

(1) The amount listed in this column for each named executive officer represents the following: For Mr. Nielsen, the in-the-money value of 327,174 unvested Herald stock options granted February 17, 2011, converted pursuant to the exchange ratio to 48,454 stock options of BankUnited Inc. with an exercise price of $16.88, and the in-the-money value of 12,000 unvested Herald stock options granted November 24, 2010, converted pursuant to the exchange ratio into 1,777 stock options of BankUnited, Inc. with an exercise price of $14.18 (for a total stock option value of $539,735) and the value of 3,000 unvested shares of Herald restricted stock, converted pursuant to the exchange ratio to 444.3 shares of BankUnited, Inc. (for a total value of restricted stock equal to $12,231). For Mr. Carleton, the in-the-money value of 205,435 unvested Herald stock options granted February 17, 2011, converted pursuant to the exchange ratio to 30,425 stock options of BankUnited Inc. with an exercise price of $16.88 (for a total stock option value of $324,001), and the value of 2,000 unvested shares of Herald restricted stock, converted pursuant to the exchange ratio to 296.2 shares of BankUnited, Inc. (with a total value of restricted stock equal to $8,154). For Mr. Perri, the in-the-money value of 105,000 unvested Herald stock options granted February 17, 2011, converted pursuant to the exchange ratio to 15,551 stock options of BankUnited Inc. with an exercise price of $16.88 (for a total stock option value of $165,599), and the value of 1,000 unvested shares of Herald restricted stock, converted pursuant to the exchange ratio to 148.1 shares of BankUnited, Inc. (with a total value of restricted stock equal to $4,077). For these purposes, we assumed a transaction date of December 31, 2011 and also assumed a BankUnited, Inc. share price equal to $27.53, which is the average closing market price of BankUnited, Inc.'s common stock for the first five business days following the first public announcement of the merger. Further, the benefit amounts represented here are considered "single trigger" benefits that vest solely as a result of the change in control.

(2) The amount listed in this column for each named executive officer represents the following: For Mr. Nielsen, a transaction bonus of $100,000, paid as soon as practicable following the consummation of the merger, and a retention bonus of $270,000 payable following the one year anniversary of the merger, subject in certain circumstances to Mr. Nielsen's continued employment on such date. For Mr. Carleton, a transaction bonus of $285,000, paid as soon as practicable following the consummation of the merger, and a retention bonus of $285,000 payable following the one year anniversary of the merger, subject in certain circumstances to Mr. Carleton's continued employment on such date. For Mr. Perri, a transaction bonus of $230,000, paid as soon as practicable following the consummation of the merger, and a retention bonus of $230,000 payable following the one year anniversary of the merger, subject in certain circumstances to Mr. Perri's continued employment on such date. The transaction payment is a single trigger payment, the receipt of which is based solely on the consummation of the merger. The retention bonus is also a single trigger payment, the receipt of which is based both on the consummation of the merger and the continued employment of the executive. However, if on the one year anniversary of the effective date of the merger, the executive is no longer employed by Herald due to the executive's involuntary termination without cause or constructive termination for good reason, the executive will still be entitled to receive his retention bonus on the one year anniversary of the effective date of the merger.

**No "Golden Parachute Compensation" for BankUnited Inc.'s Named Executive Officers**

BankUnited, Inc. has not entered into any agreement or understanding, whether written or unwritten, with any of its named executive officers pursuant to which any named executive officer would be entitled to receive compensation, whether present, deferred or contingent, that is based on or otherwise relates to the merger.

**Litigation Relating to the Merger**

On June 13, 2011 and June 14, 2011, respectively, two purported shareholders of Herald filed lawsuits in the Supreme Court of the State of New York captioned *Stein v. Herald National Bank, et al.,* Index No. 651629/2011 (N.Y. Sup. Ct.) and *Wynne v. Raymond A. Nielsen, et al.*, Index No. 651645/2011 (N.Y. Sup. Ct.). Both purported shareholders' complaints name as defendants Herald, each of the current members of Herald's Board of Directors, whom we refer to as the "director defendants," and BankUnited, Inc. They are brought on behalf of putative classes of Herald's common shareholders and seek declarations that they are properly maintainable as class actions.

In the action capitioned *Stein v. Herald National Bank, et al.*, the complaint alleges that the director defendants breached their fiduciary duties by failing to maximize shareholder value in connection with the merger and placing their own interests above those of Herald. The complaint also alleges that Herald and BankUnited, Inc. aided and abetted those breaches of fiduciary duty. It further alleges that the director defendants failed to take steps to maximize the value of Herald to its public shareholders. The complaint seeks injunctive relief to prevent the consummation of the merger, damages, and costs including plaintiffs', attorneys', and experts' fees.

In the action capitioned *Wynne v. Raymond A. Nielsen, et al.*, the complaint alleges that the director defendants breached their fiduciary duties by failing to maximize shareholder value in connection with the merger and placing their own interests above those of Herald. The complaint also alleges that Herald and BankUnited, Inc. aided and abetted those breaches of fiduciary duty. It further alleges that the director defendants improperly favored BankUnited, Inc. and discouraged alternative bids by agreeing to the merger agreement's no solicitation provision and termination fee provision and entering into voting agreements with BankUnited, Inc. In addition, the complaint claims that the consideration to be received by Herald's common shareholders is wrongful, unfair, and harmful to Herald common shareholders and does not include protections to ensure that the consideration payable to shareholders will remain within a range of reasonableness. The complaint seeks declaratory and injunctive relief to prevent the consummation of the merger, damages, and costs including plaintiffs', attorneys', and experts' fees.

Each of BankUnited, Inc. and Herald believes that the claims asserted are without merit and intends to vigorously defend against these lawsuits.

# THE MERGER AGREEMENT

*The following describes certain aspects of the merger, including certain material provisions of the merger agreement. The following description of the merger agreement is subject to, and qualified in its entirety by reference to, the merger agreement, which is attached to this proxy statement/prospectus as Annex A and is incorporated by reference into this proxy statement/prospectus. We urge you to read the merger agreement carefully and in its entirety, as it is the legal document governing this merger.*

## Structure of the Merger

Subject to the terms and conditions of the merger agreement, in accordance with the National Bank Act, Merger Sub will merge with and into Herald, with Herald continuing as the surviving entity and a wholly-owned subsidiary of BankUnited, Inc. Herald will be the surviving entity in the merger and will continue its existence under the laws of the United States of America. Upon completion of the merger, the separate corporate existence of Merger Sub will cease. Subject to certain approvals and conditions, on the last business day of August 2012, Herald will be merged with and into BankUnited, BankUnited, Inc.'s wholly-owned banking subsidiary, with BankUnited as the surviving entity. Subject to Herald's consent, not to be unreasonably withheld, conditioned or delayed, BankUnited, Inc. may change the structure of its acquisition, provided that no such change (i) alters or changes the amount or kind of the merger consideration, (ii) adversely affects the tax consequences of the integrated mergers to Herald's shareholders or the tax treatment of the parties pursuant to the merger agreement, (iii) likely materially impedes or delays the transaction, or (iv) relieves BankUnited, Inc. of its obligations under the merger agreement.

## Merger Consideration

As a result of the merger Herald shareholders will have the right, with respect to each of their shares of Herald preferred or common stock, to elect to receive merger consideration consisting of either cash or shares of BankUnited, Inc. common stock, subject to adjustment as described below. The aggregate value of the merger consideration will fluctuate with the market price of BankUnited, Inc. common stock and will be determined based on the average of the closing prices of BankUnited, Inc. common stock for the ten trading days ending on the day before the date of completion of the merger.

**If you are a Herald shareholder, whether you make a cash election or a stock election, the value of the consideration that you will receive as of the completion date will be substantially the same based on the average BankUnited, Inc. stock price used to calculate the merger consideration.**

**A chart showing the cash and stock merger consideration at various closing prices of BankUnited, Inc. common stock is provided on Page [ ] of this proxy statement/prospectus.**

Elections must be received by the exchange agent named in the form of election being distributed to Herald shareholders concurrently with this proxy statement/prospectus by 5:00 p.m., New York City time, on **[ ]**, 2011. This is referred to as the election deadline. Any Herald shareholder who either does not return by the election deadline or improperly completes and/or does not sign his, her, or its form of election will receive cash, shares of BankUnited, Inc. common stock or a mixture of cash and shares of BankUnited, Inc. common stock, based on what is available after giving effect to the valid elections made by other shareholders, as well as the adjustments described below. In addition, Herald shareholders may specify different elections with respect to different shares held by them (for example, a shareholder with 100 shares could make a cash election with respect to 50 shares and a stock election with respect to the other 50 shares).

### *Cash Election.*

The merger agreement provides that each Herald shareholder who makes a valid cash election will have the right to receive, in exchange for each share of Herald common or preferred stock, an amount in cash equal to the Per Share Amount (determined as described below). We sometimes refer to this cash amount as the "cash consideration." Based on the closing price of BankUnited, Inc. common stock on **[ ]**, 2011, the cash consideration would be $**[ ]**. The aggregate amount of cash that BankUnited, Inc. has agreed to pay to all Herald shareholders in the merger is fixed at $22,860,611.10 and as a result, even if you make a cash election, you may nevertheless receive a mix of cash and stock.

The "Per Share Amount" is the amount obtained by adding (A) $1.35 and (B) the product, rounded to the nearest one ten thousandth, of 0.0990 times the Purchaser Closing Price.

The "Purchaser Closing Price" is the average, rounded to the nearest ten one thousandth, of the closing prices of BankUnited, Inc. common stock on the NYSE for the ten trading days immediately preceding the date that the merger is completed.

***Stock Election.***

The merger agreement provides that each Herald shareholder who makes a valid stock election will have the right to receive, in exchange for each share of Herald common or preferred stock, a fraction of a share of BankUnited, Inc. common stock equal to the Exchange Ratio (determined as described below). We sometimes refer to such fraction of a share of BankUnited, Inc. common stock as the "stock consideration." Based on the closing price of BankUnited, Inc. common stock on **[ ]** 2011, the stock consideration was **[ ]** shares of BankUnited, Inc. common stock. The total number of shares of BankUnited, Inc. common stock that will be issued in the merger will be fixed as of the closing of the merger and as a result, even if you make a stock election, you may nevertheless receive a mix of cash and stock.

The "Exchange Ratio" is defined in the merger agreement as the quotient, rounded to the nearest one ten thousandth, obtained by dividing the Per Share Amount (determined as described above) by the Purchaser Closing Price (determined as described above).

No fractional shares of BankUnited, Inc. common stock will be issued to any holder of Herald preferred or common stock upon completion of the merger. For each fractional share that would otherwise be issued, BankUnited, Inc. will pay cash in an amount equal to the fraction multiplied by the Purchaser Closing Price. No interest will be paid or accrued on cash payable to holders in lieu of fractional shares.

***Non-Election Shares.***

Herald shareholders who make no election to receive cash or BankUnited, Inc. common stock in the merger, whose elections are not received by the exchange agent by the election deadline, or whose forms of election are improperly completed and/or are not signed will be deemed not to have made an "election." Shareholders not making an election may be paid in cash, BankUnited, Inc. common stock or a mix of cash and shares of BankUnited, Inc. common stock depending on, and after giving effect to, the number of valid cash elections and stock elections that have been made by other Herald shareholders using the proration adjustment described below.

**Adjustment**

The total number of shares of BankUnited, Inc. common stock that will be issued in the merger is approximately **[ ]** million, based on the closing price of BankUnited, Inc. common stock on **[ ]** 2011 and the number of Herald shares outstanding on that date, and the cash that will be paid in the merger is fixed at $22,860,611.10. If the number of shares of Herald common stock outstanding increases prior to the date of completion of the merger due to the exercise of outstanding options to purchase or receive shares of Herald common stock, the aggregate number of shares of BankUnited, Inc. common stock to be issued as consideration in the merger will be increased accordingly. The final number of BankUnited, Inc. shares to be issued in the merger will also depend on the average closing price of BankUnited, Inc. common stock during the ten trading days immediately preceding the date that the merger is completed. However, the cash consideration will always remain fixed at $22,860,611.10.

The cash and stock elections are subject to adjustment to preserve the limitation described above on the number of shares of BankUnited, Inc. common stock and the amount of cash to be issued and paid in the merger. As a result, even if you make a cash election or stock election, you may nevertheless receive a mix of cash and stock, only cash, or only stock.

***Adjustment if the Cash Pool is Oversubscribed by Preferred Shareholders.***

Stock may be paid to preferred and common shareholders who make cash elections if the available $22,860,611.10 is insufficient to provide all of the preferred shareholders who elect to receive cash with all of the consideration for their shares in cash. The total number of shares of Herald preferred stock for which valid cash elections are made is referred to as the "Preferred Cash Election Number." The maximum number of preferred shares which may be converted into cash consideration, which we refer to as the "Preferred Cash Conversion Number," is equal to the quotient obtained by dividing (1) $22,860,611.10 by (2) the Per Share Amount. For example, if the Per Share Amount were $5.0001, the Preferred Cash Conversion Number would be approximately 4,572,030.78 ($22,860,611.10 / $5.0001), meaning that no more than 4,572,030 shares of Herald preferred stock can be converted into the right to receive $5.0001 in cash, regardless of whether holders of more preferred shares have made cash elections.

If the Preferred Cash Election Number is greater than the Preferred Cash Conversion Number, the cash election is oversubscribed. If the cash election is oversubscribed, then:

a Herald shareholder making a stock election, no election or an invalid election will receive the stock consideration for each share of Herald preferred or common stock as to which he, she, or it made a stock election, no election, or an invalid election;

a Herald common shareholder making a cash election will receive the stock consideration for each share of Herald common stock as to which he, she, or it made a cash election; and

a Herald preferred shareholder making a cash election will receive:

o the cash consideration for a number of Herald preferred shares equal to the product obtained by multiplying (1) the number of Herald preferred shares for which such shareholder has made a cash election by (2) a fraction, the numerator of which is the Preferred Cash Conversion Number and the denominator of which is the Preferred Cash Election Number; and

o the stock consideration for the remaining Herald preferred shares for which the shareholder made a cash election.

**Example A. Oversubscription of Cash Pool by Preferred Shareholders.**

Assuming that:

the Preferred Cash Conversion Number was 4,572,030.78, and

the Preferred Cash Election Number was 4,684,928 (in other words, only 4,572,030.78 shares of Herald preferred stock can receive the cash consideration, but Herald preferred shareholders have made cash elections with respect to 4,684,928 shares of Herald preferred stock),

then a Herald preferred shareholder making a cash election with respect to 1,000 shares of Herald preferred stock would receive the cash consideration with respect to approximately 976 Herald shares (1,000 * 4,572,030.78 / 4,684,928) and the stock consideration with respect to the remaining approximately 24 shares of Herald preferred stock. Therefore, if the Purchaser Closing Price was equal to $36.87, that Herald shareholder would receive three shares of BankUnited, Inc. common stock and $4,889.48 in cash.

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***Adjustment if Cash Pool is Oversubscribed by Common Shareholders.***

Stock may be paid to common shareholders who make cash elections if the available $22,860,611.10 cash pool is insufficient to provide preferred and common shareholders who made cash elections with the cash consideration. The amount of cash consideration available after cash consideration has been allocated to the shares of Herald preferred stock for which valid cash elections are made is referred to as the "Remaining Cash Component." The total number of shares of Herald common stock for which valid cash elections are made is referred to as the "Cash Election Number." The number of shares of Herald common stock and shares of preferred stock for which no valid elections have been made that will be converted into the right to receive cash in the merger, which we refer to as the "Cash Conversion Number," is equal to the quotient obtained by dividing (1) the Remaining Cash Component by (2) the Per Share Amount. For example, if the Remaining Cash Component was $3,498,272.17 and the Per Share Amount was $4.1329, the Cash Conversion Number would be approximately 846,444.91 ($3,498,272.17 / $4.1329), meaning that 846,444.91 common shares and shares of preferred stock for which no valid elections have been made must be converted into the right to receive $4.1329 in cash, regardless of whether Herald shareholders have made cash elections for a greater or lesser number of Herald shares.

If the Preferred Cash Election Number is greater than or equal to the Preferred Cash Conversion Number, then the Remaining Cash Component, and therefore the Cash Conversion Number, would be equal to zero and all shares of Herald common stock and shares of preferred stock for which no valid elections have been made would receive the stock consideration. If the Cash Conversion Number is greater than zero and the Cash Election Number is greater than the Cash Conversion Number, the cash election is oversubscribed by common shareholders. If the cash election is oversubscribed by common shareholders, then:

- a Herald common or preferred shareholder making a stock election, no election or an invalid election will receive the stock consideration for each share of Herald common or preferred stock as to which he, she, or it made a stock election, no election or an invalid election;

- a Herald preferred shareholder making a cash election would receive the cash consideration for each share as to which he, she, or it made a valid cash election; and

- a Herald common shareholder making a cash election will receive:

  o the cash consideration for a number of Herald shares equal to the product obtained by multiplying (1) the number of Herald shares for which such shareholder has made a cash election by (2) a fraction, the numerator of which is the Cash Conversion Number and the denominator of which is the Cash Election Number; and

  o the stock consideration for the remaining Herald shares for which the shareholder made a cash election.

**Example B. Oversubscription of Cash Pool by Common Shareholders.**

Assuming that:

- the Cash Conversion Number was 846,444.91, and

- the Cash Election Number was 4,000,000 (in other words, only 846,444.91 shares of Herald common and non-electing preferred stock can receive the cash consideration, but Herald common shareholders have made cash elections with respect to 4,000,000 shares of Herald common stock),

then a Herald shareholder making a cash election with respect to 1,000 shares of Herald common stock would receive the cash consideration with respect to approximately 212 shares of Herald common stock (1,000 * 846,444.91 / 4,000,000) and the stock consideration with respect to the remaining approximately 788 shares of Herald common stock. Therefore, if the Purchaser Closing Price were equal to $28.11, that Herald shareholder would receive 115 shares of BankUnited, Inc. common stock and $899.68 in cash.

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***Adjustment if the Cash Pool is Undersubscribed.***

Cash may be issued to shareholders who make stock elections if the available $22,860,611.10 cash pool is undersubscribed. If the Cash Election Number is less than the Cash Conversion Number, the cash election is undersubscribed. The amount by which the Cash Election Number is less than the Cash Conversion Number is referred to as the "Shortfall Number."

If the cash election is undersubscribed, then all Herald shareholders making a cash election will receive the cash consideration for all shares of Herald stock as to which they have made a cash election. Herald common shareholders making a stock election, Herald shareholders who make no election and Herald shareholders who failed to make a valid election will receive cash and/or BankUnited, Inc. common stock based in part on whether the Shortfall Number is less or greater than the number of non-election shares, as described below. Herald preferred shareholders making valid elections will receive the form of merger consideration they elected to receive.

***Scenario 1: Shortfall Number is Less than or Equal to Number of Non-Election Shares.*** If the Shortfall Number is less than or equal to the number of non-election shares, then:

- a Herald shareholder making a stock election will receive the stock consideration for each Herald share as to which he, she, or it made a stock election; and

- a Herald shareholder who made no election or who did not make a valid election with respect to any of his, her, or its shares will receive:

  o the cash consideration with respect to the number of Herald shares equal to the product obtained by multiplying (1) the number of non-election shares held by such Herald shareholder by (2) a fraction, the numerator of which is the Shortfall Number and the denominator of which is the total number of non-election shares; and

  o the stock consideration with respect to the remaining non-election shares held by such shareholder.

**Example C1. Undersubscription of Cash Pool and Shortfall Number Less than Number of Non-Election Shares.**

Assuming that:

- the Cash Conversion Number was 846,444.91,

- the Cash Election Number is 600,000 (in other words, approximately 846,444.91 Herald common and non-electing preferred shares must be converted into the cash consideration but Herald shareholders have made a cash election with respect to only 600,000 shares of Herald common stock, so the Shortfall Number is approximately 246,444.91), and

- the total number of non-election shares is 2,000,000,

then a Herald shareholder that has not made an election with respect to 1,000 Herald shares would receive the cash consideration with respect to approximately 123 Herald shares (1,000 * 246,444.91 / 2,000,000) and the stock consideration with respect to the remaining approximately 877 Herald shares. Therefore, if the Purchaser Closing Price was equal to $28.11, that Herald shareholder would receive 128 shares of BankUnited, Inc. common stock and $534.18 in cash.

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***Scenario 2: Shortfall Number Exceeds Number of Non-Election Shares.*** If the Shortfall Number exceeds the number of non-election shares, then:

- a Herald shareholder who made no election or who has not made a valid election will receive the cash consideration for each share of Herald preferred or common stock for which he, she, or it did not make a valid election; and

- a Herald common shareholder making a stock election will receive:

  - o the cash consideration with respect to the number of Herald shares equal to the product obtained by multiplying (1) the number of Herald common shares with respect to which the shareholder made a stock election by (2) a fraction, the numerator of which is equal to the amount by which the Shortfall Number exceeds the number of non-election shares and (2) the denominator of which equal to the total number of common shares for which a stock election was made; and

  - o stock consideration with respect to the remaining Herald shares held by such shareholder as to which he, she, or it made a stock election.

**Example C2. Undersubscription of Cash Pool and Shortfall Number Exceeds Number of Non Election Shares.**

Assuming that:

- the Cash Conversion Number is 5,531,372.91,

- the Cash Election Number is 2,000,000 (in other words, approximately 5,531,372.91 Herald common and non-electing preferred shares must be converted into the cash consideration but Herald common shareholders have made a cash election with respect to only 2,000,000 Herald shares, so the Shortfall Number is approximately 3,531,372.91),

- the number of non-election shares is 2,000,000 (so the Shortfall Number exceeds the number of non-election shares by approximately 1,531,372.91), and

- the number of stock election shares is 8,248,858,

then a Herald shareholder that has made a stock election with respect to 1,000 Herald shares would receive the cash consideration with respect to approximately 186 Herald shares (1,000 * 1,531,372.91 / 8,248,858) and the stock consideration with respect to the remaining approximately 814 Herald shares. Therefore, if the Purchaser Closing Price were equal to $28.11, that Herald shareholder would receive 119 shares of BankUnited, Inc. common stock and $787.22 in cash.

**Closing**

The completion of the merger will occur no later than three business days after the satisfaction or waiver of all closing conditions, unless extended by mutual agreement of the parties.

**Effective Time of the Merger**

The merger will become effective as of the date and time specified in the Notice of Consummation to be filed with the OCC. We intend to file the Notice of Consummation as soon as practicable after the satisfaction or waiver of the closing conditions in the merger agreement.

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## Merger of BankUnited and Herald

BankUnited, Inc. will cause Herald to merge with and into BankUnited, BankUnited, Inc.'s wholly-owned banking subsidiary, with BankUnited surviving, on the last business day of August 2012 provided that (1) all required consents and approvals of, filings with and notices to all governmental entities required to consummate such merger shall have been made or obtained, and (b) BankUnited, Inc. shall have obtained assurances from the applicable bank regulatory authorities, satisfactory to BankUnited, Inc. in its sole judgment, that all regulatory agreements in effect with respect to Herald shall no longer be operative after such merger. If such conditions have not been satisfied by the last business day of August 2012, such merger will occur promptly following the satisfaction thereof.

## Treatment of Herald Options and Other Equity Based Awards

### *Options*

At the effective time of the merger, each outstanding option to acquire a share of Herald common stock will vest and be converted into a BankUnited, Inc. option to acquire a number of shares equal to the product obtained by multiplying the number of shares of Herald common stock that were purchasable under such option immediately prior to the merger by the Exchange Ratio, rounded down to the nearest whole share, and shall continue to be governed by the same terms and conditions as were applicable under such option immediately prior to the effective time. The per share exercise price for each Herald option will equal the quotient obtained by dividing (1) the per share exercise price of the option in effect immediately prior to the effective time of the merger by (2) the Exchange Ratio, rounded up to the nearest whole cent.

### *Restricted Stock*

At the effective time of the merger, each outstanding share of Herald restricted stock will become fully vested and will be treated for purposes of the election and proration provisions of the merger agreement as shares of common stock for which no election has been made.

## Treatment of Herald Warrants

At the effective time of the merger, BankUnited, Inc. will assume and cause to be performed all obligations of Herald pursuant to the Stock Warrant Agreement, dated as of November 24, 2008, by Herald in favor of the parties listed on Exhibit A thereto. Each warrant so assumed by BankUnited, Inc. will continue to have, and be subject to, the same terms and conditions set forth in that agreement immediately prior to the effective time of the merger, except that each such outstanding warrant will be exercisable for shares of BankUnited, Inc. common stock and cash in the same proportion that the holders of Herald common stock receive in the aggregate in the merger as measured as of the effective time.

## Conversion of Shares; Exchange of Certificates; Elections as to Form of Consideration

The conversion of Herald common and preferred stock into the right to receive the merger consideration will occur automatically at the effective time of the merger. As soon as reasonably practicable after the effective time of the merger, the exchange agent will exchange certificates representing shares of Herald preferred and common stock for merger consideration to be received in the merger pursuant to the terms of the merger agreement.

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***Form of Election***

The merger agreement provides that at the time this proxy statement/prospectus is made available to shareholders, Herald shareholders will be provided with a form of election. Each form of election will allow the holder to make cash or stock elections. The exchange agent will also make available forms of election to holders of Herald preferred and common stock who request the form of election prior to the election deadline.

Holders of Herald preferred and common stock who wish to elect the type of merger consideration they will receive in the merger should carefully review and follow the instructions set forth in the form of election. Shareholders who hold their shares in "street name" should follow their broker's instructions for making an election with respect to such shares. Shares of Herald common and preferred stock as to which the holder has not made a valid election prior to the election deadline, which is 5:00 p.m., New York City time, on **[ ]**, 2011, the day prior to the date of the Herald special meeting, will be treated as though they had not made an election.

To make an election, a holder of Herald preferred or common stock must submit a properly completed form of election, together with stock certificates, so that it is actually received by the exchange agent at or prior to the election deadline in accordance with the instructions on the form of election.

A form of election will be properly completed only if accompanied by certificates representing all shares of Herald preferred and common stock covered by the form of election (or appropriate evidence as to the loss, theft or destruction, appropriate evidence as to the ownership of that certificate by the claimant, and appropriate and customary indemnification, as described in the form of election). If a shareholder cannot deliver his or her stock certificates to the exchange agent by the election deadline, a shareholder may deliver a notice of guaranteed delivery promising to deliver his or her stock certificates, as described in the form of election, so long as (1) the guarantee of delivery is from a firm which is a member of the NYSE or another registered national securities exchange or a commercial bank or trust company having an office in the United States and (2) the actual stock certificates are in fact delivered to the exchange agent by the time set forth in the guarantee of delivery.

Generally, an election may be revoked or changed, but only by written notice received by the exchange agent prior to the election deadline accompanied by a properly completed and signed form of election. If an election is revoked, or the merger agreement is terminated, and any certificates have been transmitted to the exchange agent, the exchange agent will promptly return those certificates to the shareholder who submitted those certificates via first-class mail or, in the case of shares of Herald preferred or common stock tendered by book-entry transfer into the exchange agent's account at the Depository Trust Company, or "DTC," by crediting to an account maintained by such shareholder within DTC promptly following the termination of the merger agreement or revocation of the election.

Herald shareholders will not be entitled to revoke or change their elections following the election deadline. As a result, shareholders who have made elections will be unable to revoke their elections or sell their shares of Herald preferred and common stock during the interval between the election deadline and the date of completion of the merger.

Shares of Herald preferred and common stock as to which the holder has not made a valid election prior to the election deadline, including as a result of revocation, will be deemed non-election shares. If it is determined that any purported cash election or stock election was not properly made, the purported election will be deemed to be of no force or effect and the holder making the purported election will be deemed not to have made an election for these purposes, unless a proper election is subsequently made on a timely basis.

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### *Letter of Transmittal*

Soon after the completion of the merger, the exchange agent will send a letter of transmittal to only those persons who were Herald shareholders at the effective time of the merger and who have not previously submitted a form of election and properly surrendered shares of Herald preferred and common stock to the exchange agent. This mailing will contain instructions on how to surrender shares of Herald preferred and common stock (if these shares have not already been surrendered) in exchange for the merger consideration the holder is entitled to receive under the merger agreement.

If a certificate for Herald preferred or common stock has been lost, stolen or destroyed, the exchange agent will issue the consideration properly payable under the merger agreement upon the making of an affidavit of that fact by the person claiming such stock certificates to be lost, stolen or destroyed and, if required by BankUnited, Inc. or the exchange agent, the posting by such person of a bond in such sum as BankUnited, Inc. may reasonably direct.

### *Dividends and Distributions*

Until Herald common and preferred stock certificates are surrendered for exchange, any dividends or other distributions declared after the effective time with respect to BankUnited, Inc. common stock into which shares of Herald preferred or common stock may have been converted will accrue but will be paid by BankUnited, Inc. to the exchange agent. Subject to the effect of applicable abandoned property, escheat or similar laws, following surrender of any such Herald stock certificate there shall be paid to the holder of a BankUnited, Inc. stock certificate representing whole shares of BankUnited, Inc. common stock issued in exchange therefor, without interest, (i) at the time of such surrender, the amount of dividends or other distributions with a record date after the effective time theretofore paid with respect to such whole shares of BankUnited, Inc. common stock and the amount of any cash payable in lieu of a fractional share of BankUnited, Inc. common stock to which such holder is entitled, and (ii) at the appropriate payment date, the amount of dividends or other distributions with a record date after the effective time but prior to such surrender and with a payment date subsequent to such surrender payable with respect to such whole shares of BankUnited, Inc. common stock.

### *Withholding*

The exchange agent will be entitled to deduct and withhold from the merger consideration payable to any Herald shareholder the amounts it is required to deduct and withhold under any federal, state, local or foreign tax law. If the exchange agent withholds any amounts, these amounts will be treated for all purposes of the merger as having been paid to the shareholders in respect of whom the amounts were withheld.

## Representations and Warranties

The merger agreement contains representations and warranties made by Herald to BankUnited, Inc. relating to a number of matters, including the following:

- corporate organization, qualification to do business, standing and power, and subsidiaries;
- capitalization;
- requisite corporate authority to enter into the merger agreement and to complete the contemplated transactions;
- absence of conflicts with (a) governing documents, (b) indentures or other instruments, or (c) applicable laws as a result of entering into the merger agreement or completing the merger;

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- required regulatory and third-party consents necessary in connection with the merger;
- proper filing of documents with regulatory agencies and the OCC and the accuracy of information contained in the documents filed with the OCC;
- the conformity with U.S. GAAP and the SEC and OCC requirements of Herald's financial statements filed with the OCC and the absence of undisclosed liabilities;
- broker's and finder's fees related to the merger;
- the absence of a material adverse effect since December 31, 2010;
- compliance with applicable law;
- non-applicability of any state or federal takeover laws;
- employee compensation and benefits matters;
- opinion from financial advisor;
- accuracy of Herald information provided in this proxy statement/prospectus;
- legal proceedings;
- material contracts;
- environmental matters;
- tax matters;
- intellectual property;
- properties;
- insurance;
- accounting and internal controls;

- derivatives;
- labor matters;
- Herald's loan portfolio;
- related party transactions; and
- agreements with regulatory agencies.

The merger agreement also contains representations and warranties made by BankUnited, Inc. and to be made by Merger Sub to Herald relating to a number of matters, including the following:

- corporate organization, qualification to do business, registration as a savings and loan company;
- capitalization;
- requisite corporate authority to enter into the merger agreement and to complete the contemplated merger;
- absence of conflicts with (a) governing documents, (b) indentures or other instruments, or (c) applicable laws as a result of entering into the merger agreement or completing the merger;
- required regulatory or third-party consents necessary in connection with the merger;

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- proper filing of documents with regulatory agencies and the SEC and the accuracy of information contained in the documents filed with the SEC;
- the conformity with U.S. GAAP and the SEC requirements of BankUnited, Inc.'s financial statements filed with the SEC;
- broker's and finder's fees related to the merger;
- compliance with applicable law;
- legal proceedings;
- the absence of a material adverse effect since December 31, 2010;
- accuracy of BankUnited, Inc.'s information provided in this proxy statement/prospectus;
- absence of action or agreement to impede the merger from qualifying as a reorganization;
- accounting and internal controls;
- due authorization of BankUnited, Inc. common stock to be issued in the merger; and
- availability of funds to pay the cash merger consideration.

This summary, and the copy of the merger agreement attached to this proxy statement/prospectus as Annex A, are included solely to provide investors with information regarding the terms of the merger agreement. They are not intended to provide any other factual information about Herald or BankUnited, Inc. or any of their respective subsidiaries or affiliates. The representations, warranties and covenants contained in the merger agreement were made only for purposes of that agreement and as of specific dates, were solely for the benefit of the parties to the merger agreement, may be subject to limitations agreed upon by the contracting parties, including being qualified by confidential disclosures made for the purposes of allocating contractual risk between the parties to the merger agreement instead of establishing these matters as facts, and may be subject to standards of materiality applicable to the contracting parties that differ from those applicable to investors. Investors are not third-party beneficiaries under the merger agreement and should not rely on the representations, warranties, and covenants or any descriptions thereof as characterizations of the actual state of facts or condition of Herald or BankUnited, Inc., or any of their respective subsidiaries or affiliates. Moreover, information concerning the subject matter of the representations and warranties may change after the date of the merger agreement, which subsequent information may or may not be fully reflected in the periodic and current reports and statements Herald files with the OCC and BankUnited, Inc. files with the SEC. The representations and warranties, covenants and other provisions of the merger agreement should not be read alone, but instead should be read only in conjunction with the information provided elsewhere in this proxy statement/prospectus.

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Certain of these representations and warranties are qualified as to "materiality" or "material adverse effect." For purposes of the merger agreement, a "material adverse effect" with respect to BankUnited, Inc. or Herald, as the case may be, means, with respect to any party, a material adverse effect on (i) the condition (financial or otherwise), results of operations, assets, liabilities or business of such party and its subsidiaries taken as a whole (provided, however, that, with respect to this clause (i), a "material adverse effect" shall not be deemed to include effects arising out of, relating to or resulting from (A) changes after the date of the merger agreement in applicable GAAP or regulatory accounting requirements, (B) changes after the date of the merger agreement in laws, rules or regulations of general applicability to companies in the industries in which such party and its subsidiaries operate, (C) changes after the date of the merger agreement in global, national or regional political conditions or general economic or market conditions (including changes in prevailing interest rates, credit availability and liquidity, currency exchange rates, and price levels or trading volumes in the United States or foreign securities markets) affecting other companies in the industries in which such party and its subsidiaries operate, (D) changes after the date of the merger agreement in the credit markets, any downgrades in the credit markets, or adverse credit events resulting in deterioration in the credit markets generally and including changes to any previously correctly applied asset marks resulting therefrom, (E) failure, in and of itself, to meet earnings projections, but not including any underlying causes thereof, (F) the public disclosure of the merger agreement or the transactions contemplated thereby or the consummation of the transactions contemplated thereby, (G) any outbreak or escalation of hostilities, declared or undeclared acts of war or terrorism, or (H) actions or omissions taken with the prior written consent of the other party or expressly required by the merger agreement except, with respect to clauses (A), (B), (C), (D) and (G), to the extent that the effects of any such change are disproportionately adverse to the condition (financial or otherwise), results of operations, assets, liabilities or business of such party and its subsidiaries, taken as a whole, as compared to other companies in the industry in which such party and its subsidiaries operate) or (ii) the ability of such party to timely consummate the transactions contemplated by the merger agreement.

The representations and warranties in the merger agreement do not survive the effective time of the merger and, as described below under "Termination of the Merger Agreement" if the merger agreement is validly terminated, there will be no liability under the representations and warranties of the parties, or otherwise under the merger agreement, unless a party willfully breached the merger agreement.

## Covenants and Agreements

### *Conduct of Businesses Prior to the Completion of the Merger*

Herald has agreed that, prior to the effective time of the merger, it will conduct its businesses in the ordinary course consistent with past practice and use reasonable best efforts to maintain and preserve intact its business organization and its rights and permits issued by governmental entities, keep available the services of its current officers and key employees and preserve its relationships with customers, suppliers, governmental entities, and others having business dealings with it to the end that its goodwill and ongoing businesses shall be unimpaired.

In addition to the general covenants above, Herald has agreed that prior to the effective time of the merger, except as expressly contemplated or permitted by the merger agreement, it will not, and will not permit its subsidiaries to, without the prior written consent of BankUnited, Inc. (not to be unreasonably withheld):

- issue, sell or otherwise permit to become outstanding, or dispose of or encumber or pledge, or authorize or propose the creation of, any additional shares of its stock or options, warrants, or other rights to purchase its stock or permit any additional shares of its stock or options, warrants, or other rights to purchase its stock to become subject to new grants, except for issuances under dividend reinvestment plans and the employee benefit plans, in the ordinary course of business;

make, declare, pay or set aside for payment any dividend or declare or make any distribution on any shares of its stock;

directly or indirectly adjust, split, combine, redeem, reclassify, purchase or otherwise acquire, any shares of its stock;

amend the terms of, waive any rights under, terminate, knowingly violate the terms of or enter into (i) any contract or other binding obligation that is material to Herald, (ii) any material restriction on the ability of Herald to conduct its business as it is presently being conducted, or (iii) any contract or other binding obligation relating to Herald's common or preferred stock or any other outstanding capital stock or any outstanding instrument of indebtedness;

sell, transfer, mortgage, encumber, license, let lapse, cancel, abandon or otherwise dispose of or discontinue any of its assets, deposits, business or properties, except for those in the ordinary course of business and in transactions that are not material;

acquire (other than by way of foreclosures or acquisitions of control in a fiduciary or similar capacity or in satisfaction of debts previously contracted in good faith, in each case in the ordinary course of business) all or any portion of the assets, business, deposits or properties of any other entity except in the ordinary course of business and in transactions that are not material, and that do not present a material risk that the completion of the merger will be materially delayed or that the required regulatory approvals will be more difficult to obtain;

amend Herald's articles of association or Herald's by-laws;

implement or adopt any change in its accounting principles, practices or methods, other than as may be required by GAAP or applicable regulatory accounting requirements;

(A) except as required under applicable law or the terms of any Herald benefit plan existing as of the date of the merger agreement (i) increase in any manner the compensation or benefits of any of the current or former directors, officers, employees, consultants, independent contractors or other service providers of Herald, other than increases to such persons who are not directors or executive officers of Herald in the ordinary course consistent with past practice, (ii) become a party to, establish, amend, commence participate in, terminate or commit itself to the adoption of any stock option plan or other stock-based compensation plan, compensation, severance, pension, retirement, profit-sharing, welfare benefit, or other employee benefit plan or agreement or employment agreement with or for the benefit of any such person (or newly hired employees), (iii) accelerate the vesting of or lapsing of restrictions with respect to any stock-based compensation or other long-term incentive compensation under any Herald benefit plan, (iv) cause the funding of any rabbi trust or similar arrangement or take any action to fund or in any other way secure the payment of compensation or benefits under any Herald benefit plan, or (v) materially change any actuarial assumptions used to calculate funding obligations with respect to any Herald benefit plan that is required by applicable law to be funded or change the manner in which contributions to such plans are made or the basis on which such contributions are determined, except as may be required by GAAP or applicable law, or (B) hire or terminate the employment of a Chief Executive Officer, President, Chief Financial Officer, Chief Risk Officer, Chief Credit Officer, Internal Auditor, General Counsel or any other officer holding the position of Senior Vice President or senior;

except as may be required by applicable law, regulation or policies imposed by any governmental entity, (i) take any action that would reasonably be expected to prevent, materially impede or materially delay the merger, (ii) take any action, or omit to take any action, which action or

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failure to act is reasonably likely to result in any of the conditions to the merger not being satisfied, or (iii) take any action, or omit to take any action, which action or failure to act is reasonably likely to prevent the integrated mergers from together qualifying as a reorganization within the meaning of Section 368(a) of the Code;

incur or guarantee any indebtedness for borrowed money other than in the ordinary course of business;

enter into any new line of business or materially change its lending, investment, underwriting, risk and asset liability management and other banking and operating policies, except as required by a regulatory agency;

other than in consultation with BankUnited, Inc., make any material change to its investment securities portfolio, derivatives portfolio or its interest rate exposure, or the manner in which the portfolio is classified or reported, except as required by a regulatory agency;

settle any legal proceeding in an amount in excess of $75,000 individually, for employment-related legal proceedings, or $150,000 individually, for all other proceedings, or $250,000 in the aggregate for employment-related actions, suits, claims or proceedings, or $500,000 in the aggregate for all actions, suits, claims or proceedings, and in each case that would not (i) impose any restriction on Herald's business or (ii) create precedent for claims that is reasonably likely to be material to Herald;

apply for or open, relocate, or close any branch office, loan production office or other significant office or operations facility;

make or change any material tax elections, change or consent to any change in it or its subsidiaries' method of accounting for tax purposes (except as required by applicable tax law), take any material position on any material tax return filed on or after the date of the merger agreement, settle or compromise any material tax liability, claim or assessment, enter into any closing agreement, waive or extend any statute of limitations with respect to a material amount of taxes, surrender any right to claim a refund for a material amount of taxes, or file any material amended tax return;

engage in (or modify in a manner adverse to Herald) any transactions (except for any ordinary course banking relationships permitted under applicable law) with any affiliate of Herald or any director or officer (senior vice president or above) of Herald (or any affiliate or immediate family member of any such person or any affiliate of such person's immediate family members); or

agree to take, make any commitment to take, or adopt any resolutions of its Board of Directors in support of, any of the above prohibited actions.

BankUnited, Inc. has agreed to a more limited set of restrictions on its business prior to the completion of the merger. Specifically, BankUnited, Inc. has agreed that prior to the effective time of the merger, except as expressly permitted by the merger agreement, it will not, without the prior written consent of Herald (not to be unreasonably withheld):

amend BankUnited, Inc.'s by-laws or similar governing documents of any of its significant subsidiaries in a manner that would materially and adversely affect the economic benefits of the merger to Herald shareholders or that would materially impede BankUnited, Inc.'s ability to consummate the merger;

except as may be required by applicable law, regulation or policies imposed by any governmental entity (i) take any action that would reasonably be expected to prevent, materially impede or materially delay the consummation of the transactions contemplated by the merger agreement,

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or (ii) take, or omit to take, any action that is reasonably likely to result in the conditions to the merger not being satisfied; or

agree to take, make any commitment to take, or adopt any resolutions of its Board of Directors in support of, any of the above prohibited actions.

***Regulatory Matters***

BankUnited, Inc. and Herald have agreed to promptly prepare and file with the SEC a registration statement on Form S-4, of which this proxy statement/prospectus is a part, as well as a proxy statement with the OCC, in each case not later than 45 days after the date of the merger agreement. BankUnited, Inc. and Herald have agreed to use reasonable best efforts to have the Form S-4 declared effective under the Securities Act, and the proxy statement cleared by the OCC, as promptly as practicable after such filing, and to mail or deliver the proxy statement/prospectus to Herald's shareholders. BankUnited, Inc. has also agreed to use its reasonable best efforts to obtain all necessary state securities law or "Blue Sky" permits and approvals required to consummate the merger, and Herald has agreed to furnish all information concerning Herald and the holders of Herald preferred and common stock as may be reasonably requested in connection with any such action.

BankUnited, Inc. and Herald have agreed to cooperate with each other and use their respective reasonable best efforts to promptly prepare and file all necessary documentation, to effect all applications, notices, petitions and filings, to obtain as promptly as practicable all permits, consents, approvals and authorizations of all third parties and governmental entities that are necessary or advisable to consummate the transactions contemplated by the merger agreement (including the merger), and, subject to the terms the merger agreement, to comply with the terms and conditions of all such permits, consents, approvals and authorizations of all such third parties or governmental entities.

In addition, Herald has agreed, to the extent permitted by applicable law, to (i) promptly advise BankUnited, Inc. of the receipt of any substantive communication from a governmental entity with respect to the transactions contemplated by the merger agreement, (ii) provide BankUnited, Inc. with a reasonable opportunity to participate in the preparation of any response thereto and the preparation of any other substantive submission or communication to any governmental entity with respect to the transactions contemplated by the merger agreement and to review any such response, submission or communication prior to the filing or submission thereof, and (iii) provide BankUnited, Inc. with the opportunity to participate in any meetings or substantive telephone conversations that Herald or its representatives may have from time to time with any governmental entity with respect to the transactions contemplated by the merger agreement.

Notwithstanding the foregoing, nothing in the merger requires BankUnited, Inc. or Merger Sub to take any action if the taking of such action or the obtaining of or compliance with any permits, consents, approvals or authorizations is reasonably likely to result in any restriction, requirement or condition that, individually or in the aggregate, would, after the merger, reasonably be expected to restrict or burden BankUnited, Inc. or any of its affiliates (i) in connection with the merger or (ii) with respect to the business or operations of BankUnited, Inc. or any of its affiliates that would, in the case of either (i) or (ii), have a material adverse effect on BankUnited, Inc. or any of its affiliates, in each case measured on a scale relative to Herald.

***Shareholder Approval***

Herald's Board of Directors has resolved to recommend to Herald's shareholders that they ratify and confirm the merger agreement and agreed that it will submit to Herald's shareholders the merger agreement and any other matters required to be approved by Herald's shareholders in order to carry out the intentions of the merger agreement. In furtherance of that obligation, Herald has agreed to

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take, in accordance with applicable law and Herald's articles of association and Herald's by-laws, all action necessary to convene a meeting of its shareholders, as promptly as practicable, to consider and vote upon the ratification and confirmation of the merger agreement as well as any other such matters. Herald's Board of Directors has agreed to use all reasonable best efforts to obtain from its shareholders a vote for the ratification and confirmation of the merger agreement. However, if Herald's Board of Directors, after consultation with (and based on the advice of) outside counsel, determines in good faith that, because of the receipt by Herald of an Acquisition Proposal (as defined below) that Herald's Board of Directors concludes in good faith constitutes a Superior Proposal (as defined below), it would result in a violation of its fiduciary duties under applicable law to continue to recommend the merger agreement, then in submitting the merger agreement to Herald's shareholders, Herald's Board of Directors may submit the merger agreement to its shareholders without recommendation (although the resolutions approving the merger agreement as of the date thereof may not be rescinded or amended), in which event Herald's Board of Directors may communicate the basis for its lack of a recommendation to the shareholders in this proxy statement/prospectus or an appropriate amendment or supplement thereto to the extent required by law; provided that Herald may not take any actions under this sentence until after giving BankUnited, Inc. at least five business days to respond to any such Acquisition Proposal (and after giving BankUnited, Inc. notice of the latest material terms, conditions and identity of the third party in any such Acquisition Proposal) and then taking into account any amendment or modification to the merger agreement proposed by BankUnited, Inc. (any modification to any Acquisition Proposal shall constitute a new Acquisition Proposal triggering a new five business day response period for BankUnited, Inc.).

Nothing contained in the merger agreement, however, would relieve Herald of its obligation to submit the merger agreement to its shareholders for a vote and Herald may not submit to the vote of its shareholders any Acquisition Proposal.

***NYSE Listing***

BankUnited, Inc. will cause the shares of BankUnited, Inc. common stock to be issued in the merger to have been authorized for listing on the NYSE, subject to official notice of issuance, prior to the effective time of the merger.

***Employee Matters***

Following the completion of the merger, BankUnited, Inc. has agreed to maintain or cause to be maintained employee benefit plans for the benefit of employees (as a group) who are actively employed by Herald on the closing date of the merger, which are referred to as "covered employees," that provide employee benefits which are substantially comparable to the employee benefits that are generally made available to similarly situated employees of BankUnited, Inc. or its subsidiaries (other than Herald), as applicable, subject to certain qualifications.

In addition, BankUnited, Inc. has agreed, to the extent that a covered employee becomes eligible to participate in a BankUnited, Inc. benefit plan following the completion of merger, that BankUnited, Inc. will cause such employee benefit plan to:

- recognize the service of such covered employee with Herald (or its predecessor entities) for purposes of eligibility, vesting and benefit accrual (other than for purposes of benefit accruals under any plan that is a defined benefit pension plan) under such benefit plan to the same extent such service was recognized immediately prior to the effective time of the merger under a comparable Herald benefit plan in which such covered employee was eligible to participate immediately prior to the effective time of the merger; provided that such recognition of service shall not operate to duplicate any benefits of a covered employee with respect to the same period of service; and with respect to any BankUnited, Inc. benefit plan that provides health or other welfare benefits in which any covered employee is eligible to participate for the plan year in which such covered employee is first eligible to participate, use its reasonable best efforts to (A) cause any pre-existing condition limitations or eligibility waiting periods under such BankUnited, Inc. benefit plan to be waived with respect to such covered employee to the extent such limitation would have been waived or satisfied under the Herald benefit plan in which such covered employee participated immediately prior to the effective time of the merger, and (B) recognize any health expenses incurred by such covered employee in the year that includes the closing date (or, if later, the year in which such covered employee is first eligible to participate) for purposes of any applicable deductible and annual out-of-pocket expense requirements under any such BankUnited, Inc. benefit plan.

BankUnited, Inc. and Herald have agreed to terminate Herald's 401(k) plan in accordance with its terms and to take any and all actions as may be required to permit each covered employee to make rollover contributions from Herald's 401(k) plan to BankUnited, Inc.'s 401(k) plan and to obtain from the IRS a favorable determination letter on termination for Herald's 401(k) plan.

Herald has agreed that, if requested by BankUnited, Inc. in writing within 30 business days prior to the effective time of the merger, effective as of, and contingent upon, the closing date, Herald shall adopt such resolutions and/or amendments to terminate each Herald benefit plan as requested by BankUnited, Inc. to be terminated. Herald shall provide BankUnited, Inc. with a copy of the resolutions and/or plan amendments evidencing that each such benefit plan has been terminated. Each covered employee or other eligible participant shall become a participant in the BankUnited, Inc. benefit plan that is comparable to the terminated Herald benefit plan on the closing date (giving effect to the service crediting provisions of the merger agreement), it being agreed that there shall be no gap in coverage under, or participation in, any benefit plan or program of the type that BankUnited, Inc. requests Herald to terminate.

***Tax Matters***

BankUnited, Inc. and Herald have agreed to use reasonable best efforts to cause the integrated mergers to be treated as a single integrated transaction qualifying as a reorganization under the Code, to obtain certain tax opinions from their respective counsels that the integrated mergers will so qualify, to provide certain certificates containing representations, warranties, and covenants as may be reasonably requested by such counsels, and to refrain from taking any actions that would negate any statement contained in the certificates.

***Indemnification and Directors' and Officers' Liability Insurance***

From and after the effective time of the merger, each of BankUnited, Inc. and the surviving entity will indemnify and hold harmless, to the fullest extent permitted under applicable law (and will advance expenses as incurred to the fullest extent permitted under applicable law provided the person to whom expenses are advanced provides an undertaking to repay such advances if it is ultimately determined that such person is not entitled to indemnification), each present and former director and officer of Herald from liabilities arising out of or pertaining to matters existing or occurring at or before the effective time of the merger, including the transactions contemplated by the merger agreement. BankUnited, Inc. has agreed to provide directors' and officers' liability insurance that serves to reimburse the present and former officers and directors of Herald with respect to claims against such directors and officers arising from facts or events occurring before the effective time of the merger for a period of six years following the effective time of the merger. The insurance will contain terms and conditions that are not less advantageous than the current coverage provided by Herald, except that BankUnited, Inc. is not required to incur annual premium expense greater than 175% of Herald's current annual directors' and officers' liability insurance premium.

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***No Solicitation***

Herald has agreed that it will not, and Herald will cause its officers, directors, agents, representatives, advisors and affiliates not to, directly or indirectly:

- initiate, solicit, encourage or facilitate inquiries or proposals with respect to, or engage in any negotiations concerning, or provide any confidential or nonpublic information or data to, or have any discussions with, any person relating to, any Acquisition Proposal or any proposal that is reasonably likely to lead to an Acquisition Proposal;

- approve, recommend, agree to or accept, or propose to approve, recommend, agree to or accept, any Acquisition Proposal; or

- enter into any letter of intent, agreement in principle, merger agreement, investment agreement or other similar agreement relating to any Acquisition Proposal.

However, if Herald receives an unsolicited bona fide Acquisition Proposal and Herald's Board of Directors concludes in good faith that such Acquisition Proposal constitutes or is more likely than not to result in a Superior Proposal, Herald may furnish nonpublic information and participate in such negotiations or discussions to the extent that the Board of Directors of Herald concludes in good faith (and based on the advice of outside counsel) that failure to take such actions would result in a violation of its fiduciary duties under applicable law. Herald has agreed to immediately terminate any activities, discussions or negotiations conducted before the date of the merger agreement with any persons other than BankUnited, Inc. with respect to any Acquisition Proposal. Herald has also agreed to advise BankUnited, Inc. within 24 hours following receipt of any Acquisition Proposal and of the substance of the Acquisition Proposal (including the identity of the person making such Acquisition Proposal and copies of any written Acquisition Proposal), and will keep BankUnited, Inc. promptly apprised of any developments.

- As used in the merger agreement, "Acquisition Proposal" means a tender or exchange offer, proposal for a merger, consolidation or other business combination involving Herald or any of its subsidiaries or any proposal, inquiry, or offer to acquire in any manner more than 10% of the voting power in, or more than 10% of the fair market value of the business, assets or deposits of, Herald or any of its subsidiaries, other than the transactions contemplated by the merger agreement.

- As used in the merger agreement, "Superior Proposal" means a bona fide written Acquisition Proposal that the Board of Directors of Herald concludes in good faith to be more favorable from a financial point of view to its shareholders than the merger and the other transactions contemplated by the merger agreement, (i) after receiving the advice of its financial advisors (who shall be a nationally recognized investment banking firm), (ii) after taking into account the likelihood of consummation of such transaction on the terms set forth therein, and (iii) after taking into account all legal (with the advice of outside counsel), financial (including the financing terms of any such proposal), regulatory and other aspects of such proposal (including any expense reimbursement provisions and conditions to closing) and any other relevant factors permitted under applicable law; provided that for purposes of the definition of "Superior Proposal," the references to "more than 10%" in the definition of Acquisition Proposal are deemed to be references to "a majority."

***Restructuring Efforts***

If Herald's shareholders do not approve the merger at the Herald special meeting or any adjournment or postponement thereof, BankUnited, Inc. and Herald have agreed that they will in good faith use their reasonable best efforts to negotiate a restructuring of the merger (however neither

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BankUnited, Inc. nor Herald will be required to alter any material terms of the merger agreement in any such negotiations) and/or to resubmit the merger to Herald's shareholders for approval.

***Formation of Merger Sub***

On or prior to the date of the merger, BankUnited, Inc. will organize Merger Sub as a national banking association and a direct wholly-owned subsidiary of BankUnited, Inc., and BankUnited, Inc. will cause Merger Sub to accede to the merger agreement.

**Conditions to Complete the Merger**

***Conditions to Each Party's Obligations***

The respective obligations of each of BankUnited, Inc. and Herald to complete the merger are subject to the satisfaction of the following conditions:

- receipt of the requisite affirmative vote of the Herald shareholders on the merger agreement;
- approval for the listing on the NYSE of the BankUnited, Inc. common stock to be issued in the merger;
- the effectiveness of the registration statement on Form S-4, of which this proxy statement/prospectus is a part, and the absence of a stop order or proceeding initiated or threatened by the SEC for that purpose; and
- receipt of required regulatory approvals and the absence of any injunction or other legal prohibition or restraint against the merger.

***Conditions to Obligations of BankUnited, Inc.***

The obligation of BankUnited, Inc. to complete the merger is also subject to the satisfaction, or waiver by BankUnited, Inc., of the following conditions:

- the accuracy of the representations and warranties of Herald as of the date of the merger agreement and the effective time of the merger, other than, in most cases, those failures to be true and correct that would not reasonably be expected to, individually or in the aggregate, result in a material adverse effect on Herald;
- performance in all material respects by Herald of the obligations required to be performed by it at or prior to the effective time of the merger;
- receipt by BankUnited, Inc. of an opinion of Skadden, Arps, Slate, Meagher & Flom LLP as to certain tax matters;
- the absence of any action taken or determination made, or any law enacted, entered, enforced or deemed applicable to the transactions contemplated by the merger agreement, by any governmental entity, in connection with the grant of a required regulatory approval, which imposes any restriction, requirement or condition that, individually or in the aggregate, would, after the merger, reasonably be expected to restrict or burden BankUnited, Inc. or any of its affiliates (i) in connection with the merger or (ii) with respect to the business or operations of BankUnited, Inc. or any of its affiliates that would, in the case of either (i) or (ii), have a material adverse effect on BankUnited, Inc. or any of its affiliates, in each case measured on a scale relative to Herald; and

BankUnited, Inc. shall have received, in form and substance satisfactory to BankUnited, Inc. in its sole good faith judgment, confirmation from applicable regulatory authorities that consummation of the transactions contemplated by the merger agreement will not cause

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BankUnited, Inc., its affiliates, or their respective "institution affiliated parties," in each case not affiliated with Herald prior to the merger, or payments or agreements in respect of any of them, to become subject to any restriction or prohibition provided in section 18(k) of the FDIA, 12 C.F.R. Part 359, or any successor or similar law, rule, regulation, order or directive.

***Conditions to Obligations of Herald***

The obligation of Herald to complete the merger is also subject to the satisfaction or waiver by Herald of the following conditions:

- the accuracy of the representations and warranties of BankUnited, Inc. as of the date of the merger agreement and the effective time of the merger, other than those failures to be true and correct that would not reasonably be expected to, individually or in the aggregate, result in a material adverse effect on BankUnited, Inc.;

- performance in all material respects by BankUnited, Inc. of the obligations required to be performed by it at or prior to the effective time of the merger; and

- receipt by Herald of an opinion of Luse Gorman Pomerenk & Schick, P.C. as to certain tax matters.

**Termination of the Merger Agreement**

The merger agreement may be terminated at any time prior to the effective time of the merger, whether before or after approval of the merger by Herald shareholders:

- by mutual consent of Herald and BankUnited, Inc.;

- by either Herald or BankUnited, Inc., if any of the required regulatory approvals are denied or completion of the merger has been prohibited or made illegal by a governmental entity (and the denial or prohibition is final and nonappealable);

- by either Herald or BankUnited, Inc., if the merger has not been completed by June 2, 2012, unless the failure to complete the merger by that date is due to the terminating party's failure to abide by the merger agreement;

- by either Herald or BankUnited, Inc., if there is a breach by the other party that would result in the failure of the conditions of the terminating party's obligation to complete the merger, unless the breach is capable of being, and is, cured within 30 days of written notice of the breach (provided that the terminating party is not then in material breach of the merger agreement);

- by BankUnited, Inc., if Herald or Herald's Board of Directors (1) submits the merger agreement to its shareholders without a recommendation for approval, or otherwise withdraws or adversely modifies its recommendation for approval (or discloses such intention), or approves, endorses, or recommends to its shareholders an Acquisition Proposal other than the merger, (2) materially breaches its obligation to refrain from soliciting Acquisition Proposals, or (3) materially breaches its obligation to call a shareholder meeting or prepare and mail to its shareholders the proxy statement/prospectus pursuant to the merger agreement;

- by BankUnited, Inc., if Herald's shareholders fail to ratify and confirm the merger agreement at the Herald special meeting, or at any adjournment or postponement thereof; or by BankUnited, Inc., if a tender or exchange offer for 20% or more of the outstanding shares of Herald common stock is commenced (other than by BankUnited, Inc. or its affiliates), and Herald's Board of Directors recommends that the Herald shareholders tender their shares in such tender or exchange offer or otherwise fails to recommend that such shareholders reject such tender or exchange offer within ten business days.

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**Effect of Termination**

If the merger agreement is terminated, it will become void, and there will be no liability on the part of BankUnited, Inc. or Herald, except that (a) both BankUnited, Inc. and Herald will remain liable for any willful breach of the merger agreement and (b) designated provisions of the merger agreement, including with respect to the payment of fees and expenses and the confidential treatment of information, will survive the termination.

**Termination Fees**

BankUnited, Inc. will pay Herald a $5,000,000 termination fee if:

- the merger agreement is terminated because the merger was not completed by June 2, 2012;
- Herald was not in material breach of the merger agreement at the time of termination; and
- Herald's shareholders ratified and confirmed the merger by the requisite affirmative vote at least five business days prior to termination.

Herald will pay BankUnited, Inc. a $3,585,000 termination fee:

- if BankUnited, Inc. terminates the merger agreement because:
  - o Herald or Herald's Board of Directors (1) submits the merger agreement to its shareholders without a recommendation for approval, or otherwise withdraws or adversely modifies its recommendation for approval (or discloses such intention), or approves, endorses, or recommends to its shareholders an Acquisition Proposal other than the merger, (2) materially breaches its obligation to refrain from soliciting Acquisition Proposals, or (3) materially breaches its obligation to call a shareholder meeting or prepare and mail to its shareholders the proxy statement/prospectus pursuant to the merger agreement; or
  - o a tender or exchange offer for 20% or more of the outstanding shares of Herald common stock is commenced (other than by BankUnited, Inc. or its affiliates), and Herald's Board of Directors recommends that the Herald shareholders tender their shares in such tender or exchange offer or otherwise fails to recommend that such shareholders reject such tender or exchange offer within ten business days; or
- if (x) prior to the effective time of the merger, an Acquisition Proposal is communicated or otherwise made known to the senior management of Herald, Herald's Board of Directors, or Herald's shareholders generally, or becomes public, or any person shall have publicly announced or otherwise communicated to the senior management of Herald or Herald's Board of Directors an intention (whether or not conditional) to make an Acquisition Proposal; (y) thereafter this Agreement is terminated (i) by either party as a result of the merger not being completed by June 2, 2012 without Herald's shareholders having ratified and confirmed the merger agreement, (ii) by BankUnited, Inc. because of a breach by Herald that would result in the failure of the conditions of BankUnited, Inc.'s obligation to complete the merger, or (iii) by BankUnited, Inc. because of Herald's shareholders failing to ratify and confirm the merger agreement at the Herald special meeting; and (z) within eighteen months after the termination of the merger agreement, an Acquisition Proposal shall have been consummated or any definitive agreement with respect to an Acquisition Proposal shall have been entered into (for purposes of the foregoing, the term "Acquisition Proposal" has the meaning assigned to such term above, except that references to "10%" in the definition of "Acquisition Proposal" are deemed to be references to "50%").

Under certain circumstances if paying the termination fee to BankUnited, Inc. would cause Herald to fail to be "well capitalized" under applicable banking regulations or to otherwise violate any

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regulatory agreement between Herald and the OCC, Herald will not be obligated to pay the termination fee until it would be well capitalized and/or such payment would not cause it to violate its regulatory agreements. Until Herald pays the termination fee, however, it will not be able to pay any dividends. When Herald is able to pay the termination fee, it will be paid with interest.

**Fees and Expenses**

Except with respect to costs and expenses of printing and mailing this proxy statement/prospectus and all filing and other fees paid to the SEC in connection with the merger, which will be borne equally by Herald and BankUnited, Inc., and as described below, all fees and expenses incurred in connection with the merger, the merger agreement, and the transactions contemplated by the merger agreement will be paid by the party incurring such fees or expenses, whether or not the merger is consummated.

BankUnited, Inc. is obligated to reimburse Herald for all reasonable out of pocket legal fees and expenses that Herald incurs in connection with third party litigation arising out of the transactions contemplated by the merger agreement which are not reimbursable under Herald's insurance policies if the merger agreement is terminated:

- by mutual consent of Herald and BankUnited, Inc.;
- by either Herald or BankUnited, Inc., if any of the required regulatory approvals are denied or completion of the merger has been prohibited or made illegal by a governmental entity (and the denial or prohibition is final and nonappealable);
- by either Herald or BankUnited, Inc., if the merger has not been completed by June 2, 2012; or
- by Herald, if there is a breach by BankUnited, Inc. that would result in the failure of the conditions of Herald's obligation to complete the merger.

**Amendment, Waiver and Extension of the Merger Agreement**

The merger agreement may be amended by the parties, by action taken or authorized by their respective Boards of Directors, at any time before or after approval of the merger agreement proposal by the Herald shareholders, in writing signed on behalf of each of the parties.

At any time prior to the effective time of the merger, the parties, by action taken or authorized by their respective Boards of Directors, may (a) extend the time for the performance of any of the obligations or other acts of the other party, (b) waive any inaccuracies in the representations and warranties contained in the merger agreement, or (c) waive compliance with any of the agreements or conditions contained in the merger agreement. Any agreement on the part of a party to any extension or waiver must be in writing.

## ADJOURNMENT OF THE SPECIAL MEETING (PROPOSAL 2)

Herald common shareholders may be asked to vote on a proposal to adjourn, postpone, or continue the special meeting, if necessary, to solicit additional proxies in favor of the ratification and confirmation of the merger agreement.

**HERALD'S BOARD OF DIRECTORS UNANIMOUSLY RECOMMENDS THAT HERALD COMMON SHAREHOLDERS VOTE "FOR" THE PROPOSAL TO ADJOURN, POSTPONE, OR CONTINUE THE SPECIAL MEETING, IF NECESSARY, TO SOLICIT ADDITIONAL PROXIES IN FAVOR OF THE RATIFICATION AND CONFIRMATION OF THE MERGER AGREEMENT.**

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## MERGER-RELATED EXECUTIVE COMPENSATION ARRANGEMENTS (PROPOSAL 3)

As required by Item 402(t) of Regulation S-K and Regulation 14A of the Exchange Act, Herald is providing its shareholders with the opportunity to cast a non-binding, advisory vote on the compensation that may become payable to its named executive officers in connection with the completion of the merger, as disclosed in the section of this proxy statement/prospectus captioned "The Merger Interests of Herald's Directors and Executive Officers and Directors in the Merger Change in Control Payments," beginning on Page [ ] of this proxy statement/prospectus, and the related table and narratives.

**Your vote is requested.** Herald believes that the information regarding compensation that may become payable to its named executive officers in connection with the completion of the merger, as disclosed in the section of this proxy statement/prospectus captioned "The Merger Interests of Herald's Directors and Executive Officers in the Merger Change in Control Payments" is reasonable and demonstrates that Herald's executive compensation program was designed appropriately and structured to ensure the retention of talented executives and a strong alignment with the long-term interests of Herald's shareholders. This vote is not intended to address any specific item of compensation, but rather the overall compensation that may become payable to Herald's named executive officers in connection with the completion of the merger. In addition, this vote is separate and independent from the vote of shareholders to approve the completion of the merger. Herald asks that its shareholders vote "FOR" the following resolution:

> RESOLVED, that the compensation that may become payable to Herald's named executive officers in connection with the completion of the merger, as disclosed in the section captioned "The Merger Interests of Herald's Directors and Executive Officers in the Merger Change in Control Payments" (beginning on Page [ ] of the proxy statement/prospectus dated [ ]) and the related table and narratives, is hereby APPROVED.

This vote is advisory and therefore, it will not be binding on Herald, nor will it overrule any prior decision or require Herald's Board of Directors (or any committee thereof) to take any action. However, Herald's Board of Directors values the opinions of Herald's shareholders, and to the extent that there is any significant vote against the named executive officer compensation as disclosed in this proxy statement/prospectus, Herald's Board of Directors will consider shareholders' concerns and will evaluate whether any actions are necessary to address those concerns. Herald's Board of Directors will consider the affirmative vote of the holders of a majority of the outstanding shares of Herald common stock entitled to vote on the matter "FOR" the foregoing resolution as advisory approval of the compensation that may become payable to Herald's named executive officers in connection with the completion of the merger.

**HERALD'S BOARD OF DIRECTORS UNANIMOUSLY RECOMMENDS A VOTE "FOR" THE APPROVAL OF THE RESOLUTION SET FORTH ABOVE.**

## ACCOUNTING TREATMENT

The merger will be accounted for as a "business combination," as that term is used under generally accepted accounting principles, for accounting and financial reporting purposes, with BankUnited, Inc. treated as the acquirer. Under the acquisition method of accounting, the assets (including identifiable intangible assets) and liabilities (including executory contracts and other commitments) of Herald as of the effective time of the merger will be recorded at their respective fair values and added to those of BankUnited, Inc. Any excess of purchase price over the fair values is recorded as goodwill. Consolidated financial statements of BankUnited, Inc. issued after the merger would reflect these fair values and would not be restated retroactively to reflect the historical financial position or results of operations of Herald.

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## MATERIAL U.S. FEDERAL INCOME TAX CONSEQUENCES OF THE MERGER

### In General

The following discussion addresses the material U.S. federal income tax consequences of the merger to holders of shares of Herald stock that are U.S. holders (as defined below). This discussion is based upon the Code, Treasury regulations, administrative rulings and judicial decisions currently in effect, all of which are subject to change, possibly with retroactive effect. Any such change could affect the accuracy of this discussion. The discussion assumes that Herald shareholders hold their Herald stock, and will hold their BankUnited, Inc. common stock, as capital assets within the meaning of Section 1221 of the Code (i.e., generally property held for investment). Further, the discussion does not constitute tax advice and does not address all aspects of U.S. federal income taxation that may be relevant to a particular Herald shareholder in light of its personal investment circumstances or to Herald shareholders subject to special treatment under the U.S. federal income tax laws such as:

- insurance companies;
- tax-exempt organizations;
- foreign persons;
- dealers in securities or foreign currency;
- banks or trusts;
- holders that hold Herald stock as part of a straddle, hedge against currency risk, constructive sale or conversion transaction;
- holders that exercise dissenters' rights;
- holders that have a functional currency other than the U.S. dollar;
- holders that acquired their Herald stock through the exercise of options or otherwise as compensation or through a tax-qualified retirement plan; or
- holders of options or restricted shares granted under any Herald benefit plan.

Furthermore, this discussion does not consider the potential effects of any state, local or foreign tax laws.

**You should consult your tax advisor regarding the specific tax consequences to you of the merger, including the applicability and effect of federal, state, local and foreign income and other tax laws in light of your particular circumstances.**

For purposes of this discussion, a "U.S. holder" is a beneficial owner of Herald stock who is: (i) a citizen or resident of the United States; (ii) a corporation or other entity taxable as a corporation created or organized under the laws of the United States or any of its political subdivisions; (iii) an estate that is subject to U.S. federal income tax on its income regardless of its source; or (iv) a trust (A) if a U.S. court is able to exercise primary supervision over its administration and one or more U.S. persons have the authority to control all substantial decisions of the trust or (B) that has made a valid election to be treated as a United States person for U.S. federal income tax purposes.

If a partnership (or other entity treated as a partnership for U.S. federal income tax purposes) holds Herald stock, the tax treatment of a partner in the partnership generally will depend upon the status of the partner and the activities of the partnership. If you are a partnership or a partner of a partnership holding Herald stock, you should consult your tax advisor regarding the tax consequences of the merger to you.

Neither BankUnited, Inc. nor Herald has requested a ruling from the IRS with respect to any of the U.S. federal income tax consequences of the merger and, as a result, there can be no assurance that the IRS will not disagree with any of the conclusions described below. The obligations of BankUnited, Inc. and Herald to complete the merger are conditioned upon the issuance of opinions as of the Closing Date by Skadden, Arps, Slate, Meagher & Flom LLP, counsel to BankUnited, Inc., and Luse Gorman Pomerenk & Schick, P.C., counsel to Herald, that the integrated mergers will, together, qualify as a reorganization under Section 368(a) of the Code. These opinions of counsel will be given in reliance on customary representations of BankUnited, Inc., Herald, BankUnited and Merger Sub and will be based on assumptions as to certain factual matters, including that the subsequent merger will occur. These opinions of counsel will not bind the courts or the IRS, nor will they preclude the IRS from adopting a position contrary to those expressed in the opinions.

**U.S. Federal Income Tax Consequences if the Merger and the Subsequent Merger are Treated as a Single Integrated Transaction**

Assuming the subsequent merger occurs as the parties expect, the integrated mergers will be treated, together, as a reorganization within the meaning of Section 368(a) of the Code. The U.S. federal income tax consequences of the merger to a holder will depend on whether the holder receives cash, shares of BankUnited, Inc. common stock or a combination thereof in exchange for such holder's Herald stock. At the time that the holder makes a cash or stock election pursuant to the terms of the merger agreement, the holder will not know whether, and to what extent, the proration rules of the merger agreement may alter the mix of consideration to be received. These proration rules are necessary because the maximum aggregate amount of cash to be paid by BankUnited, Inc. pursuant to the merger agreement may not exceed approximately $23,000,000. As a result, the tax consequences to holders will not be ascertainable with certainty until the precise amount of cash and shares of BankUnited, Inc. common stock that will be received by each holder pursuant to the merger has been determined.

***Exchange of Herald Stock Solely for BankUnited, Inc. Common Stock***

If, pursuant to the merger, a holder of Herald stock exchanges all of its stock solely for BankUnited, Inc. common stock, such holder will not recognize any gain or loss except in respect of cash received in lieu of a fractional share of BankUnited, Inc. common stock (as discussed below). The holder's aggregate adjusted tax basis in the BankUnited, Inc. common stock received in the merger (including fractional shares deemed received and redeemed as described below) will be equal to the holder's aggregate adjusted tax basis in its Herald stock surrendered for the BankUnited, Inc. common stock, and the holding period for the BankUnited, Inc. common stock (including fractional shares deemed received and redeemed as described below) will include the period during which the shares of Herald stock were held.

***Exchange of Herald Stock Solely for Cash***

If a holder receives solely cash in exchange for all of the holder's Herald stock pursuant to the merger, such holder generally will recognize gain or loss equal to the difference between the amount of cash received and the aggregate tax basis in the shares of Herald stock surrendered. Gain or loss must be calculated separately for each block of shares of Herald stock if blocks of Herald stock were acquired at different times or for different prices. Such gain or loss generally will be long-term capital gain or loss if the holder's holding period for a particular block of Herald stock exceeds one year at the effective time of the merger. Although the law in this area is unclear, if a holder actually or constructively owns BankUnited, Inc. common stock immediately after the merger, it is possible that the consequences to that holder may be similar to the consequences described below under "Material U.S. Federal Income Tax Consequences of the Merger  U.S. Federal Income Tax Consequences if the

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Merger and the Subsequent Merger are Treated as a Single Integrated Transaction Exchange of Herald Stock for a Combination of BankUnited, Inc. Common Stock and Cash," except that the amount of consideration, if any, treated as a dividend may not be limited to the amount of that holder's gain.

***Exchange of Herald Stock for a Combination of BankUnited, Inc. Common Stock and Cash***

If a holder exchanges all of the shares of Herald stock actually owned by it for a combination of BankUnited, Inc. common stock and cash (excluding any cash received in lieu of a fractional share of BankUnited, Inc. common stock) pursuant to the merger, the holder generally will recognize gain (but not loss) in an amount equal to the lesser of (i) the holder's gain realized (i.e., the excess, if any, of the sum of the amount of cash and the fair market value of the BankUnited, Inc. common stock received over the holder's adjusted tax basis in its shares of Herald stock surrendered) and (ii) the amount of cash received pursuant to the merger. Any recognized gain generally will be long-term capital gain if the holder's holding period for the Herald stock surrendered exceeds one year at the effective time of the merger (except for gain treated as a dividend, as discussed below under "Material U.S. Federal Income Tax Consequences of the Merger U.S. Federal Income Tax Consequences if the Merger and the Subsequent Merger are Treated as a Single Integrated Transaction Exchange of Herald Stock for a Combination of BankUnited, Inc. Common Stock and Cash Potential Treatment of Cash as a Dividend"). It is unclear under current law on which date the fair market value of the BankUnited, Inc. common stock should be determined for purposes of calculating a Herald shareholder's gain realized in the merger. BankUnited, Inc. and Herald intend to take the position that the appropriate date to value such BankUnited, Inc. common stock is the effective date of the merger, although it is possible that the IRS could assert that the proper valuation date is the effective date of the subsequent merger of Herald with and into BankUnited. You should consult your tax advisor as to the proper date on which to value the BankUnited, Inc. common stock for purposes of determining your gain realized and any gain recognized in the merger.

A holder must calculate the amount of gain or loss realized separately for each share of Herald stock surrendered. The merger agreement provides that each holder may expressly designate in the form of election on a share by share basis that BankUnited, Inc. common stock or cash is to be received in exchange for particular shares of Herald stock, provided that designation is economically reasonable. If a holder does not make such an express designation, then the merger agreement provides for a deemed designation, which provides that any cash received by a holder will be deemed to be allocated to shares of Herald stock surrendered in the following order of priority: first, to those shares of Herald stock with a holding period of more than one year that have the highest tax basis, in descending order until the cash consideration is fully allocated, and, second, to those shares of Herald stock with a holding period of less than one year that have the highest tax basis, in descending order until the cash consideration is fully allocated.

A loss realized on one block of Herald stock cannot be used to offset a gain realized on another block of Herald stock. A holder's aggregate tax basis in its BankUnited, Inc. common stock received pursuant to the merger, including the basis allocable to any fractional share of BankUnited, Inc. common stock for which cash is received, will be equal to the holder's aggregate tax basis in the Herald stock surrendered pursuant to the merger, decreased by the amount of cash received (excluding any cash received in lieu of a fractional share of BankUnited, Inc. common stock) and increased by the amount of gain, if any, recognized or any amount treated as a dividend, as described below (but excluding any gain resulting from the deemed receipt and redemption of fractional shares). A holder's holding period for shares of BankUnited, Inc. common stock received pursuant to the merger will include the holding period for the block of Herald stock surrendered in exchange therefor.

For purposes of determining the amount of gain recognized, any express share-by-share designations, and any designations deemed made under the merger agreement, are intended to comply with certain Treasury regulations issued under Section 358 of the Code. Although the Treasury regulations appear to authorize holders to make economically reasonable express share-by-share designations, it is unclear whether such express or deemed designations comply with those Treasury regulations. As a result, no assurance can be given that, if a holder reports gain on its U.S. federal income tax return on the basis of such express or deemed designations, the IRS will not challenge such designations. If the IRS successfully challenged the position taken on such return, then a holder could be required to recalculate its amount of gain recognized by allocating the shares of BankUnited, Inc. common stock and the cash received on a pro rata basis to each share of Herald stock surrendered pursuant to the merger. You should consult your tax advisor with respect to the advisability of making express designations in the form of election.

*Potential Treatment of Cash as a Dividend.* If a holder receives a combination of BankUnited, Inc. common stock and cash pursuant to the merger, the gain recognized may be treated as a dividend for U.S. federal income tax purposes to the extent of the holder's ratable share of Herald's accumulated "earnings and profits." In general, the determination of whether such gain recognized will be treated as capital gain or has the effect of a distribution of a dividend depends upon whether and to what extent the exchange reduces the holder's deemed percentage of stock ownership of BankUnited, Inc. For purposes of this determination, the holder generally will be treated as if it first exchanged all of its shares of Herald stock solely for BankUnited, Inc. common stock and then BankUnited, Inc. immediately redeemed a portion of the BankUnited, Inc. common stock in exchange for the cash the holder actually received, which redemption we refer to in this proxy statement/prospectus as the "deemed redemption." Such gain recognized by a holder pursuant to the deemed redemption will be treated as capital gain if the deemed redemption is (i) "substantially disproportionate" with respect to the holder (and after the deemed redemption the holder actually or constructively owns less than 50% of the voting power of the outstanding BankUnited, Inc. common stock) or (ii) not "essentially equivalent to a dividend."

The deemed redemption generally will be "substantially disproportionate" with respect to a holder if the percentage of the outstanding BankUnited, Inc. common stock that the holder actually and constructively owns immediately after the deemed redemption is less than 80% of the percentage of the outstanding BankUnited, Inc. common stock that the holder is deemed actually and constructively to have owned immediately before the deemed redemption. The deemed redemption will not be considered to be "essentially equivalent to a dividend" if it results in a "meaningful reduction" in the holder's deemed percentage of stock ownership of BankUnited, Inc. In applying the above tests, the holder may, under the constructive ownership rules, be deemed to own stock that is owned by other persons or otherwise in addition to the stock the holder actually owns or owned. The IRS has ruled that a minority shareholder in a publicly held corporation whose relative stock interest is minimal and who exercises no control with respect to corporate affairs is considered to have a "meaningful reduction" if the shareholder has at least a relatively minor reduction in such shareholder's percentage of stock ownership under the above analysis.

As these rules are complex and dependent upon your specific circumstances, you should consult your tax advisor to determine whether you may be subject to these rules.

***Cash in Lieu of Fractional Shares of BankUnited, Inc. Common Stock***

A holder that receives cash in lieu of a fractional share of BankUnited, Inc. common stock generally will be treated as having received such fractional share and then as having received such cash in redemption of the fractional share. Gain or loss generally will be recognized based on the difference between the amount of cash received in lieu of the fractional share and the portion of the holder's aggregate adjusted tax basis in the shares of Herald stock surrendered which is allocable to the fractional share. Such gain or loss generally will be long-term capital gain or loss if the holder's holding period for its Herald stock exceeds one year at the effective time of the merger.

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**U.S. Federal Income Tax Consequences if the Subsequent Merger Fails to Occur**

Although BankUnited, Inc. and Herald believe that such a result is unlikely, if the subsequent merger of Herald with and into BankUnited fails to occur, a holder's exchange of Herald stock for cash and/or BankUnited, Inc. common stock pursuant to the merger would be a taxable transaction for U.S. federal income tax purposes pursuant to which such holder would recognize gain or loss equal to the difference between the holder's tax basis in its Herald stock and the sum of any cash received plus the fair market value, as of the effective time of the merger, of any shares of BankUnited, Inc. common stock received pursuant to the merger. Gain or loss must be calculated separately for each block of shares of Herald stock if blocks of Herald stock were acquired at different times or for different prices. Such gain or loss generally would be long-term capital gain or loss if the holder's holding period for a particular block of Herald stock exceeded one year at the effective time of the merger.

BankUnited, Inc. and Herald intend to report BankUnited, Inc.'s acquisition of Herald as a reorganization within the meaning of Section 368(a) of the Code assuming the subsequent merger occurs, as expected, and will notify former holders of Herald stock in the unlikely event that the subsequent merger fails to occur.

**Certain Tax Reporting Rules**

Under applicable Treasury regulations, "significant holders" of Herald stock generally will be required to comply with certain reporting requirements. A Herald common shareholder should be viewed as a "significant holder" if, immediately before the merger, such holder held five percent or more, by vote or value, of the total outstanding Herald stock. Further, although the law in this area is unclear, it is possible that a Herald preferred shareholder may be viewed as a "significant holder" if, immediately before the merger, such holder held one percent or more, by vote or value, of the total outstanding Herald stock. Significant holders generally will be required to file a statement with the holder's U.S. federal income tax return for the taxable year that includes the consummation of the merger. That statement must set forth the holder's tax basis in, and the fair market value of, the shares of Herald stock surrendered pursuant to the merger (both as determined immediately before the surrender of shares), the date of the merger, and the name and employer identification number of BankUnited, Inc., Herald, BankUnited, and Merger Sub, and the holder will be required to retain permanent records of these facts. You should consult your tax advisor as to whether you may be treated as a "significant holder."

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## COMPARATIVE MARKET PRICES AND DIVIDENDS

**BankUnited, Inc.**

BankUnited, Inc. common stock is traded on the NYSE under the symbol "BKU." The following table sets forth the high and low reported intra-day sales prices per share of BankUnited, Inc. common stock as reported by the NYSE and the cash dividends declared per share for the periods indicated.

**Herald National Bank**

Herald common stock is traded on the NYSE Amex under the symbol "HNB." The following table sets forth the high and low reported intra-day sales prices per share of Herald common stock as reported by the NYSE Amex and the cash dividends declared per share for the periods indicated. Herald preferred stock is not publicly traded.

| | BankUnited, Inc. (BKU) | | | Herald National Bank (HNB) | | |
|---|---|---|---|---|---|---|
| | High | Low | Dividends | High | Low | Dividends |
| **2011 Quarters** | | | | | | |
| Third (through [ ]) | $ [ ] | $ [ ] | $ [ ] | $ [ ] | $ [ ] | $ [ ] |
| Second | 29.54 | 26.10 | 0.14 | 6.00 | 2.06 | |
| First | 29.90 | 27.25 | 0.14 | 2.68 | 2.04 | |
| **2010 Quarters** | | | | | | |
| Fourth | $ | $ | $ | $ 2.99 | $ 1.47 | $ |
| Third | | | | 3.30 | 2.18 | |
| Second | | | | 3.85 | 2.51 | |
| First | | | | 3.95 | 2.54 | |
| **2009 Quarters** | | | | | | |
| Fourth | $ | $ | $ | $ 6.35 | $ 3.07 | $ |
| Third | | | | 7.20 | 5.79 | |
| Second | | | | 9.75 | 6.98 | |
| First | | | | 11.00 | 8.04 | |

On June 1, 2011, the last full trading day before the public announcement of the merger agreement, the high and low sales prices of shares of BankUnited, Inc. common stock as reported on the NYSE were $28.50 and $28.00, respectively. On [ ], the last practicable trading day before the date of this proxy statement/prospectus, the high and low sale prices of shares of BankUnited, Inc. common stock as reported on the NYSE were $[ ] and $[ ], respectively.

On June 1, 2011, the last full trading day before the public announcement of the merger agreement, the high and low sales prices of shares of Herald common stock as reported on the NYSE Amex were $4.25 and $3.62, respectively. On [ ], the last practicable trading day before the date of this proxy statement/prospectus, the high and low sale prices of shares of Herald common stock as reported on the NYSE Amex were $[ ] and $[ ], respectively.

As of [ ], the last date prior to printing this proxy statement/prospectus for which it was practicable to obtain this information, there were approximately [ ] registered holders of BankUnited, Inc. common stock, approximately [ ] registered holders of Herald common stock and approximately [ ] registered holders of Herald preferred stock.

Past price performance is not necessarily indicative of likely future performance. Because market prices of BankUnited, Inc. and Herald common stock will fluctuate, you are urged to obtain current market prices for shares of BankUnited, Inc. and Herald common stock. No assurance can be given concerning the market price of BankUnited, Inc. common stock or Herald common stock before or after the effective date of the merger. BankUnited, Inc. may repurchase shares of its common stock in accordance with applicable legal guidelines. The actual amount of shares repurchased will depend on various factors, including: market conditions; legal limitations and considerations affecting the amount and timing of repurchase activity; BankUnited, Inc.'s capital position; internal capital generation; and alternative potential investment opportunities. Federal law prohibits BankUnited, Inc. from purchasing shares of its common stock from the date this proxy statement/prospectus is first disseminated to shareholders until completion of the special meeting of shareholders.

BankUnited, Inc.'s timing, payment and amount of dividends (when, as and if declared by BankUnited, Inc.'s Board of Directors out of funds legally available) remain subject to determination by BankUnited, Inc.'s Board of Directors. BankUnited, Inc. has previously paid a cash dividend of $0.14 per share. BankUnited, Inc.'s main sources of funding include dividends paid by its subsidiaries, and access to capital markets. There are regulatory limitations that affect the ability of BankUnited to pay dividends to BankUnited, Inc. Banking regulations may limit the amount of dividends that may be paid.

Regulations from the OTS require that savings institutions submit notice to the OTS prior to making a capital distribution if (a) they would not be well capitalized after the distribution, (b) the distribution would result in the retirement of any of the institution's common or preferred stock or debt counted as its regulatory capital, or (c) like BankUnited, the institution is a subsidiary of a holding company. A savings institution must apply to the OTS to pay a capital distribution if (a) the institution would not be adequately capitalized following the distribution, (b) the institution's total distributions for the calendar year exceeds the institution's net income for the calendar year to date plus its net income (less distributions) for the preceding two years, or (c) the distribution would otherwise violate applicable law or regulation or an agreement with or condition imposed by the OTS. If neither the savings institution nor the proposed capital distribution meet any of the foregoing criteria, then no notice or application is required to be filed with the OTS before making a capital distribution. The OTS may disapprove or deny a capital distribution if in the view of the OTS, the capital distribution would constitute an unsafe or unsound practice. Declaration and payment of dividends may be further limited by regulation or by guidelines prescribed in the business plan submitted to the OTS in connection with the approval order for BankUnited, Inc. Furthermore, as described in the "Information About BankUnited, Inc. Information About BankUnited, Inc.'s Business Regulation and Supervision" section commencing on Page [ ], Federal banking laws require a thrift to meet the Qualified Thrift Lender, or "QTL," test by maintaining at least 65% of its "portfolio assets" in certain "qualified thrift investments" on a monthly average basis in at least nine months out of every twelve months. A thrift that fails the QTL test must either operate under certain restrictions on its activities or convert to a bank charter. The Dodd-Frank Act imposes additional restrictions on the ability of any thrift that fails to become or remain a QTL to pay dividends. Specifically, the thrift is not only subject to the general dividend restrictions as would apply to a national bank (as under prior law), but also is prohibited from paying dividends at all (regardless of its financial condition) unless required to meet the obligations of a company that controls the thrift, permissible for a national bank and specifically approved by the OCC and the Federal Reserve. At December 31, 2010, BankUnited was in compliance with the QTL test. BankUnited will not be required to comply with the QTL test following its conversion to a national bank.

Under Federal Reserve Board regulations, the Federal Reserve Board has the authority to prohibit bank holding companies from engaging in activities that the Federal Reserve Board considers unsafe or unsound banking practices. Under certain circumstances, the Federal Reserve Board may take the position that payment of dividends by BankUnited, Inc. would constitute an unsafe or unsound banking practice in light of its financial condition. Under Federal Reserve Board policies, a bank holding company should pay cash dividends on its common stock only out of income available over the past year and should not pay cash dividends if such payment would undermine its ability to serve as a source of strength to its banking subsidiaries. In the future, BankUnited, Inc.'s ability to pay cash

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dividends will be further limited by its obligation to maintain adequate levels of capital in accordance with the Federal Reserve Board's capital adequacy guidelines.

Herald's ability to pay dividends on common and preferred stock is restricted by federal law, the FDIA and OCC regulations. In general terms, federal law provides that Herald's Board may, from time to time and as it deems expedient, declare a dividend out of net profits. The total of all dividends declared in a year shall not, unless approved by the OCC, exceed the net profits of that year combined with its net profits of the past two years. In addition, under the FDIA, Herald may not pay any dividend if the payment of the dividend would cause Herald to become "undercapitalized" or in the event the bank is "undercapitalized." The OCC may further restrict the payment of dividends by requiring that Herald maintain a higher level of capital than would otherwise be required to be "adequately capitalized" for regulatory purposes.

The payment, timing and amount of dividends by BankUnited, Inc. on its common stock or Herald on its common or preferred stock in the future, either before or after the merger is completed, are subject to the determination of each company's respective Board of Directors and depend on cash requirements, contractual restrictions, its financial condition and earnings, legal and regulatory considerations and other factors.

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## DESCRIPTION OF BANKUNITED, INC. CAPITAL STOCK

*As a result of the merger, Herald shareholders who receive shares of BankUnited, Inc. common stock in the merger will become stockholders of BankUnited, Inc. Your rights as stockholders of BankUnited, Inc. will be governed by Delaware law and the amended and restated certificate of incorporation and the amended and restated by-laws of BankUnited, Inc. The following description of the material terms of BankUnited, Inc.'s capital stock, including the common stock to be issued in the merger, reflects the anticipated state of affairs upon completion of the merger. We urge you to read the applicable provisions of Delaware law, BankUnited, Inc.'s amended and restated certificate of incorporation and amended and restated by-laws and federal law governing bank holding companies carefully and in their entirety.*

### General

BankUnited, Inc. is authorized to issue up to 400,000,000 shares of common stock, $0.01 par value per share, and 100,000,000 shares of preferred stock, $0.01 par value per share.

### Common Stock

#### *Voting Rights*

Each holder of BankUnited, Inc. common stock is entitled to one vote for each share on all matters submitted to a vote of the holders of BankUnited, Inc. common stock, voting together as a single class, including the election of directors. BankUnited, Inc. stockholders do not have cumulative voting rights in the election of directors. Accordingly, holders of a majority of the voting shares are able to elect all of the directors.

#### *Dividends*

Subject to the prior rights of holders of preferred stock, holders of BankUnited, Inc. common stock are entitled to receive dividends, if any, as may be declared from time to time by BankUnited, Inc.'s Board of Directors.

#### *Liquidation*

Subject to the prior rights of BankUnited, Inc. creditors and the satisfaction of any liquidation preference granted to the holders of any then outstanding shares of preferred stock, in the event of BankUnited, Inc.'s liquidation, dissolution or winding up, holders of BankUnited, Inc. common stock will be entitled to share ratably in the net assets legally available for distribution to stockholders.

### Preferred Stock

BankUnited, Inc.'s Board of Directors has the authority, without action by BankUnited, Inc. stockholders, to issue preferred stock and to fix voting powers for each class or series of preferred stock, and to provide that any class or series may be subject to redemption, entitled to receive dividends, entitled to rights upon dissolution, or convertible or exchangeable for shares of any other class or classes of capital stock. The rights with respect to a series or class of preferred stock may be greater than the rights attached to BankUnited, Inc. common stock. It is not possible to state the actual effect of the issuance of any shares of BankUnited, Inc. preferred stock on the rights of holders of BankUnited, Inc. common stock until BankUnited, Inc.'s Board of Directors determines the specific rights attached to that preferred stock. The effect of issuing preferred stock could include, among other things, one or more of the following:

- restricting dividends with respect to BankUnited, Inc. common stock;

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diluting the voting power of BankUnited, Inc. common stock or providing that holders of preferred stock have the right to vote on matters as a class;

impairing the liquidation rights of BankUnited, Inc. common stock; or

delaying or preventing a change of control of BankUnited, Inc.

**Registration Rights**

BankUnited, Inc., certain funds affiliated with Blackstone Private Equity Group, or "Blackstone," the Carlyle Group, or "Carlyle," Centerbridge Partners, L.P., or "Centerbridge," and WL Ross & Co. LLC, or "WL Ross," all together referred to as "Sponsors" and each individually as a "Sponsor," John A. Kanas, John Bohlsen, Rajinder P. Singh, and Douglas J. Pauls (together with Messrs. Bohslen, Singh, and Pauls, the "Management Members"), LF Moby LLC (which is beneficially owned by Richard S. LeFrak and his sons), Eugene F. DeMark, Ambassador Sue M. Cobb, and all other members of BU Financial Holdings LLC, previously the sole stockholder of BankUnited, Inc., entered into a registration rights agreement on February 2, 2011.

Pursuant to the registration rights agreement, the Sponsors have been provided with demand registration rights, which will be exercisable after expiration of the lockup provisions applicable to them. The demand registration rights require BankUnited, Inc. to register the shares of common stock beneficially owned by the demanding Sponsor with the SEC for sale by it to the public, provided that the value of the registrable securities proposed to be sold by such demanding Sponsor is at least the lesser of $50.0 million or the value of all registrable securities held by such Sponsor. The registration rights provisions also provide that BankUnited, Inc. may be required under certain circumstances to file a shelf registration statement for an offering to be made on a continuous basis pursuant to Rule 415 of the Securities Act. BankUnited, Inc. may postpone the filing of such a registration statement or suspend the effectiveness of any registration statement for a reasonable "blackout period" not in excess of 90 days if BankUnited, Inc.'s Board of Directors determines that such registration or offering could materially interfere with a bona fide business or financing transaction of BankUnited and BankUnited Investment Services, Inc. or is reasonably likely to require premature disclosure of material, non-public information, the premature disclosure of which BankUnited, Inc.'s Board of Directors reasonably determines in the exercise of its good faith judgment would not be in the best interests of BankUnited and BankUnited Investment Services, Inc.; provided that BankUnited, Inc. shall not postpone the filing of a registration statement or suspend the effectiveness of any registration statement for more than 90 days in the aggregate in any 360-day period.

In addition, pursuant to the registration rights agreement, in the event that BankUnited, Inc. is registering additional shares of common stock for sale to the public, whether on its own behalf (except in connection with a registration on Form S-4 or Form S-8 or any successor or similar form or in a registration of securities solely relating to an offering and sale to employees pursuant to any employee stock plan or other employee benefit plan arrangement) or through a demand registration on behalf of a Sponsor (as described above), BankUnited, Inc. is required to give notice of such registration to all parties to the registration rights agreement that hold registrable securities (which includes members of BankUnited, Inc. management that hold shares of BankUnited, Inc. common stock) of the intention to effect such a registration. Such notified persons have piggyback registration rights providing them the right to have BankUnited, Inc. include the shares of common stock owned by them in any such registration if BankUnited, Inc. has received written requests for inclusion therein within prescribed time limits, subject to other provisions under the registration rights agreement.

Pursuant to the registration rights agreement, each of (1) Mr. John A. Kanas and certain funds affiliated with the Sponsors have separately agreed that until August 2, 2012 and (2) BankUnited, Inc.'s other executive officers have separately agreed that until February 2, 2012, not to effect any sales pursuant to Rule 144 under the Securities Act of any of BankUnited, Inc. equity securities.

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**Corporate Opportunity**

BankUnited, Inc.'s amended and restated certificate of incorporation provides that the doctrine of "corporate opportunity" will not apply against the Sponsors, any of their affiliates or any BankUnited, Inc. directors or officers, and that BankUnited, Inc. renounces any interest or expectancy in any business opportunities that are presented to any of the Sponsors or any of their affiliates or to any of the directors or officers of BankUnited and BankUnited Investment Services, Inc., even if such opportunity is of a character that could be taken by BankUnited and BankUnited Investment Services, Inc. To the extent that the Sponsors, any of their affiliates, or any of our directors and officers participate in any such business opportunity, they may have differing interests than BankUnited, Inc.'s other stockholders.

For more information regarding the rights of holders of BankUnited, Inc. common stock, please see the description captioned "Comparison of BankUnited, Inc. Common Stockholder Rights to Herald Common and Preferred Shareholder Rights" immediately following this section.

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## COMPARISON OF BANKUNITED, INC. COMMON STOCKHOLDER RIGHTS TO HERALD COMMON AND PREFERRED SHAREHOLDER RIGHTS

*The rights of BankUnited, Inc. stockholders are governed by the Delaware General Corporation Law, or the DGCL, and BankUnited, Inc.'s amended and restated certificate of incorporation and amended and restated by-laws. The rights of Herald common and preferred shareholders are governed by the National Bank Act, as amended, and Herald's articles of association and by-laws. After the merger, the rights of Herald's common and preferred shareholders that receive BankUnited, Inc. shares will be governed by the DGCL and BankUnited, Inc.'s amended and restated certificate of incorporation and amended and restated by-laws. The following discussion summarizes the material differences between the rights of Herald's common and preferred shareholders and the rights of BankUnited, Inc.'s common stockholders. We urge you to read BankUnited, Inc.'s amended and restated certificate of incorporation, BankUnited, Inc.'s amended and restated by-laws, Herald's articles of association, Herald's by-laws, the DGCL, and the National Bank Act, and federal law applicable to such companies, carefully and in their entirety.*

### Authorized Capital Stock

***BankUnited, Inc.***

BankUnited, Inc.'s amended restated certificate of incorporation authorizes it to issue up to 400,000,000 shares of common stock, par value $0.01 per share, and 100,000,000 shares of preferred stock, par value $0.01 per share. As of the record date, there were [ ] shares of BankUnited, Inc. common stock outstanding and no shares of BankUnited, Inc. preferred stock outstanding.

***Herald***

Herald's articles of association authorize Herald to issue up to 100,000,000 shares of common stock, par value $1.00 per share, and 50,000,000 shares of preferred stock, no par value per share. As of the record date, there were [ ] shares of Herald common stock outstanding and [ ] shares of Herald preferred stock outstanding.

### Size of Board of Directors

***BankUnited, Inc.***

BankUnited, Inc.'s amended and restated certificate of incorporation provides that the number of directors of BankUnited, Inc. shall be fixed from time to time exclusively by resolution of the Board of Directors. As such, the exact number of directors may be determined from time to time by the entire BankUnited, Inc. Board of Directors. The BankUnited, Inc. Board of Directors currently has nine directors.

***Herald***

Herald's articles of association provide that its Board of Directors shall consist of not less than five nor more than 25 directors. The exact number of directors may be fixed and determined from time to time by resolution of a majority of the full Board of Directors or the shareholders at any annual or special meeting thereof. Herald's articles of association also provide that honorary or advisory members of the Board of Directors, without voting power or power of final decision in matters concerning the business of Herald, may be appointed by resolution of a majority of Herald's full Board of Directors. The Herald Board of Directors currently has eight directors and no advisory directors.

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## Classes of Directors

***BankUnited, Inc.***

BankUnited, Inc.'s Board of Directors is not classified. BankUnited, Inc.'s amended and restated by-laws provide that each director holds office until the next annual meeting and until such director's successor is duly elected and qualified, or until such director's earlier death, resignation or removal.

***Herald***

Herald's Board of Directors is classified. Herald's articles of association provides that Herald's directors are divided into three classes, as nearly equal in number as possible. Directors are elected for terms of three years and until their successors are elected and qualified.

## Removal of Directors

***BankUnited, Inc.***

BankUnited, Inc.'s amended and restated certificate of incorporation provides that, except as otherwise required by applicable law and subject to the rights, if any, of the holders of shares of preferred stock then outstanding, directors may only be removed for cause and then only by the affirmative vote of the holders of a majority of the votes entitled to be cast by the shares of the then outstanding capital stock of BankUnited, Inc. entitled to vote generally in the election of directors.

***Herald***

Herald's articles of association provide that a director may be removed by the shareholders at a meeting called to remove him or her, when notice of the meeting is provided stating that the purpose or one of the purposes of such meeting is to remove him or her, if there is a failure to fulfill one of the affirmative requirements for qualification, or for cause; provided, however, that a director may not be removed if the number of votes sufficient to elect him or her is voted against his or her removal.

## Filling Vacancies on the Board of Directors

***BankUnited, Inc.***

Pursuant to BankUnited, Inc.'s amended and restated certificate of incorporation, any vacancy on BankUnited, Inc.'s Board of Directors that results from an increase in the number of directors may be filled by a majority of the Board of Directors then in office, provided that a quorum is present. Any other vacancy occurring on the Board of Directors may be filled by a majority of the Board of Directors then in office, even if less than a quorum, or by a sole remaining director. The right of stockholders to fill vacancies on the Board of Directors is specifically denied. Any director elected to fill a vacancy not resulting from an increase in the number of directors shall have the same remaining term as that of his or her predecessor.

***Herald***

Herald's by-laws provide that when any vacancy occurs among the directors, a majority of the remaining members of Herald's Board of Directors, according to the laws of the United States, may appoint a director to fill such vacancy at any regular meeting of the Board of Directors, or at a special meeting called for that purpose at which a quorum is present, or by the affirmative vote of all directors remaining in office, or by shareholders at a special meeting called for that purpose.

**Nomination of Director Candidates by Stockholders**

***BankUnited, Inc.***

BankUnited, Inc.'s amended and restated by-laws provide that any stockholder entitled to vote in the election of directors may nominate directors by delivering notice to BankUnited, Inc.'s corporate secretary: (a) for an annual meeting called for a date that is within 25 days of the anniversary of the immediately preceding annual meeting, between 90 and 120 days prior to such anniversary; and (b) for a special meeting called for the purpose of electing directors or an annual meeting that is not called for within 25 days of the anniversary of the immediately preceding annual meeting, before the close of business on the tenth day following the earlier of the date the notice of the meeting was mailed or the date of the meeting was publicly disclosed.

The notice must set forth the following information as to each of the stockholder giving the notice, the beneficial holder on whose behalf of the nomination is being made, and each person who the stockholder proposes to nominate for election as a director (i) (A) the class or series and number of all shares of stock of BankUnited, Inc. which are owned beneficially or of record by such person and any affiliates or associates of such person, (B) the name of each nominee holder of shares of all stock of BankUnited, Inc. owned beneficially but not of record by such person or any affiliates or associates of such person, and the number of such shares of stock of BankUnited, Inc. held by each such nominee holder, (C) whether and the extent to which any derivative instrument, swap, option, warrant, short interest, hedge or profit interest or other transaction has been entered into by or on behalf of such person, or any affiliates or associates of such person, with respect to stock of BankUnited, Inc., and (D) whether and the extent to which any other transaction, agreement, arrangement or understanding (including any short position or any borrowing or lending of shares of stock of BankUnited, Inc.) has been made by or on behalf of such person, or any affiliates or associates of such person, the effect or intent of any of the foregoing being to mitigate loss to, or to manage risk or benefit of stock price changes for, such person, or any affiliates or associates of such person, or to increase or decrease the voting power or pecuniary or economic interest of such person, or any affiliates or associates of such person, with respect to stock of BankUnited, Inc., and (ii) any other information relating to such person that would be required to be disclosed in a proxy statement or other filings required to be made in connection with solicitations of proxies for election of directors pursuant to the Exchange Act, and the rules and regulations promulgated thereunder.

The notice must also contain as to each person who the stockholder proposes to nominate: (i) the name, age, business address and residence address of such person, (ii) the principal occupation or employment of such person, and (iii) a written consent of such person to being named as a nominee and to serve as a director if elected.

As to the stockholder giving the notice and the beneficial holder on whose behalf of the nomination is being made the notice must contain (i) the name and record address of such person, (ii) a description of all agreements, arrangements, or understandings (whether written or oral) between or among such person, or any affiliates or associates of such person, and any proposed nominee or any other person or persons (including their names) pursuant to which the nomination(s) are being made by such person, and any material interest of such person, or any affiliates or associates of such person, in such nomination, including any anticipated benefit therefrom to such person, or any affiliates or associates of such person, and (iii) a representation that the stockholder giving notice intends to appear in person or by proxy at the annual meeting or special meeting to nominate the persons named in its notice.

A nomination of persons for election to BankUnited, Inc.'s Board of Directors may be submitted for inclusion in BankUnited, Inc.'s proxy materials pursuant to the final rules adopted by the SEC providing for such nominations and inclusion, and, if such nomination is submitted under final rules adopted by the SEC providing for such nominations and inclusion, such submission (a) in order to be

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timely, must be delivered to, or be mailed and received by, BankUnited, Inc.'s Secretary at the principal executive offices of BankUnited, Inc. no later than 120 calendar days before the date that BankUnited, Inc. mailed (or otherwise disseminated) its proxy materials for the prior year's annual meeting (or such other date as may be set forth in the final rules adopted by the SEC providing for director nominations and inclusion for companies without advance notice by-laws); (b) in all other respects, must be made pursuant to, and in accordance with, the terms of the final proxy access rules, as in effect at the time of the nomination, or any successor rules or regulations of the SEC then in effect; and (c) must provide BankUnited, Inc. with any other information required by Section 5 of Article II of BankUnited, Inc.'s amended and restated by-laws for nominations not made under the final proxy access rules except to the extent that requiring such information to be furnished is prohibited by the final proxy access rules.

BankUnited, Inc. is a also a party to a director nomination agreement with John A. Kanas, BankUnited, Inc.'s Chairman, President, and Chief Executive Officer, and certain of BankUnited, Inc.'s stockholders. That agreement provides Mr. Kanas, so long as he is BankUnited, Inc.'s Chief Executive Officer, and four of BankUnited, Inc.'s stockholders, so long as they each own at least 40% of the amount of stock they owned before BankUnited, Inc.'s initial public offering, each with the right to nominate individuals to BankUnited, Inc.'s Board of Directors at each meeting of stockholders where directors are to be elected and have BankUnited, Inc. include such nominees in the slate of nominees BankUnited, Inc.'s Board of Directors recommends to its stockholders for election as directors.

***Herald***

Nominations for election to the Herald Board of Directors may be made by any shareholder of any outstanding class of capital stock of the association entitled to vote for the election of directors. Nominations, other than those made by or on behalf of the existing management of Herald, shall be made in writing and shall be delivered or mailed to Herald's president and to the OCC, Washington, D.C., not less than 14 days nor more than 50 days prior to any meeting of shareholders called for the election of directors; provided, however, that if less than 21 days' notice of the meeting is given to shareholders, such nomination shall be mailed or delivered to the president of Herald and to the OCC not later than the close of business on the seventh day following the day on which the notice of meeting was mailed. Such notification shall contain the following information to the extent known to the notifying shareholder: (1) the name and address of each proposed nominee; (2) the principal occupation of each proposed nominee; (3) the total number of shares of capital stock of the association that will be voted for each proposed nominee; (4) the name and residence address of the notifying shareholder; and (5) the number of shares of capital stock of Herald owned by the notifying shareholder.

## Calling Special Meetings of Stockholders

***BankUnited, Inc.***

Except as otherwise required by law, special meetings of stockholders of BankUnited, Inc. for any purpose or purposes may be called at any time only by (i) the Chief Executive Officer or the President of BankUnited, Inc., (ii) the Board of Directors pursuant to a resolution duly adopted by a majority of the total number of authorized directors then in office which states the purpose or purposes thereof, or (iii) any stockholder or stockholders who beneficially own 25% or more of the votes entitled to be cast by the shares of the then outstanding capital stock of BankUnited, Inc. entitled to vote generally in the election of directors. No business other than that stated in the notice of such meeting (or any amendment or supplement thereto), which notice, in the case of a special meeting called by a stockholder or stockholders, shall include all business requested by such stockholder or stockholders to be transacted at such meeting, shall be transacted at any special meeting.

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***Herald***

The Board of Directors of Herald, any three or more Herald directors, or any three or more shareholders owning, in the aggregate, not less than 25% of the stock of Herald, may call a special meeting of shareholders at any time.

**Stockholder Proposals**

***BankUnited, Inc.***

BankUnited, Inc.'s amended and restated by-laws provide that, for a stockholder proposal to be properly brought before an annual meeting, the stockholder must be a stockholder of record on the date when notice of the meeting is given and give timely notice in proper written form to BankUnited, Inc.'s secretary. To be timely, a stockholder's notice to BankUnited, Inc.'s secretary must be delivered to or be mailed and received at the principal executive offices of BankUnited, Inc. (a) for an annual meeting called for a date that is within 25 days of the anniversary of the immediately preceding annual meeting, between 90 and 120 days prior to such anniversary; and (b) for an annual meeting that is not called for within 25 days of the anniversary of the immediately preceding annual meeting, before the close of business on the tenth day following the earlier of the date the notice of the meeting was mailed or the date of the meeting was publicly disclosed.

To be in proper written form, a stockholder's notice to BankUnited, Inc.'s secretary must set forth the following information: (a) as to each matter such stockholder proposes to bring before the annual meeting, a brief description of the business desired to be brought before the annual meeting and the reasons for conducting such business at the annual meeting, and (b) as to the stockholder giving the notice and the beneficial owner, if any, on whose behalf the proposal is being made, (i) the name and record address of such person, (ii) (A) the class or series and number of all shares of stock of BankUnited, Inc. which are owned beneficially or of record by such person and any affiliates or associates of such person, (B) the name of each nominee holder of shares of all stock of BankUnited, Inc. owned beneficially but not of record by such person or any affiliates or associates of such person, and the number of such shares of stock of BankUnited, Inc. held by each such nominee holder, (C) whether and the extent to which any derivative instrument, swap, option, warrant, short interest, hedge or profit interest or other transaction has been entered into by or on behalf of such person, or any affiliates or associates of such person, with respect to stock of BankUnited, Inc., and (D) whether and the extent to which any other transaction, agreement, arrangement or understanding (including any short position or any borrowing or lending of shares of stock of BankUnited, Inc.) has been made by or on behalf of such person, or any affiliates or associates of such person, the effect or intent of any of the foregoing being to mitigate loss to, or to manage risk or benefit of stock price changes for, such person, or any affiliates or associates of such person, or to increase or decrease the voting power or pecuniary or economic interest of such person, or any affiliates or associates of such person, with respect to stock of BankUnited, Inc., (iii) a description of all agreements, arrangements, or understandings (whether written or oral) between or among such person, or any affiliates or associates of such person, and any other person or persons (including their names) in connection with the proposal of such business and any material interest of such person or any affiliates or associates of such person, in such business, including any anticipated benefit therefrom to such person, or any affiliates or associates of such person, (iv) a representation that the stockholder giving notice intends to appear in person or by proxy at the annual meeting to bring such business before the meeting, and (v) any other information relating to such person that would be required to be disclosed in a proxy statement or other filing required to be made in connection with the solicitation of proxies by such person with respect to the proposed business to be brought by such person before the annual meeting pursuant to Section 14 of the Exchange Act and the rules and regulations promulgated thereunder.

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***Herald***

Pursuant to Rule 14a-8 under the Exchange Act, shareholder proposals to be included in Herald's proxy statement and form of proxy must be received by Herald at its principal executive office in New York, New York not less than 120 calendar days before the date of Herald's proxy statement released to shareholders in connection with the previous year's annual meeting. These proposals must comply with applicable Delaware law, the rules and regulations promulgated by the OCC and the procedures set forth in Herald's by-laws.

**Notice of Stockholder Meetings**

***BankUnited, Inc.***

BankUnited, Inc.'s amended and restated by-laws provide that BankUnited, Inc. must give written notice between ten and sixty days before any stockholders meeting to each stockholder entitled to notice of and to vote at such a meeting. The written notice shall state the place, if any, date and hour of the meeting, the means of remote communications, if any, by which stockholders and proxyholders may be deemed to be present in person and vote at such meeting and, in the case of a special meeting, the purpose or purposes of which the meeting is called.

***Herald***

Herald's by-laws provide that notice must be given by mailing, postage prepaid, not less than ten days nor more than sixty days prior to the date fixed for the meeting at the address for each shareholder appearing on the books of Herald. A notice of special meeting must state the purpose of the meeting.

**Anti-Takeover Provisions and Other Stockholder Protections**

***BankUnited, Inc.***

As more fully described above, BankUnited, Inc.'s amended and restated certificate of incorporation and amended and restated by-laws establish advance notice procedures with respect to stockholder proposals and the nomination of candidates for election as directors, other than nominations made by or at the direction of BankUnited, Inc.'s Board of Directors or a committee of that Board.

BankUnited, Inc.'s amended and restated certificate of incorporation and amended and restated by-laws provide that special meetings of the stockholders may be called for any purpose or purposes at any time by a majority of BankUnited, Inc.'s Board of Directors or by the Chief Executive Officer or the President. In addition, BankUnited, Inc.'s amended and restated certificate of incorporation provides that a holder, or a group of holders, of capital stock holding 25% or more of the total voting power of the outstanding shares of BankUnited, Inc.'s capital stock may cause BankUnited, Inc. to call a special meeting of the stockholders for any purpose or purposes at any time.

BankUnited, Inc.'s amended and restated certificate of incorporation and amended and restated by-laws provide that stockholders are not entitled to act by written consent.

BankUnited, Inc.'s Board of Directors, by the affirmative vote of at least a majority of that Board, has the power without the assent or vote of the stockholders to adopt, amend, alter or repeal the by-laws. The by-laws also may be adopted, amended, altered or repealed by the affirmative vote of the holders of a majority of the votes entitled to be cast by the shares of outstanding capital stock entitled to vote thereon, subject to a specified exception relating to indemnification and advancement of expenses.

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The DGCL provides that stockholders are not entitled to the right to cumulate votes in the election of directors unless an entity's certificate of incorporation provides otherwise. BankUnited, Inc.'s amended and restated certificate of incorporation and amended and restated by-laws do not provide for cumulative voting in the election of directors.

Except as may otherwise be required by applicable law and subject to the rights of holders of preferred stock then outstanding, BankUnited, Inc.'s amended and restated certificate of incorporation and amended and restated by-laws provide that stockholders may not remove directors without cause.

BankUnited, Inc.'s amended and restated certificate of incorporation and amended and restated by-laws authorize the issuance of "blank check" preferred stock with such designations, rights and preferences as may be determined from time to time by BankUnited, Inc.'s Board of Directors.

BankUnited, Inc. has elected to opt out of DGCL § 203, which prohibits a Delaware corporation from engaging in a "business combination" (as defined in the DGCL) with a person owning 15% or more of the corporation's voting stock for three years following the time that person becomes a 15% stockholder, with certain exceptions.

***Herald***

As more fully described above, Herald's articles of association and by-laws establish advance notice procedures with respect to shareholder proposals.

Herald's by-laws provide that special meetings of the shareholders may be called for any purpose or purposes at any time by a majority of Herald's Board of Directors. In addition, Herald's articles of association provide that three or more Herald shareholders owning, in the aggregate, 25% or more of Herald's stock may call a special meeting of the shareholders.

Herald's Board of Directors, by the affirmative vote of at least a majority of that Board at any regular meeting of that Board, has the power without the assent or vote of the shareholders to amend alter or repeal the by-laws, subject to repeal or change at any meeting of the shareholders at which a quorum is present by a vote of a majority of the shareholders present at such meeting.

## Indemnification of Directors and Officers

***BankUnited, Inc.***

The DGCL authorizes corporations to limit or eliminate the personal liability of directors to corporations and their stockholders for monetary damages for breaches of directors' fiduciary duties. BankUnited, Inc.'s amended and restated certificate of incorporation includes a provision that eliminates the personal liability of directors for monetary damages for breach of fiduciary duty as a director to the fullest extent permitted by Delaware law.

Section 102(b)(7) of the DGCL permits a corporation to provide in its certificate of incorporation that a director of the corporation shall not be personally liable to the corporation or its stockholders for monetary damages for breach of fiduciary duty as a director, except for liability (i) for any breach of the director's duty of loyalty to the corporation or its stockholders, (ii) for acts or omissions not in good faith or which involve intentional misconduct or a knowing violation of law, (iii) under Section 174 of the DGCL (regarding, among other things, the payment of unlawful dividends or unlawful stock purchases or redemptions), or (iv) for any transaction from which the director derived an improper personal benefit. BankUnited, Inc.'s amended and restated certificate of incorporation provides for such limitation of liability.

Section 145(a) of the DGCL empowers a corporation to indemnify any director, officer, employee or agent, or former director, officer, employee or agent, who was or is a party or is threatened to be made a party to any threatened, pending or completed action, suit or proceeding, whether civil,

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criminal, administrative or investigative (other than an action by or in the right of the corporation) by reason of such person's service as a director, officer, employee or agent of the corporation, or such person's service, at the corporation's request, as a director, officer, employee or agent of another corporation or enterprise, against expenses (including attorneys' fees), judgments, fines and amounts paid in settlement actually and reasonably incurred by such person in connection with such action, suit or proceeding; provided that such director or officer acted in good faith and in a manner reasonably believed to be in or not opposed to the best interests of the corporation, and, with respect to any criminal action or proceeding, provided that such director or officer had no reasonable cause to believe his conduct was unlawful.

Section 145(b) of the DGCL empowers a corporation to indemnify any person who was or is a party or is threatened to be made a party to any threatened, pending or completed action or suit by or in the right of the corporation to procure a judgment in its favor by reason of the fact that such person is or was a director, officer, employee or agent of the corporation, or is or was serving at the request of the corporation as a director, officer, employee or agent of another enterprise, against expenses (including attorneys' fees) actually and reasonably incurred in connection with the defense or settlement of such action or suit; provided that such director or officer acted in good faith and in a manner he or she reasonably believed to be in or not opposed to the best interests of the corporation, except that no indemnification may be made in respect of any claim, issue or matter as to which such director or officer shall have been adjudged to be liable to the corporation unless and only to the extent that the Delaware Court of Chancery or the court in which such action or suit was brought shall determine upon application that, despite the adjudication of liability but in view of all the circumstances of the case, such director or officer is fairly and reasonably entitled to indemnity for such expenses which the court shall deem proper. Notwithstanding the preceding sentence, except as otherwise provided in the by-laws, BankUnited, Inc. shall be required to indemnify any such person in connection with a proceeding (or part thereof) commenced by such person only if the commencement of such proceeding (or part thereof) by any such person was authorized by BankUnited, Inc.'s Board of Directors.

BankUnited, Inc.'s amended and restated certificate of incorporation provides that BankUnited, Inc. must indemnify its directors and officers to the fullest extent authorized by law. BankUnited, Inc. is also required to advance certain expenses to its directors and officers and carry directors' and officers' insurance providing indemnification for BankUnited, Inc.'s directors and officers for some liabilities.

BankUnited, Inc. is also a party to certain indemnification agreements with its directors and officers. Each indemnification agreement provides, among other things, for indemnification to the fullest extent permitted by law and BankUnited, Inc.'s amended and restated certificate of incorporation and by-laws against (i) any and all liabilities, expenses, damages, judgments, fines, penalties, ERISA excise taxes, interest and amounts paid in settlement of any claim with BankUnited, Inc.'s approval and counsel fees and disbursements, (ii) any liability pursuant to a loan guarantee, or otherwise, for any of BankUnited, Inc.'s indebtedness, and (iii) any liabilities incurred as a result of acting on behalf of BankUnited, Inc. (as a fiduciary or otherwise) in connection with an employee benefit plan or any related trust or funding mechanism. Each indemnification agreement provides for the advancement or payment of expenses to the indemnitee and for reimbursement to BankUnited, Inc. if it is found that such indemnitee is not entitled to such indemnification under applicable law and BankUnited, Inc.'s amended and restated certificate of incorporation and by-laws.

***Herald***

Pursuant to its articles of association and by-laws, Herald may make or agree to make indemnification payments to an institution-affiliated party, as defined in 12 U.S.C. § 1813(u), for an administrative proceeding or civil action initiated by any federal banking agency, that are reasonable and consistent with the requirements of 12 U.S.C. § 1828(k) and the implementing regulations thereunder. Herald may indemnify an institution-affiliated party, as defined in 12 U.S.C. § 1813(u) for damages and expenses, including the advancement of expenses and legal fees, in cases involving an administrative proceeding or civil action not initiated by a federal banking agency, in accordance with the DGCL, provided such payments are consistent with safe and sound banking practices.

**Amendments to Certificate of Incorporation/Articles of Association and By-laws**

***BankUnited, Inc.***

Under BankUnited, Inc.'s amended and restated certificate of incorporation, BankUnited, Inc.'s by-laws may be adopted, amended, altered, or either (i) by a majority of BankUnited, Inc.'s Board of Directors or (ii) by the affirmative vote of the holders of a majority of the votes entitled to be cast by the shares of outstanding capital stock entitled to vote thereon.

Under DGCL § 242, a corporation's certificate of incorporation may be amended only if the proposed amendment is approved by the Board of Directors and, unless the amendment adversely affects a class of non-voting shares, the holders of a majority of the outstanding stock entitled to vote thereon and a majority of the outstanding stock of each class entitled to vote thereon.

***Herald***

Under Herald's by-laws, Herald's by-laws may be amended, altered or repealed, at any regular meeting of the Board of Directors of Herald, by a vote of a majority of the total number of the directors present at such meeting, subject to repeal or change at any meeting of the shareholders at which a quorum is present by a vote of a majority of the shareholders present at such meeting.

Under Herald's articles of association, Herald's articles of association may be amended at any regular or special meeting of the shareholders by an affirmative vote of the holders of a majority of the stock of Herald, unless the vote of the holders of a greater amount of stock required by law, and in that case, by vote of the holders of such greater amount.

**Additional Rights of Herald Preferred Shareholders**

Holders of Herald preferred stock have certain rights upon the liquidation or dissolution of Herald that are in preference to those of Herald's common shareholders.

In the event of any liquidation, dissolution or winding up of the affairs of Herald, whether voluntary or involuntary, holders of Herald preferred stock are entitled to receive for each share of preferred stock, subject to the rights of any creditors of Herald, before any distribution of such assets or proceeds is made or set aside for the holders of Herald common stock or any other class of capital stock of Herald that ranks subordinate and junior in right of payment to Herald's preferred stock, an amount equal to the greater of (i) the sum of (x) $3.00 per share of preferred stock and (y) the amount of any declared, but unpaid distribution to the preferred shareholders or (ii) the amount the holder of the preferred stock would receive in respect of a share of preferred stock if that share had been converted to one share of Herald common stock at the time of such liquidation, dissolution or winding upon (assuming the conversion of all shares of Herald preferred stock to an equal amount of Herald common stock at such time). The certificate of designation of Herald's preferred stock treats certain changes of control, such as the merger, as a liquidation, dissolution, or winding up of Herald.

The Certificate of Designation of Powers, Preferences and Rights of Series A Preferred Stock of Herald provides that Herald preferred shareholders do not have any voting rights except as otherwise from time to time required by law (such as in the case of a merger).

Upon completion of the merger, holders of Herald preferred stock who receive shares of BankUnited, Inc. common stock will have the same rights as stockholders as other BankUnited, Inc. stockholders.

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## LEGAL MATTERS

The validity of BankUnited, Inc.'s common stock to be issued in connection with the merger will be passed upon for BankUnited, Inc. by Skadden, Arps, Slate, Meagher & Flom LLP.

## EXPERTS

The consolidated financial statements of BankUnited, Inc. and subsidiaries as of December 31, 2010 and 2009, and for the year ended December 31, 2010 and for the period from April 28, 2009 (date of inception) through December 31, 2009, have been included herein in reliance upon the report of KPMG LLP, independent registered public accounting firm, appearing elsewhere herein, and upon the authority of said firm as experts in accounting and auditing.

The consolidated financial statements of BankUnited, FSB as of May 21, 2009 and for the period from October 1, 2008 to May 21, 2009, and the fiscal year ended September 30, 2008, all included in this prospectus, have been so included in reliance on the report (which contains an explanatory paragraph relating to BankUnited, FSB's failure as described in Note 1 to such financial statements) of PricewaterhouseCoopers LLP, an independent registered certified public accounting firm, given on the authority of said firm as experts in auditing and accounting.

The consolidated financial statements of Herald as of December 31, 2010 and 2009, and for each of the years in the three-year period ended December 31, 2010, have been included herein in reliance upon the reports of KPMG LLP, independent registered public accounting firm, appearing elsewhere herein, and upon the authority of said firm as experts in accounting and auditing.

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## STOCKHOLDER PROPOSALS FOR NEXT YEAR

**BankUnited, Inc.**

To be eligible under the SEC's stockholder proposal rule (Rule 14a-8) and under BankUnited, Inc.'s amended and restated by-laws for inclusion in BankUnited, Inc.'s proxy statement, proxy card, and presentation at BankUnited, Inc.'s 2012 annual meeting of stockholders, a proper stockholder proposal must have been received by BankUnited, Inc.'s secretary at BankUnited, Inc.'s principal offices at 14817 Oak Lane, Miami Lakes, FL 33016 not later than the close of business on the tenth day following the day on which notice of the date of the annual meeting was mailed or public disclosure of the date of the annual meeting was made, whichever first occurs.

**Herald**

Herald intends to hold a 2012 annual meeting of shareholders only if the merger agreement is terminated or the merger is otherwise not consummated in a timely manner. For a shareholder proposal to be considered for inclusion in Herald's proxy statement and form of proxy relating to the Herald 2012 annual meeting of shareholders (in the event this meeting is held) such proposal must, pursuant to Rule 14a-8 under the Exchange Act, be received by Herald at its principal executive offices in New York, New York, not later than December 31, 2011. With respect to any shareholder proposals for director nominations submitted pursuant to Herald's by-laws, they must be provided in compliance with the provisions of Herald's by-laws which are set forth above. These proposals must comply with applicable Delaware law, the rules and regulations promulgated by the OCC, and the procedures set forth in Herald's by-laws.

## OTHER MATTERS

As of the date of this proxy statement/prospectus, Herald's Board of Directors knows of no matters that will be presented for consideration at the special meeting other than as described in this proxy statement/prospectus. Herald's shareholders may, however, be asked to vote on a proposal to adjourn, postpone or continue the special meeting, if necessary, to allow more time to solicit votes to ratify and confirm the merger agreement. If any other matters, or any adjournments or postponements of the meeting, properly come before the Herald special meeting, and are voted upon, the enclosed proxies will be deemed to confer discretionary authority on the individuals that they name as proxies to vote the shares represented by these proxies as to any of these matters. The individuals named as proxies intend to vote or not to vote in accordance with the recommendation of the management of Herald.

## SHAREHOLDERS SHARING AN ADDRESS

In a further effort to reduce printing costs and postage fees, Herald has adopted a practice approved by federal securities regulations called "house holding." Under this practice, shareholders who have the same address and last name will receive only one copy of this proxy statement/prospectus, unless one or more of these shareholders notifies Herald that he, she, or it wishes to continue receiving individual copies. Shareholders who participate in house holding will continue to receive separate proxy cards. If you share an address with another shareholder and received only one set of proxy materials, and would like to request a separate paper copy of these materials, please contact Gerard A. Perri, by mail at 623 Fifth Avenue, New York, New York 10022, by telephone at (212) 421-0030, or by email at gperri@heraldnb.com, and Herald will promptly deliver a separate copy. In addition, if you are receiving multiple copies and would prefer to receive only one set of Herald's proxy materials, you may also contact Gerard A. Perri as described above.

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# INFORMATION ABOUT BANKUNITED, INC.

*In this section entitled "Information About Bankunited, Inc.," and only in this section, the terms "Company," "we," "us," and "our" are used to refer to BankUnited, Inc. and its subsidiaries and the term "Bank" is used to refer to BankUnited, a wholly-owned subsidiary of BankUnited, Inc., in each case unless the context otherwise requires.*

## Information About BankUnited, Inc.'s Business

### *Summary*

BankUnited, Inc. is a savings and loan holding company with two wholly-owned subsidiaries: the Bank is one of the largest independent depository institutions headquartered in Florida by assets, and BankUnited Investment Services, Inc., which we refer to as "BankUnited Investment Services," a Florida insurance agency which provides comprehensive wealth management products and financial planning services. BankUnited is a federally-chartered, federally-insured savings association headquartered in Miami Lakes, Florida, with $10.9 billion of assets, more than 1,200 professionals and 81 branches in 13 counties at December 31, 2010. The Company's goal is to build a premier, large regional bank with a low-risk, long-term value-oriented business model focused on small and medium sized businesses and consumers. We endeavor to provide personalized customer service and offer a full range of traditional banking products and financial services to both our commercial and consumer customers, who are predominantly located in Florida. On June 14, 2011, the Bank filed an application to convert from a federal savings association to a national bank.

BankUnited, Inc. was organized by a management team led by our Chairman, President and Chief Executive Officer, John A. Kanas, on April 28, 2009 and was initially capitalized with $945.0 million by a group of investors. On May 21, 2009, BankUnited was granted a savings association charter and the newly formed bank acquired substantially all of the assets and assumed all of the non-brokered deposits and substantially all other liabilities of the Failed Bank from the FDIC in a transaction which we refer to as the Acquisition. Concurrently with the Acquisition, we entered into two loss sharing agreements, or the "Loss Sharing Agreements," which cover certain legacy assets, including the entire legacy loan portfolio and other real estate owned, or "OREO," and certain purchased investment securities, including private-label mortgage-backed securities and non-investment grade securities. We refer to Covered Assets in certain cases as "Covered Loans" or "Covered Securities."

Since the Bank's establishment in May 2009, we have pursued our new strategy and as part of this strategy we have recruited a new executive management team, substantially enhanced our middle management team, redesigned the Bank's underwriting functions, made significant investments in the Bank's information technology systems, and begun the process of optimizing our existing branch network. For the year ended December 31, 2010, the Company was one of the most profitable and well-capitalized bank holding companies in the United States, having earned 1.7% on its average assets and 15.4% on its average common stockholder's equity, and achieved a 47.0% efficiency ratio. BankUnited's tier 1 leverage ratio was 10.6% and its tier 1 risk-based capital ratio was 44% at March 31, 2011. We intend to invest our excess capital to grow opportunistically both organically and through acquisitions.

Our management team is led by Mr. Kanas, a veteran of the banking industry who built North Fork Bancorporation, or North Fork, into a leading regional bank based in New York.

On February 2, 2011, we completed the initial public offering of 33,350,000 shares of our common stock for which we received proceeds, after deducting underwriting discounts and offering expenses, of approximately $98.6 million. We refer to this transaction as the "IPO." Prior to the IPO we were a direct, wholly-owned subsidiary of BU Financial Holdings LLC, or the "LLC," a Delaware limited liability company, and whose common equity interests are referred to herein as units. Immediately prior to the consummation of the IPO, the LLC was liquidated and all interests in us were distributed to the members of the LLC in accordance with its amended and restated limited liability company agreement dated as of May 21, 2009, or the "LLC Agreement." All of the transactions necessary to effect the liquidation are collectively referred to herein as the "Reorganization."

***The Acquisition***

*Overview*

On May 21, 2009, BankUnited entered into a purchase and assumption agreement, or the "Purchase and Assumption Agreement," with the FDIC, Receiver of the Failed Bank, to acquire substantially all of the assets and assume all of the non-brokered deposits and substantially all other liabilities of the Failed Bank. Excluding the effects of acquisition accounting adjustments, BankUnited acquired $13.6 billion of assets and assumed $12.8 billion of liabilities. The fair value of the assets acquired was $10.9 billion and the fair value of the liabilities assumed was $13.1 billion. BankUnited received a net cash consideration from the FDIC in the amount of $2.2 billion.

The Acquisition consisted of assets with a fair value of $10.9 billion, including $5.0 billion of loans (with a corresponding unpaid principal balance, or "UPB," of $11.2 billion), a $3.4 billion FDIC indemnification asset, $538.9 million of investment securities, $1.2 billion of cash and cash equivalents, $177.7 million of foreclosed assets, $243.3 million of Federal Home Loan Bank, or "FHLB," stock and $347.4 million of other assets. Liabilities with a fair value of $13.1 billion were also assumed, including $8.3 billion of non-brokered deposits, $4.6 billion of FHLB advances, and $112.2 million of other liabilities.

Concurrently with the Acquisition, the Bank entered into the Loss Sharing Agreements with the FDIC that cover certain legacy assets, including the entire loan portfolio and OREO, and certain purchased investment securities, including private-label mortgage-backed securities and non-investment grade securities. The Bank acquired other Failed Bank assets that are not covered by the Loss Sharing Agreements with the FDIC including cash, certain investment securities purchased at fair market value and other tangible assets. The Loss Sharing Agreements do not apply to subsequently acquired, purchased or originated assets. At March 31, 2011, the Covered Assets consisted of assets with a book value of $3.5 billion. The total UPB (or, for investment securities, unamortized cost basis) of the Covered Assets at March 31, 2011 was $7.7 billion.

Pursuant to the terms of the Loss Sharing Agreements, the Covered Assets are subject to a stated loss threshold whereby the FDIC will reimburse the Bank for 80% of losses up to the $4.0 billion stated threshold and 95% of losses in excess of the $4.0 billion stated threshold, calculated, in each case, based on UPB (or, for investment securities, unamortized cost basis) plus certain interest and expenses. The carrying value of the FDIC indemnification asset at March 31, 2011 was $2.4 billion. The Bank will reimburse the FDIC for its share of recoveries with respect to losses for which the FDIC paid the Bank a reimbursement under the Loss Sharing Agreements

The FDIC's obligation to reimburse the Company for losses with respect to the Covered Assets began with the first dollar of loss incurred. We have received $1.4 billion from the FDIC in reimbursements under the Loss Sharing Agreements for claims filed for losses incurred as of March 31, 2011. See "Information About BankUnited, Inc. Information About BankUnited, Inc.'s Business The Acquisition Loss Sharing Agreements" on Page [ ].

Several elements of our Acquisition are favorable relative to other FDIC-assisted transactions and position the Company to generate significant value. At the time of the Acquisition, bank failures were on the rise and the U.S. Treasury's unprecedented Supervisory Capital Assessment Program for the largest U.S. bank holding companies was underway. Due in part to the distress in the banking system, economic uncertainty and poor capital markets conditions, the Covered Loans and OREO were

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purchased by the Bank in a bidding process for 76.5% of their $11.4 billion in UPB as of the Acquisition date, which represented the fair market value for those assets at that time. The discount was one of the largest relative to other FDIC-assisted transactions and reflected, in addition to the abovementioned factors, the poor quality of the assets acquired as noted by the ratio of non-performing assets to total assets of 23.5% at May 21, 2009. In addition, our bid included the granting of a warrant to the FDIC, allowing the FDIC to participate in the economic upside of the transaction if certain performance levels were achieved. Along with the pricing terms, the Loss Sharing Agreements and the size of the transaction enable the Company to generate significant capital even in severe loss scenarios. For example, in the worst case scenario of a 100% credit loss on all Covered Loans and OREO, we would recover no less than 89.7% of the UPB as of the Acquisition date, assuming compliance with the terms of the Loss Sharing Agreements.

Furthermore, the Loss Sharing Agreements include attractive provisions that optimize our flexibility and reduce our risk associated with the Covered Assets, including the following:

***Ability to sell loans.*** We may sell up to 2.5% of the Covered Loans based on the UPB at Acquisition, or approximately $280.0 million, on an annual basis without prior consent of the FDIC. Any losses incurred from such loan sales are covered under the Loss Sharing Agreements.

***No residual credit risk.*** We have the right to sell any or all of the Covered Assets at the termination date of our Loss Sharing Agreements, and any losses incurred will be covered. This allows us to crystallize any residual loss that would otherwise materialize after the expiration of the Loss Sharing Agreements.

***Certain securities covered.*** Certain private-label mortgage-backed securities purchased in the Acquisition are covered under the Loss Sharing Agreements.

***Enhanced flexibility to execute corporate strategy opportunistically.*** The Bank has the ability to pursue certain strategic transactions including, after an 18-month lock-up period from the Acquisition date, the IPO.

We view our relationship with the FDIC as a long-term partnership in which both parties are economically aligned to minimize credit losses on the Covered Assets.

*Loss Sharing Agreements*

Concurrently with the Acquisition, the Bank entered into the Loss Sharing Agreements with the FDIC that cover certain legacy assets, including the entire loan portfolio and OREO, and certain purchased investment securities, including private-label mortgage-backed securities and non-investment grade securities. At March 31, 2011, the Covered Assets consisted of assets with a book value of $3.5 billion. The total UPB (or, for investment securities, unamortized cost basis) of the Covered Assets at March 31, 2011 was $7.7 billion. The Bank acquired other Failed Bank assets that are not covered by the Loss Sharing Agreements with the FDIC including cash, certain investment securities purchased at fair market value and other tangible assets. The Loss Sharing Agreements do not apply to subsequently acquired, purchased or originated assets.

Pursuant to the terms of the Loss Sharing Agreements, the Covered Assets are subject to a stated loss threshold whereby the FDIC will reimburse the Bank for 80% of losses up to the $4.0 billion stated threshold and 95% of losses in excess of the $4.0 billion stated threshold, calculated, in each case, based on UPB (or, for investment securities, unamortized cost basis) plus certain interest and expenses. The carrying value of the FDIC indemnification asset at March 31, 2011 was $2.4 billion. The Bank will reimburse the FDIC for its share of recoveries with respect to losses for which the FDIC paid the Bank a reimbursement under the Loss Sharing Agreements. The FDIC's obligation to

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reimburse the Company for losses with respect to the Covered Assets began with the first dollar of loss incurred.

The Covered Securities acquired in connection with the Acquisition include certain private-label mortgage-backed securities and non-investment grade securities. The Covered Loans acquired in connection with the Acquisition include all:

- one-to-four family residential real estate loans (both owner occupied and investor-owned);
- home equity loans;
- all other loans (including commercial, commercial real estate and consumer loans);
- funding of assumed commitments and permitted advances and permitted amendments; and
- OREO.

The Loss Sharing Agreements consist of a single family shared-loss agreement or the "Single Family Shared-Loss Agreement," and a commercial and other loans shared-loss agreement, or the "Commercial Shared-Loss Agreement." The Single Family Shared-Loss Agreement provides for FDIC loss sharing and the Bank's reimbursement for recoveries to the FDIC for ten years from May 21, 2009 for single family residential loans. The Commercial Shared-Loss Agreement provides for FDIC loss sharing for five years from May 21, 2009 and the Bank's reimbursement for recoveries to the FDIC for eight years from May 21, 2009 for all other Covered Assets.

Under the Purchase and Assumption Agreement, the Bank may sell up to 2.5% of the Covered Loans based on the UPB at Acquisition, or approximately $280.0 million, on an annual basis without prior consent of the FDIC. Any losses incurred from such loan sales are covered under the Loss Sharing Agreements. Any loan sale in excess of the annual 2.5% of the Covered Loans requires approval from the FDIC to be eligible for loss share coverage. However, if the Bank seeks to sell residential or non-residential loans in excess of the agreed 2.5% threshold in the nine months prior to the tenth anniversary or the fifth anniversary, respectively, and the FDIC refuses to consent, then the Single Family Shared-Loss Agreement and the Commercial Shared-Loss Agreement will be extended for two years after their respective anniversaries. The terms of the Loss Sharing Agreements are extended only with respect to the loans to be included in such sales. The Bank will have the right to sell all or any portion of such loans without FDIC consent at any time within the nine months prior to the respective extended termination dates, and any losses incurred will be covered under the Loss Sharing Agreements. If exercised, this final sale mechanism ensures no residual credit risk in our Covered Loan portfolio that would otherwise arise from credit losses occurring after the five- and ten-year periods, respectively.

The Loss Sharing Agreements require us to follow specific servicing procedures and to undertake loss mitigation efforts. Additionally, the FDIC has information rights with respect to our performance under the Loss Sharing Agreements, requiring us to maintain detailed compliance records.

We have received $1.4 billion from the FDIC in reimbursements under the Loss Sharing Agreements for claims filed for losses incurred as of March 31, 2011.

***Our Market Area***

We view our market as the southeast region of the United States with a current focus on Florida, and in particular the Miami metropolitan statistical area, or "MSA." We believe Florida represents a long-term attractive banking market.

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Florida's economy and banking industry continue to face significant challenges. Since 2007, many Florida banks have experienced capital constraints and liquidity challenges as a result of significant losses from loans with poor credit quality and investments that have had sizeable decreases in value or realized losses. The undercapitalization and increased regulation of the banking sector have caused many banks to reduce lending to new and existing clients and focus primarily on improving their balance sheets, putting pressure on commercial borrowers to look for new banking relationships. As of December 31, 2010, 45 banks with $32.8 billion in assets have failed since 2008 in Florida. Given our competitive strengths, including an experienced management team, robust capital position and scalable platform, we believe these challenges present significant acquisition and organic growth opportunities for us.

Over time, we will look to expand our branch network outside of Florida in selected markets such as New York, where our management team has had significant experience and has the competitive advantage of having managed one of the most successful regional banks in that market. However, for a limited period of time, certain of our executive officers are subject to non-compete agreements which may restrict them from operating in New York, New Jersey and Connecticut.

### ***Products and Services***

#### *Loan Origination Activities*

*General.* Our primary lending focus is to serve consumers, commercial and middle-market businesses and their executives with a variety of financial products and services, while maintaining a strong and disciplined credit policy and procedures.

We offer a full array of lending products that cater to our customers' needs including small business loans, residential mortgage loans, commercial real estate loans, equipment loans, term loans, asset-backed loans, letters of credit and commercial lines of credit. Our lending products, policies and practices are not the same as that of the Failed Bank. In particular, we do not originate or purchase negatively amortizing residential loans. As part of our loan activities, we also purchase performing residential loans on a national basis.

Concurrently with the Acquisition, nearly all lending was stopped until we developed a new lending policy which we implemented in October 2009. As of March 31, 2011, the loan portfolio includes $605.9 million in loans originated or purchased since the Acquisition. This includes $282.9 million in commercial loans, $177.0 million in commercial real estate loans and $146.0 million in residential and consumer loans. In addition, we have undrawn commitments of $200.0 million, primarily on commercial loans.

*Commercial loans.* At March 31, 2011, $282.9 million, or 46.7%, of our total new bank loan portfolio consisted of commercial loans and leases. Our commercial loans, which are generally made to small and middle-market businesses primarily in Florida, include equipment loans, lines of credit, acquisition finance credit facilities and an array of Small Business Administration product offerings, and typically have maturities of 5 years or less.

*Commercial real estate loans.* At March 31, 2011, $177.0 million, or 29.2%, of our new bank loan portfolio consisted of commercial real estate loans. We offer term financing for the acquisition or refinancing of properties, primarily rental apartments, industrial properties, retail shopping centers and free-standing buildings, office buildings and hotels located primarily in Florida. Other products that we provide include secured lines of credit, acquisition, development and construction loan facilities and construction financing.

*Residential real estate loans.* At March 31, 2011, $140.1 million, or 23.1%, of our new bank loan portfolio consisted of both purchased ($109.1 million) and originated ($31.0 million) one-to-four single

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family residential real estate loans. We have decided to purchase loans to supplement our nascent mortgage origination platform and to geographically diversify our loan portfolio given the current credit market environment of the non-agency mortgage market in Florida. While the credit parameters we use for purchased loans are substantially similar to the underwriting guidelines we use for originated loans, differences include: (i) loans are purchased on a nationwide basis, while originated loans are currently limited to Florida; (ii) purchased loans, on average, have a higher principal balance than originated loans; and (iii) we consider payment history in selecting which seasoned loans to purchase, while such information is not available for originated loans. We provide one-to-four family residential real estate loans with terms ranging from 10 to 40 years, with either fixed or adjustable interest rates. Loans are currently offered to customers primarily in Florida through BankUnited branches and loan officers. We do not originate subprime loans or option adjustable rate mortgage, or "ARM" loans. Loans are typically closed-end first lien loans for purposes of property purchased, or for refinancing existing loans with or without cashout. The majority of our loans are owner occupied, full documentation loans.

At March 31, 2011, our new bank loan portfolio included $2.3 million of home equity loans and lines of credit.

*Consumer loans.* At March 31, 2011, $3.5 million, or 0.6%, of our total new bank loan portfolio consisted of consumer loans. We offer consumer loans to our customers primarily in Florida for personal, family and household purposes, including auto, boat, and personal installment loans.

*Lease financing.* In the fourth quarter of 2010, we acquired two leasing businesses. We now provide secured loan and lease programs for small and medium sized businesses on a national basis through United Capital Business Lending. These loans and leases are typically used for equipment purchases and upgrades, business expansion and acquisition purposes. Through Pinnacle Public Finance, we also offer tax-exempt leasing to municipalities and governmental entities nationwide for the financing of essential-use assets.

### *Credit Policy and Procedures*

The fundamental principles of the Bank's credit policy and procedures are to maintain high quality credit standards, which enhance the long term value of the Bank to its customers, employees, stockholders and communities. Credit quality is a key corporate objective that is managed in concert with other key objectives including volume growth, earnings and expense management. We recognize that our credit policy and procedures are dynamic and responsive to the market place. It is the foundation of our credit culture.

The Board of Directors of the Bank is responsible for the safety and soundness of the Bank. As such, they are charged to monitor the efforts of the Bank's management activities. Since lending represents risk exposure, our Board and its duly appointed committees seek to ensure that the Bank maintains high credit quality standards.

The Bank has established asset oversight committees to administer the loan portfolio. These committees include: (i) the Enterprise Risk Management Committee; (ii) the Credit Risk Management Committee; (iii) the Asset Recovery Committee; and (iv) the Criticized Asset Committee. These committees meet at least quarterly to review and approve the lending activities of the Bank.

The credit approval process at the Bank provides for the prompt and thorough underwriting and approval or decline of loan requests. The approval method used is a hierarchy of individual lending authorities for new credits and renewals. The Credit Risk Management Committee approves loan authorities for lending and credit personnel, which are ultimately submitted to our Board for ratification. Lending authorities are based on position, capability and experience of the individuals filling these positions. Authorities are periodically reviewed and updated.

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The Bank has established in-house borrower lending limits which are significantly lower than its legal lending limit of approximately $171.2 million, at March 31, 2011. The present in-house lending limit is set at $25.0 million based on total credit exposure of a borrower. However, exceptions to this limit may be made up to $40.0 million of total credit exposure if approved by the Chief Lending Officer and Chief Executive Officer of the Bank. These limits are reviewed periodically by the Credit Risk Management Committee and approved annually by our Board.

*Deposits*

We offer traditional depository products including checking accounts, money market deposit accounts, savings accounts and certificates of deposit with a variety of rates. Our deposits are insured by the FDIC up to statutory limits. At March 31, 2011, the balance of our interest bearing deposits was $6.3 billion, representing 91.4% of our total deposits, and the balance of our non-interest bearing deposits was $595.0 million, representing 8.6% of our total deposits. Our strategy is to increase our mix of core deposits and reduce our time deposits portfolio. We have a service fee schedule, which is competitive with other financial institutions in our market, covering such matters as maintenance fees on checking accounts, per item processing fees on checking accounts, returned check charges and similar fees.

*Wealth Management*

Through dedicated financial consultants and licensed bankers, BankUnited Investment Services provides a comprehensive wealth management product offering that includes mutual funds, annuities, life insurance, and individual securities. We also provide comprehensive succession planning, estate planning, and financial planning to individuals and business owners. We use a third-party financial services company to provide our trading platform, administrative and back office support, and provide our customers with 24-hour access to account balances and summaries, positions and portfolio views, transaction detail, customized portfolio view, and online statements.

***Investments***

The primary objectives of our investment policy are to provide liquidity necessary for the day-to-day operations of the Company, provide a suitable balance of high credit and diversified quality assets to the consolidated balance sheet, manage interest rate risk exposure, and generate acceptable returns given the Company's established risk parameters.

The investment policy is reviewed annually by our Board of Directors. Overall investment goals are established by our Board, Chief Executive Officer, Chief Financial Officer, and members of the Company's Asset/Liability Committee, referred to as "ALCO." The Board has delegated the responsibility of monitoring our investment activities to ALCO. Day-to-day activities pertaining to the investment portfolio are conducted within the Company's Treasury Division under the supervision of the Chief Financial Officer.

As part of the Acquisition, we acquired an investment portfolio with a fair value of $538.9 million. Of these assets, $252.9 million consisted of private-label mortgage-backed securities and corporate securities which are covered by the Commercial Shared-Loss Agreement. The remaining $286.0 million consisted of Treasury securities, municipal securities and mortgage-backed securities issued by the U.S. Government agency and sponsored enterprises, and are not covered by the Loss Sharing Agreements.

Our strategy for investment security purchases since the Acquisition has been to achieve the objectives noted above, with an emphasis on managing interest rate risk exposure and maintaining liquidity in the portfolio.

***Marketing and Distribution***

We conduct our banking business through 81 branches located in 13 coastal counties throughout Florida as of March 31, 2011. Our distribution network also includes 76 ATMs, fully integrated on-line banking, and a telephone banking service. We target growing companies and commercial and middle-market businesses, as well as individual consumers throughout Florida.

In order to market our deposit products, we use local print advertising and direct mail and provide sales incentives for our employees.

***Competition***

The primary market we serve is Florida. Our market is highly competitive. Our market contains not only a large number of community and regional banks, but also a significant presence of the country's largest commercial banks. We compete with other state and national financial institutions located in Florida and adjoining states as well as savings associations, savings banks and credit unions for deposits and loans. In addition, we compete with financial intermediaries, such as consumer finance companies, mortgage banking companies, insurance companies, securities firms, mutual funds and several government agencies as well as major retailers, all actively engaged in providing various types of loans and other financial services. Our largest banking competitors in our market include Bank of America, BankAtlantic, BB&T, JPMorgan Chase, Regions Bank, SunTrust Banks, TD Bank and Wells Fargo.

Interest rates, both on loans and deposits, and prices of fee-based services are significant competitive factors among financial institutions generally. Other important competitive factors include office location, office hours, quality of customer service, community reputation, continuity of personnel and services, and, in the case of larger commercial customers, relative lending limits and ability to offer sophisticated cash management and other commercial banking services. While we continue to provide competitive interest rates on both depository and lending products, we believe that we can compete most successfully by focusing on the financial needs of growing companies and their executives, consumers and commercial and middle-market businesses, and offering them a broad range of personalized services and sophisticated cash management tools tailored to their businesses. We also believe that further volatility and consolidation in the banking industry would create additional opportunities for us to enhance our competitive position.

***Information Technology Systems***

*Information Technology and Bank Operations*

We have recently made and continue to make significant investments in our information technology systems for our banking and lending operations and cash management activities. We believe this is a necessary investment in order to enhance our capabilities to offer new products and overall customer experience, and to provide scale for future growth and acquisitions. Critical enhancements include the consolidation of all residential servicing to a leading servicing platform, upgrading our general ledger system, selecting an automated anti-money laundering software solution and enhancing other ancillary systems. We have converted our core deposit banking system to more effectively automate bank transactions for our branches, improve our commercial and consumer loan origination, electronic banking and direct response marketing processes, as well as enhance cash management, streamlined reporting, reconciliation support, and sales support.

The majority of our systems including our EFT, transaction processing and our online banking services are hosted by third-party service providers. Additionally, we rely on a leading third-party provider to provide a comprehensive, fully integrated solution that gives us the ability to automate areas of our residential loan servicing, including loan set-up and maintenance, customer service,

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cashiering, escrow administration, investor accounting, default management, corporate accounting and federal regulatory reporting. The scalability of this new infrastructure will support our growth strategy. In addition, the capability of these vendors to automatically switch over to standby systems allows us to recover our systems and provide business continuity very quickly in case of a disaster.

*Loan Servicing*

Substantially all of our loans are serviced by us. Since the Acquisition, we have invested heavily in our loan servicing platform to ensure we are taking best efforts in minimizing losses on the Covered Loans. Additionally, we have been an active participant in the U.S. Treasury Department's Home Affordable Modification Program, or "HAMP," since 2009, which focuses on helping at-risk homeowners avoid foreclosure by reducing payments through interest rate reduction, term extension, principal forbearance and principal forgiveness. As of March 31, 2011, 8,662 borrowers have been counseled regarding their participation in HAMP, resulting in 2,475 permanent loan modifications and 175 active trial modifications.

***Regulation and Supervision***

The U.S. banking industry is highly regulated under federal and state law. These regulations affect the operations of the Company and its subsidiaries.

Statutes, regulations and policies limit the activities in which we may engage and the conduct of our permitted activities. Further, the regulatory system imposes reporting and information collection obligations. We incur significant costs relating to compliance with these laws and regulations. Banking statutes, regulations and policies are continually under review by federal and state legislatures and regulatory agencies, and a change in them, including changes in how they are interpreted or implemented, could have a material adverse effect on our business.

The material statutory and regulatory requirements that are applicable to us are summarized below. The description below is not intended to summarize all laws and regulations applicable to us.

*Currently a Savings and Loan Holding Company*

BankUnited is currently a federal savings association organized under the federal Home Owners' Loan Act, or "HOLA." A federal savings association is commonly referred to as a federal thrift. As a federal thrift, BankUnited is currently subject to ongoing and comprehensive supervision, regulation, examination and enforcement by the OTS. Any entity that directly or indirectly controls a thrift (but that does not control a bank) must be approved by the OTS to become a savings and loan holding company, or "SLHC." The Company, which controls BankUnited, received OTS approval to become a SLHC on May 21, 2009. As a SLHC, the Company is currently subject to ongoing and comprehensive supervision, regulation, examination and enforcement by the OTS. This OTS jurisdiction also extends to any company that is directly or indirectly controlled by us.

Recent changes in the law will shift principal regulatory jurisdiction over federal thrifts and SLHCs from the OTS to other federal banking agencies as of July 21, 2011. Federal thrifts, including BankUnited, will become subject to supervision and regulation by the OCC. SLHCs, including the Company, will become subject to supervision and regulation by the Federal Reserve Board.

In preparation for this shift in regulatory jurisdiction, each of the OCC and the Federal Reserve Board have issued notices for public comment on how the agencies intend to regulate and supervise federal thrifts and SLHCs. With respect to federal thrifts, the OCC in its notice indicated that, as a general and initial matter, it intends to retain the regulatory framework for federal thrifts instituted by the OTS. However, the OCC also indicated that it will consider more comprehensive substantive changes to that regulatory framework in the future. With respect to SLHCs, the Federal Reserve Board

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in its notice indicated that, as a general matter, it intends to apply the supervisory program currently in place for BHCs to SLHCs to the fullest extent possible taking into consideration the unique characteristics of SLHCs and the requirements of HOLA. The Federal Reserve Board indicated that it anticipates that it will assess SLHC capital using supervisory methods similar to those currently employed by the OTS until consolidated capital standards under Basel III are finalized. Both notices are subject to public comment and final action by the agencies. Consequently, at this time, the practical effect and consequences for our operations of this shift in regulatory jurisdiction are unclear.

*Expect to Become a Bank Holding Company*

Apart from recent changes in the law, the Company's regulatory structure is expected to change as a result of two proposed events. First, as described in this proxy statement/ prospectus, the Company contemplates acquiring control of Herald. Second, the Company has begun the process to obtain approval of the OCC to convert the charter of BankUnited from a federal thrift to a national bank. National banks are depository institutions chartered under the federal National Bank Act and regulated and supervised by the OCC.

The occurrence of either or both of these events would cause the Company to control a bank for purposes of the Bank Holding Company Act of 1956, or the "BHC Act." Any entity that directly or indirectly controls a bank must be approved by the Federal Reserve Board under the BHC Act to become a bank holding company, or "BHC." In connection with both of these events, the Company intends to apply to the Federal Reserve Board for prior approval to become a BHC under the BHC Act. BHCs are subject to regulation, inspection, examination, supervision, and enforcement by the Federal Reserve Board under the BHC Act. This Federal Reserve Board jurisdiction also extends to any company that is directly or indirectly controlled by a BHC. If the Company became a BHC, it would no longer be, and no longer be regulated as, a SLHC.

*FDIC Deposit Insurance*

The FDIC is an independent federal agency that insures the deposits of federally insured depository institutions up to applicable limits. The FDIC also has certain regulatory, examination and enforcement powers with respect to FDIC-insured institutions. The deposits of BankUnited are insured by the FDIC up to applicable limits. As a general matter, the maximum deposit insurance amount is $250,000 per depositor.

*Broad Supervision, Examination and Enforcement Powers*

A principal objective of the U.S. bank regulatory system is to protect depositors by ensuring the financial safety and soundness of banking organizations. To that end, the banking regulators have broad regulatory, examination, and enforcement authority. The regulators regularly examine the operations of banking organizations. In addition, banking organizations are subject to periodic reporting requirements.

The regulators have various remedies available if they determine that the financial condition, capital resources, asset quality, earnings prospects, management, liquidity or other aspects of a banking organization's operations are unsatisfactory. The regulators may also take action if they determine that the banking organization or its management is violating or has violated any law or regulation. The regulators have the power to, among other things:

- enjoin "unsafe or unsound" practices;
- require affirmative actions to correct any violation or practice;
- issue administrative orders that can be judicially enforced;

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- direct increases in capital;
- direct the sale of subsidiaries or other assets;
- limit dividends and distributions;
- restrict growth;
- assess civil monetary penalties;
- remove officers and directors; and
- terminate deposit insurance.

The FDIC may terminate a depository institution's deposit insurance upon a finding that the institution's financial condition is unsafe or unsound or that the institution has engaged in unsafe or unsound practices or has violated any applicable rule, regulation, order or condition enacted or imposed by the institution's regulatory agency. Engaging in unsafe or unsound practices or failing to comply with applicable laws, regulations and supervisory agreements could subject the Company, and subsidiaries of the Company (including BankUnited), or their officers, directors, and institution-affiliated parties to the remedies described above and other sanctions.

*Conditions of Approval Orders*

On May 21, 2009, we received approvals from the OTS and FDIC for the organization of BankUnited as a federal thrift, for the Company to become a SLHC, and for BankUnited to obtain federal deposit insurance. Those approval orders contained conditions related to the conduct of our business. Those conditions include, among other things, the following requirements:

- during our first three years of operation, BankUnited must maintain a tier 1 capital to adjusted total assets leverage ratio at not less than eight percent; and
- during our first three years of operation, we must operate within the parameters of our business plan and obtain prior written regulatory consent to any material change in our business plan.

*The Dodd-Frank Act*

On July 21, 2010, President Obama signed the Dodd-Frank Wall Street Reform and Consumer Protection Act of 2010, or the Dodd-Frank Act, into law. The Dodd-Frank Act will have a broad impact on the financial services industry, imposing significant regulatory and compliance changes, including the designation of certain financial companies as systemically significant, the imposition of increased capital, leverage, and liquidity requirements, and numerous other provisions designed to improve supervision and oversight of, and strengthen safety and soundness within, the financial services sector. Additionally, the Dodd-Frank Act establishes a new framework of authority to conduct systemic risk oversight within the financial system to be distributed among new and existing federal regulatory agencies, including the Financial Stability Oversight Council, or Council, the Federal Reserve Board, the OCC, and the FDIC. Of particular relevance to the Company, the Dodd-Frank Act makes fundamental changes to the federal supervisory oversight structure for federal thrifts and SLHCs.

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The following items provide a brief description of certain provisions of the Dodd-Frank Act.

*Principal changes for federal thrifts and SLHCs.* The Dodd-Frank Act preserves the charter for federal thrifts, but will eliminate the OTS as the primary federal regulator for federal thrifts and SLHCs. The functions of the OTS will be allocated among the OCC, FDIC, and the Federal Reserve Board on July 21, 2011. Primary jurisdiction for the supervision and regulation of federal thrifts, including BankUnited, will be transferred to the OCC; supervision and regulation of SLHCs, including the Company, will be transferred to the Federal Reserve Board. Although the Dodd-Frank Act maintains the federal thrift charter, it eliminates certain benefits of the charter and imposes new penalties for failure to comply with the QTL test. Under the Dodd-Frank Act, the risk-based and leverage capital standards currently applicable to U.S. insured depository institutions will be imposed on U.S. BHCs and SLHCs, and depository institutions and their holding companies will be subject to minimum risk-based and leverage capital requirements on a consolidated basis. In addition, the Dodd-Frank Act requires that SLHCs be well-capitalized and well managed in the same manner as BHCs in order to engage in the expanded financial activities permissible only for a financial holding company.

*Source of strength.* The Dodd-Frank Act requires all companies, including SLHCs and BHCs, that directly or indirectly control an insured depository institution to serve as a source of strength for the institution. Under this requirement, the Company in the future could be required to provide financial assistance to BankUnited should BankUnited experience financial distress.

*Limitation on federal preemption.* The Dodd-Frank Act significantly reduces the ability of national banks and federal thrifts to rely upon federal preemption of state consumer financial laws. Although the OCC, as the new primary regulator of federal thrifts, will have the ability to make preemption determinations where certain conditions are met, the broad rollback of federal preemption has the potential to create a patchwork of federal and state compliance obligations. This could, in turn, result in significant new regulatory requirements applicable to us, with potentially significant changes in our operations and increases in our compliance costs. It could also result in uncertainty concerning compliance, with attendant regulatory and litigation risks.

*Mortgage loan origination and risk retention.* The Dodd-Frank Act contains additional regulatory requirements that may affect our operations and result in increased compliance costs. For example, the Dodd-Frank Act imposes new standards for mortgage loan originations on all lenders, including banking organizations, in an effort to require steps to verify a borrower's ability to repay. In addition, the Dodd-Frank Act generally requires lenders or securitizers to retain an economic interest in the credit risk relating to loans the lender sells or mortgage and other asset-backed securities that the securitizer issues. The risk retention requirement generally will be 5%, but could be increased or decreased by regulation.

*Imposition of restrictions on certain activities.* The Dodd-Frank Act requires new regulations for the over-the-counter derivatives market, including requirements for clearing, exchange trading, capital, margin, and reporting. Additionally, the Dodd-Frank Act requires that certain swaps and derivatives activities be "pushed out" of insured depository institutions and conducted in non-bank affiliates, significantly restricts the ability of a member of a depository institution holding company group to invest in or sponsor certain private funds, and broadly restricts such entities from engaging in "proprietary trading," subject to limited exemptions. These restrictions may affect our ability to manage certain risks in our business.

*Expanded FDIC resolution authority.* While insured depository institutions have long been subject to the FDIC's resolution process, the Dodd-Frank Act creates a new mechanism for the FDIC to conduct the orderly liquidation of certain "covered financial companies," including bank and thrift holding companies and systemically significant non-bank financial companies. Upon certain findings being made, the FDIC may be appointed receiver for a covered financial company, and would be tasked to conduct an orderly liquidation of the entity. The FDIC liquidation process is modeled on the existing FDIA bank resolution regulations, and generally gives the FDIC more discretion than in the traditional bankruptcy context.

*Consumer Financial Protection Bureau ("CFPB").* The Dodd-Frank Act creates a new independent CFPB within the Federal Reserve Board. The CFPB is tasked with establishing and implementing rules and regulations under certain federal consumer protection laws with respect to the conduct of providers of certain consumer financial products and services. The CFPB has rulemaking authority over many of the statutes governing products and services offered to bank and thrift consumers. For banking organizations with assets of $10 billion or more, the CFPB has exclusive rule making and examination, and primary enforcement authority under federal consumer financial law. In addition, the Dodd-Frank Act permits states to adopt consumer protection laws and regulations that are stricter than those regulations promulgated by the CFPB. Compliance with any such new regulations would increase our cost of operations.

*Deposit insurance.* The Dodd-Frank Act makes permanent the general $250,000 deposit insurance limit for insured deposits. The Dodd-Frank Act also extends until January 1, 2013, federal deposit coverage for the full net amount held by depositors in non-interest bearing transaction accounts. Amendments to the FDIA also revise the assessment base against which an insured depository institution's deposit insurance premiums paid to the deposit insurance fund, or DIF, of the FDIC will be calculated. Under the amendments, the assessment base will no longer be the institution's deposit base, but rather its average consolidated total assets less its average tangible equity. Additionally, the Dodd-Frank Act makes changes to the minimum designated reserve ratio of the DIF, increasing the minimum from 1.15 percent to 1.35 percent of the estimated amount of total insured deposits, and eliminating the requirement that the FDIC pay dividends to depository institutions when the reserve ratio exceeds certain thresholds. Several of these provisions could increase the FDIC deposit insurance premiums paid by BankUnited.

*Transactions with affiliates and insiders.* The Dodd-Frank Act generally enhances the restrictions on transactions with affiliates under Section 23A and 23B of the Federal Reserve Act, including an expansion of the definition of "covered transactions" and an increase in the amount of time for which collateral requirements regarding covered credit transactions must be satisfied. Insider transaction limitations are expanded through the strengthening of loan restrictions to insiders and the expansion of the types of transactions subject to the various limits, including derivatives transactions, repurchase agreements, reverse repurchase agreements and securities lending or borrowing transactions. Restrictions are also placed on certain asset sales to and from an insider to an institution, including requirements that such sales be on market terms and, in certain circumstances, approved by the institution's Board of Directors.

*Enhanced lending limits.* The Dodd-Frank Act strengthens the existing limits on a depository institution's credit exposure to one borrower. Federal banking law currently limits a federal thrift's ability to extend credit to one person (or group of related persons) in an amount exceeding certain thresholds. The Dodd-Frank Act expands the scope of these restrictions to include credit exposure arising from derivative transactions, repurchase agreements, and securities lending and borrowing transactions.

*Corporate governance.* The Dodd-Frank Act addresses many investor protection, corporate governance and executive compensation matters that will affect most U.S. publicly traded companies, including the Company. The Dodd-Frank Act (1) grants stockholders of U.S. publicly traded companies an advisory vote on executive compensation; (2) enhances independence requirements for compensation committee members; (3) requires companies listed on national securities exchanges to adopt incentive-based compensation clawback policies for executive officers; and (4) provides the SEC with authority to adopt proxy access rules that would allow stockholders of publicly traded companies to nominate candidates for election as a director and have those nominees included in a company's proxy materials.

Many of the requirements of the Dodd-Frank Act will be implemented over time and most will be subject to regulations implemented over the course of several years. Given the uncertainty associated with the manner in which the provisions of the Dodd-Frank Act will be implemented by the various regulatory agencies and through regulations, the full extent of the impact such requirements will have on our operations is unclear. The changes resulting from the Dodd-Frank Act may impact the profitability of our business activities, require changes to certain of our business practices, impose upon us more stringent capital, liquidity and leverage requirements or otherwise adversely affect our business. These changes may also require us to invest significant management attention and resources to evaluate and make any changes necessary to comply with new statutory and regulatory requirements.

Failure to comply with the new requirements may negatively impact our results of operations and financial condition.

*Notice and Approval Requirements Related to Control*

Banking laws impose notice, approval, and ongoing regulatory requirements on any stockholder or other party that seeks to acquire direct or indirect "control" of an FDIC-insured depository institution. These laws include the Savings and Loan Holding Company Act, the BHC Act and the Change in Bank Control Act. Among other things, these laws require regulatory filings by a stockholder or other party that seeks to acquire direct or indirect "control" of an FDIC-insured depository institution. The determination whether an investor "controls" a depository institution is based on all of the facts and circumstances surrounding the investment. As a general matter, a party is deemed to control a depository institution or other company if the party owns or controls 25% or more of any class of voting stock. Subject to rebuttal, a party may be presumed to control a depository institution or other company if the investor owns or controls 10% or more of any class of voting stock. Ownership by affiliated parties, or parties acting in concert, is typically aggregated for these purposes. If a party's ownership of the Company were to exceed certain thresholds, the investor could be deemed to "control" the Company for regulatory purposes. This could subject the investor to regulatory filings or other regulatory consequences.

*Permissible Activities and Investments*

Banking laws generally restrict the ability of the Company and its subsidiaries from engaging in activities other than those determined by the Federal Reserve Board to be so closely related to banking as to be a proper incident thereto. The Gramm-Leach-Bliley Financial Modernization Act of 1999, or "GLB Act," expanded the scope of permissible activities for a BHC that qualifies as a financial holding company. Under the regulations implementing the GLB Act, a financial holding company may engage in additional activities that are financial in nature or incidental or complementary to a financial activity. Those activities include, among other activities, certain insurance and securities activities. Qualifications for becoming a financial holding company include, among other things, meeting certain specified capital standards and achieving certain management ratings in examinations. Under the Dodd-Frank Act, SLHCs like the Company must be well-capitalized and well managed in the same manner as BHCs in order to engage in the expanded financial activities permissible only for a financial holding company.

In addition, as a general matter, the establishment or acquisition by the Company of a depository institution or, in certain cases, a non-bank entity, requires prior regulatory approval.

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*Regulatory Capital Requirements and Prompt Corrective Action*

The regulators view capital levels as important indicators of an institution's financial soundness. As a general matter, FDIC-insured depository institutions and their holding companies are required to maintain minimum capital relative to the amount and types of assets they hold. The final supervisory judgment on an institution's capital adequacy is based on the regulator's individualized assessment of numerous factors.

BankUnited is subject to various regulatory capital adequacy requirements. The Federal Deposit Insurance Corporation Improvement Act, or "FDICIA," requires that the federal regulatory agencies adopt regulations defining five capital tiers for depository institutions: well-capitalized, adequately capitalized, undercapitalized, significantly undercapitalized and critically undercapitalized. Failure to meet minimum capital requirements can initiate certain mandatory, and possibly additional discretionary, actions by regulators that could have a direct material adverse effect on our financial condition.

The regulators have established quantitative measures that require that an FDIC-insured depository institution (such as BankUnited) to maintain minimum ratios of capital to risk-weighted assets. There are two main categories of capital under the guidelines. Tier 1 capital includes common equity holders' equity, qualifying preferred stock and trust preferred securities, less goodwill and certain other deductions (including a portion of servicing assets and the unrealized net gains and losses, after taxes, on securities available for sale). Tier 2 capital includes preferred stock not qualifying as tier 1 capital, subordinated debt, the allowance for credit losses and net unrealized gains on marketable equity securities, subject to limitations by the guidelines. Tier 2 capital is limited to the amount of tier 1 capital (i.e., at least half of the total capital must be in the form of tier 1 capital). Under the risk-based guidelines, capital is compared with the relative risk related to the balance sheet. To derive the risk included in the balance sheet, a risk weighting is applied to each balance sheet asset and off-balance sheet item, primarily based on the relative credit risk of the counterparty. For example, claims guaranteed by the U.S. government or one of its agencies are risk-weighted at 0% and certain real-estate related loans risk-weighted at 50%. Off-balance sheet items, such as loan commitments and derivatives, are also applied a risk weight after calculating balance sheet equivalent amounts.

In order to be deemed well-capitalized, FDIC-insured depository institutions (such as BankUnited) currently are required to (i) maintain a total risk-based capital ratio of 10% or greater, a tier 1 risk-based capital ratio of 6% or greater and a tier 1 leverage ratio of 5% or greater (measured as tier 1 capital to adjusted total assets) and (ii) not be subject to any written agreement, order, capital directive or prompt corrective action issued by its banking regulator(s) to meet and maintain a specific capital level for any capital measure. The regulators may set higher capital requirements for an individual institution when particular circumstances warrant. The OTS requires BankUnited to maintain a tier 1 capital to adjusted total assets leverage ratio of not less than 8% for the first three years of its operation. At March 31, 2011, the Bank's tier 1 leverage ratio was equal to 10.62%.

In July 2011, the OCC will assume the OTS' powers with respect to federal savings associations (like BankUnited), as well as rulemaking authority over all savings associations (except for the limited rulemaking authority transferred to the Federal Reserve Board). Although the federal banking agencies have substantially similar capital adequacy standards and utilize the same accounting standards, some differences in capital standards exist, such as the regulatory treatment of noncumulative perpetual preferred stock and the risk-weightings assigned to certain assets. The OCC also limits the amount of subordinated debt and intermediate-term preferred stock that may be treated as part of tier 2 capital to 50% of tier 1 capital, whereas the OTS does not prescribe such a restriction. Finally, the OCC recognizes an additional category, "tier 3 capital," consisting of forms of unsecured, subordinated debt that can be allocated for market risk and is included in the total risk-based capital ratio numerator.

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At this time the bank regulatory agencies are more inclined to impose higher capital requirements in order to meet well-capitalized standards, and future regulatory change could impose higher capital standards as a routine matter. The regulators may also set higher capital requirements for holding companies whose circumstances warrant it. For example, holding companies experiencing internal growth or making acquisitions are expected to maintain strong capital positions substantially above the minimum supervisory levels, without significant reliance on intangible assets.

As an additional means to identify problems in the financial management of depository institutions, the FDIA requires federal bank regulatory agencies to establish certain non-capital safety and soundness standards for institutions for which they are the primary federal regulator. The standards relate generally to operations and management, asset quality, interest rate exposure and executive compensation. The agencies are authorized to take action against institutions that fail to meet such standards.

OTS regulations do not currently require SLHCs, such as the Company, to maintain specific minimum capital ratios. Instead, the OTS applies both a qualitative and quantitative supervisory capital assessment to SLHCs that is based in guidance. As a result of the Dodd-Frank Act, the risk-based and leverage capital standards currently applicable to U.S. insured depository institutions and U.S. BHCs will in the future become applicable to SLHCs (such as the Company). The Dodd-Frank Act generally authorizes the Federal Reserve Board to promulgate capital requirements for SLHCs, an action the Federal Reserve Board has indicated that it will take once it adopts consolidated capital standards under Basel III (described below).

The Federal Reserve Board requires BHCs to maintain a minimum tier 1 leverage ratio, tier 1 risk-based capital ratio and total risk-based capital ratio. In addition, the Federal Reserve Board requires BHCs that engage in trading activities to adjust their risk-based capital ratios to take into consideration market risks that may result from movements in market prices of covered trading positions in trading accounts, or from foreign exchange or commodity positions, whether or not in trading accounts, including changes in interest rates, equity prices, foreign exchange rates or commodity prices. Any capital required to be maintained under these provisions may consist of tier 3 capital. Also, the Federal Reserve Board considers a "tangible tier 1 leverage ratio" (deducting all intangibles) and other indications of capital strength in evaluating proposals for expansion or engaging in new activities.

In addition, the Dodd-Frank Act further requires the federal banking agencies to adopt capital requirements which address the risks that the activities of an institution poses to the institution and the public and private stakeholders, including risks arising from certain enumerated activities. The federal banking agencies will likely change existing capital guidelines or adopt new capital guidelines in the future pursuant to the Dodd-Frank Act, the implementation of Basel III (described below) or other regulatory or supervisory changes.

The FDIA requires federal bank regulatory agencies to take "prompt corrective action" with respect to FDIC-insured depository institutions that do not meet minimum capital requirements. A depository institution's treatment for purposes of the prompt corrective action provisions will depend upon how its capital levels compare to various capital measures and certain other factors, as established by regulation. Under this system, the federal banking regulators have established five capital categories, well-capitalized, adequately capitalized, undercapitalized, significantly undercapitalized and critically undercapitalized, in which all institutions are placed. The federal banking regulators have also specified by regulation the relevant capital levels for each of the other categories. Federal banking regulators are required to take various mandatory supervisory actions and are authorized to take other discretionary actions with respect to institutions in the three undercapitalized categories. The severity of the action depends upon the capital category in which the institution is placed. Generally, subject to a narrow exception, the banking regulator must appoint a receiver or conservator for an institution that is critically undercapitalized.

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*Basel, Basel II and Basel III Accords*

The current risk-based capital guidelines that apply to BankUnited are based on the 1988 capital accord of the International Basel Committee on Banking Supervision, a committee of central banks and bank supervisors, as implemented by the OTS. In 2008, the OTS began to phase-in capital standards based on a second capital accord, referred to as Basel II, for large or "core" international banks (total assets of $250 billion or more or consolidated foreign exposures of $10 billion or more). Basel II emphasizes internal assessment of credit, market and operational risk, as well as supervisory assessment and market discipline in determining minimum capital requirements.

On September 12, 2010, the Group of Governors and Heads of Supervision, the oversight body of the Basel Committee, announced agreement on the calibration and phase-in arrangements for a strengthened set of capital requirements, known as Basel III. Basel III increases the minimum tier 1 common equity ratio to 4.5%, net of regulatory deductions, and introduces a capital conservation buffer of an additional 2.5% of common equity to risk-weighted assets, raising the target minimum common equity ratio to 7%. Basel III increases the minimum tier 1 capital ratio to 8.5% inclusive of the capital conservation buffer, increases the minimum total capital ratio to 10.5% inclusive of the capital buffer and introduces a countercyclical capital buffer of up to 2.5% of common equity or other fully loss absorbing capital for periods of excess credit growth. Basel III also introduces a non-risk adjusted tier 1 leverage ratio of 3%, based on a measure of total exposure rather than total assets, and new liquidity standards. The Basel III capital and liquidity standards will be phased in over a multi-year period.

The final package of Basel III reforms was submitted to and endorsed by the Seoul G20 Leaders Summit in November, 2010. On December 16, 2010, the Basel Committee issued the text of the Basel III rules, which are now subject to individual adoption by member nations, including the United States. The federal banking agencies will likely implement changes to the capital adequacy standards applicable to the insured depository institutions and their holding companies in light of Basel III.

If adopted by federal banking agencies, Basel III could lead to higher capital requirements and more restrictive leverage and liquidity ratios. The ultimate impact of the new capital and liquidity standards on us and our bank subsidiary is currently being reviewed and will depend on a number of factors, including the rulemaking and implementation by the U.S. banking regulators. We cannot determine the ultimate effect that potential legislation, or subsequent regulations, if enacted, would have upon our earnings or financial position. In addition, significant questions remain as to how the capital and liquidity mandates of the Dodd-Frank Act will be integrated with the requirements of Basel III.

*Qualified Thrift Lender Test*

Federal banking laws require a thrift to meet the QTL test by maintaining at least 65% of its "portfolio assets" in certain "qualified thrift investments," such as residential housing related loans, certain consumer and small business loans and residential mortgage-backed securities, on a monthly average basis in at least nine months out of every twelve months. A thrift that fails the QTL test must either operate under certain restrictions on its activities or convert to a bank charter. The Dodd-Frank Act imposes additional restrictions on the ability of any thrift that fails to become or remain a QTL to pay dividends. Specifically, the thrift is not only subject to the general dividend restrictions as would apply to a national bank (as under prior law), but also is prohibited from paying dividends at all (regardless of its financial condition) unless required to meet the obligations of a company that controls the thrift, permissible for a national bank and specifically approved by the OCC and the Federal Reserve Board. In addition, violations of the QTL test now are treated as violations of federal banking laws subject to remedial enforcement action. At December 31, 2010, BankUnited was in compliance with the QTL test.

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HOLA limits the amount of non-residential mortgage loans a federal savings association, such as BankUnited, may make. Separate from the QTL test, the law limits a federal savings association to a maximum of 20% of its total assets in commercial loans not secured by real estate, however, only 10% can be large commercial loans not secured by real estate (defined as loans in excess of $2 million). Commercial loans secured by real estate can be made in an amount up to four times an institution's total capital. An institution can also have leases, in addition to the above items, up to 10% of its assets. Commercial paper, corporate bonds, and consumer loans taken together cannot exceed 35% of a savings association's assets. For this purpose, however, residential mortgage loans and credit card loans are not considered consumer loans, and are both unlimited in amount. The foregoing limitations are established by statute, and cannot be waived by the OTS. At March 31, 2011, BankUnited was in compliance with all these limits.

If BankUnited converts its charter from a federal thrift to a national bank, then it will no longer be subject to the QTL test.

*Regulatory Limits on Dividends and Distributions*

Federal law currently imposes limitations upon certain capital distributions by thrifts, such as certain cash dividends, payments to repurchase or otherwise acquire its shares, payments to stockholders of another institution in a cash-out merger and other distributions charged against capital. The OTS regulates all capital distributions by BankUnited directly or indirectly to us, including dividend payments. BankUnited currently must file an application to receive the approval of the OTS for any proposed capital distribution.

BankUnited may not pay dividends to us if, after paying those dividends, it would fail to meet the required minimum levels under risk-based capital guidelines and the minimum leverage and tangible capital ratio requirements, or in the event the OTS notified BankUnited that it was in need of more than normal supervision. Under the FDIA, an insured depository institution such as BankUnited is prohibited from making capital distributions, including the payment of dividends, if, after making such distribution, the institution would become "undercapitalized." Payment of dividends by BankUnited also may be restricted at any time at the discretion of the appropriate regulator if it deems the payment to constitute an unsafe and unsound banking practice. Additionally, the Dodd-Frank Act imposes additional restrictions on the ability of any thrift that fails to become or remain a QTL to pay dividends.

*Reserve Requirements*

Pursuant to regulations of the Federal Reserve Board, all banking organizations are required to maintain average daily reserves at mandated ratios against their transaction accounts. In addition, reserves must be maintained on certain non-personal time deposits. These reserves must be maintained in the form of vault cash or in an account at a Federal Reserve Board Bank.

*Liability of Commonly Controlled Institutions*

FDIC-insured depository institutions can be held liable for any loss incurred, or reasonably expected to be incurred, by the FDIC due to the default of an FDIC-insured depository institution controlled by the same company and for any assistance provided by the FDIC to an FDIC-insured depository institution that is in danger of default and that is controlled by the same company. "Default" means generally the appointment of a conservator or receiver for the institution. "In danger of default" means generally the existence of certain conditions indicating that a default is likely to occur in the absence of regulatory assistance. The cross-guarantee liability for a loss at a commonly controlled institution would be subordinated in right of payment to deposit liabilities, secured obligations, any other general or senior liability and any obligation subordinated to depositors or

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general creditors, other than obligations owed to any affiliate of the depository institution (with certain exceptions). After the Company's planned acquisition of Herald is consummated, Herald and BankUnited would be commonly controlled by the Company.

*Limits on Transactions with Affiliates and Insiders*

Insured depository institutions are subject to restrictions on their ability to conduct transactions with affiliates and other related parties. Section 23A of the Federal Reserve Act imposes quantitative limits, qualitative requirements, and collateral requirements on certain transactions by an insured depository institution with, or for the benefit of, its affiliates. Transactions covered by Section 23A include loans, extensions of credit, investment in securities issued by an affiliate, and acquisitions of assets from an affiliate. Section 23B of the Federal Reserve Act requires that most types of transactions by an insured depository institution with, or for the benefit or, an affiliate be on terms at least as favorable to the insured depository institution as if the transaction were conducted with an unaffiliated third party.

The Dodd-Frank Act generally enhances the restrictions on transactions with affiliates under Section 23A and 23B of the Federal Reserve Act, including an expansion of the definition of "covered transactions" and an increase in the amount of time for which collateral requirements regarding covered credit transactions must be satisfied. The ability of the Federal Reserve Board to grant exemptions from these restrictions is also narrowed by the Dodd-Frank Act, including by requiring coordination with other bank regulators.

The Federal Reserve Board's Regulation O and OTS regulations impose restrictions and procedural requirements in connection with the extension of credit by a insured depository institution to directors, executive officers, principal stockholders, and their related interests.

*Examination Fees*

The OTS currently charges fees to recover the costs of examining federal thrifts and their affiliates, processing applications and other filings, and covering direct and indirect expenses in regulating thrifts and their affiliates. The Dodd-Frank Act provides various agencies with the authority to assess additional supervision fees. Upon the shift in regulatory jurisdiction from the OTS to the OCC, federal thrifts will be required to pay assessment and other related examination and application fees to the OCC.

*Deposit Insurance Assessments*

FDIC-insured depository institutions are required to pay deposit insurance assessments to the FDIC. The amount of a particular institution's deposit insurance assessment is based on that institution's risk classification under an FDIC risk-based assessment system. An institution's risk classification is assigned based on its capital levels and the level of supervisory concern the institution poses to the regulators. Deposit insurance assessments fund the DIF, which is currently under-funded. The FDIC recently raised assessment rates to increase funding for the DIF.

The Dodd-Frank Act changes the way an insured depository institution's deposit insurance premiums are calculated. The assessment base will no longer be the institution's deposit base, but rather its average consolidated total assets less its average tangible equity. The Dodd-Frank Act also makes changes to the minimum designated reserve ratio of the DIF, increasing the minimum from 1.15 percent to 1.35 percent of the estimated amount of total insured deposits, eliminating the upper limit for the reserve ratio designated by the FDIC each year, and eliminating the requirement that the FDIC pay dividends to depository institutions when the reserve ratio exceeds certain thresholds.

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Continued action by the FDIC to replenish the DIF as well as the changes contained in the Dodd-Frank Act may result in higher assessment rates, which could reduce our profitability or otherwise negatively impact our operations.

*Depositor Preference*

The FDIA provides that, in the event of the "liquidation or other resolution" of an insured depository institution, the claims of depositors of the institution (including the claims of the FDIC as subrogee of insured depositors) and certain claims for administrative expenses of the FDIC as a receiver will have priority over other general unsecured claims against the institution. If we invest in or acquire an insured depository institution that fails, insured and uninsured depositors, along with the FDIC, will have priority in payment ahead of unsecured, non-deposit creditors, including us, with respect to any extensions of credit they have made to such insured depository institution.

*Federal Home Loan Bank System*

BankUnited is a member of the Federal Home Loan Bank of Atlanta, which is one of the twelve regional FHLB's composing the FHLB system. Each FHLB provides a central credit facility primarily for its member institutions as well as other entities involved in home mortgage lending. Any advances from a FHLB must be secured by specified types of collateral, and all long-term advances may be obtained only for the purpose of providing funds for residential housing finance. As a member of the FHLB of Atlanta, BankUnited is required to acquire and hold shares of capital stock in the FHLB of Atlanta. BankUnited has always been in compliance with this requirement with an investment in FHLB of Atlanta stock.

*Anti-Money Laundering and OFAC*

Under federal law, financial institutions must maintain anti-money laundering programs that include established internal policies, procedures and controls; a designated compliance officer; an ongoing employee training program; and testing of the program by an independent audit function. Financial institutions are also prohibited from entering into specified financial transactions and account relationships and must meet enhanced standards for due diligence and customer identification in their dealings with foreign financial institutions and foreign customers. Financial institutions must take reasonable steps to conduct enhanced scrutiny of account relationships to guard against money laundering and to report any suspicious transactions, and law enforcement authorities have been granted increased access to financial information maintained by financial institutions. Bank regulators routinely examine institutions for compliance with these obligations and they must consider an institution's compliance in connection with the regulatory review of applications, including applications for banking mergers and acquisitions. The regulatory authorities have imposed "cease and desist" orders and civil money penalty sanctions against institutions found to be violating these obligations.

The Office of Foreign Assets Control, or "OFAC," is responsible for helping to insure that U.S. entities do not engage in transactions with certain prohibited parties, as defined by various Executive Orders and Acts of Congress. OFAC sends bank regulatory agencies lists of persons and organizations suspected of aiding, harboring or engaging in terrorist acts, known as Specially Designated Nationals and Blocked Persons. If the Company or BankUnited find a name on any transaction, account or wire transfer that is on an OFAC list, the Company or BankUnited must freeze such account, file a suspicious activity report and notify the appropriate authorities.

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*Consumer Laws and Regulations*

Banking organizations are subject to numerous laws and regulations intended to protect consumers. These laws include, among others:

Truth in Lending Act;

Truth in Savings Act;

Electronic Funds Transfer Act;

Expedited Funds Availability Act;

Equal Credit Opportunity Act;

Fair and Accurate Credit Transactions Act;

Fair Housing Act;

Fair Credit Reporting Act;

Fair Debt Collection Act;

Gramm-Leach-Bliley Act;

Home Mortgage Disclosure Act;

Right to Financial Privacy Act;

Real Estate Settlement Procedures Act;

laws regarding unfair and deceptive acts and practices; and

usury laws.

Many states and local jurisdictions have consumer protection laws analogous, and in addition, to those listed above. These federal, state and local laws regulate the manner in which financial institutions deal with customers when taking deposits, making loans, or conducting other types of transactions. Failure to comply with these laws and regulations could give rise to regulatory sanctions, customer rescission rights, action by state and local attorneys general, and civil or criminal liability. The creation of the CFPB by the Dodd-Frank Act is likely to lead to enhanced and strengthened enforcement of consumer financial protection laws.

*The Community Reinvestment Act*

The Community Reinvestment Act, or "CRA," is intended to encourage banks to help meet the credit needs of their service areas, including low and moderate-income neighborhoods, consistent with safe and sound operations. The bank regulators examine and assign each bank a public CRA rating. The CRA then requires bank regulators to take into account the federal banking bank's record in meeting the needs of its service area when considering an application by a bank to establish or relocate a branch or to conduct certain mergers or acquisitions. The Federal Reserve Board is required to consider the CRA records of a BHC's controlled banks when considering an application by the BHC to acquire a banking organization or to merge with another BHC. When the Company or BankUnited applies for regulatory approval to make certain investments, the regulators will consider the CRA record of target institutions and the Company's depository institution subsidiaries. An unsatisfactory CRA record could substantially delay approval or result in denial of an application. The regulatory agency's assessment of the institution's record is made available to the public. Since the Acquisition, bank regulators have not conducted a CRA exam of BankUnited.

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*Changes in Laws, Regulations or Policies*

Federal, state and local legislators and regulators regularly introduce measures or take actions that would modify the regulatory requirements applicable to banks, thrifts, their holding companies and other financial institutions. Changes in laws, regulations or regulatory policies could adversely affect the operating environment for the Company in substantial and unpredictable ways, increase our cost of doing business, impose new restrictions on the way in which we conduct our operations or add significant operational constraints that might impair our profitability. We cannot predict whether new legislation will be enacted and, if enacted, the effect that it, or any implementing regulations, would have on our business, financial condition or results of operations. The Dodd-Frank Act imposes substantial changes to the regulatory framework applicable to us and our subsidiaries. The majority of these changes will be implemented over time by various regulatory agencies. The full effect that these changes will have on us remains uncertain at this time and may have a material adverse effect on our business and results of operations.

***Employees***

At March 31, 2011, we employed 1,257 full-time employees and 23 part-time employees. None of our employees are parties to a collective bargaining agreement. We believe that our relations with our employees are good.

***Available Information***

Our Website address is www.bankunited.com. Our electronic filings with the SEC (including all Annual Reports on Form 10-K, Quarterly Reports on Form 10-Q, Current Reports on Form 8-K, and if applicable, amendments to those reports) are available free of charge on the Website as soon as reasonably practicable after they are electronically filed with, or furnished to, the SEC. The information posted on our Website is not incorporated into this proxy statement/prospectus. In addition, the SEC maintains a Website that contains reports and other information filed with the SEC. The Website can be accessed at http://www.sec.gov.

## Description of BankUnited, Inc.'s Properties

At March 31, 2011, we leased 120,672 square feet of office and operations space in Miami Lakes, Florida. This space includes our principal executive offices, operations center and a retail branch. At March 31, 2011, we provided banking services at 81 branch locations in 13 Florida counties. Of the 81 branch properties, we leased 76 locations and owned 5 locations.

At March 31, 2011, we also dedicated approximately 2,100 square feet of office and operations space in Miami Lakes, Florida to house BankUnited Investment Services, 10,619 square feet of office and operations space in Hunt Valley, Maryland to house United Business Capital Lending, and 5,488 square feet of office and operations space in Scottsdale, Arizona to house Pinnacle Public Finance.

We believe that our facilities are in good condition and are adequate to meet our operating needs for the foreseeable future.

## BankUnited, Inc.'s Legal Proceedings

From time to time we are a party to various litigation matters incidental to the conduct of our business. We are not presently party to any legal proceedings the resolution of which we believe would have a material adverse effect on our business, operating results, financial condition or cash flow. Certain litigation relating to the merger is described on Page [ ] of this proxy statement/prospectus.

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**Market Price of and Dividends on BankUnited, Inc.'s Common Equity and Related Stockholder Matters**

***Market Information and Holders of Record***

Shares of our common stock began trading on the NYSE under the symbol "BKU" on January 28, 2011. As a result, we have not set forth quarterly information with respect to the high and low prices for our common stock and the dividends declared on our common stock for the two most recent fiscal years. Prior to that time there was no public market for our common stock. For the quarter ended March 31, 2011, the high and low reported intra-day sales prices of our common stock on the NYSE were $29.90 and $27.25, respectively. For the quarter ended June 30, 2011, the high and low reported intra-day sales prices of our common stock on the NYSE were $29.54 and $26.10, respectively. As of March 31, 2011, there were 170 stockholders of record of our common stock.

***Equity Compensation Plan Information***

Our equity compensation plan information required by this item is incorporated by reference to the information in "Information About BankUnited, Inc. Security Ownership and Certain Beneficial Ownership Equity Compensation Plan Information" of this proxy statement/prospectus on Page [ ].

***Dividend Policy***

We anticipate paying a quarterly dividend of $0.14 per share on our common stock, subject to the discretion of our Board and dependent on, among other things, our financial condition, results of operations, capital requirements, restrictions contained in future financing instruments and other factors that our Board may deem relevant. Dividends from the Bank are the principal source of funds for the payment of dividends on our common stock. The Bank is subject to certain restrictions that may limit its ability to pay dividends to us. See "Information About BankUnited, Inc. Information About BankUnited, Inc.'s Business Regulation and Supervision Regulatory Limits on Dividends and Distributions" on Page [ ]. During the period ended December 31, 2009, we did not pay a cash dividend to the holder of our common stock. On October 28, 2010, we paid a quarterly dividend of $14.0 million, with a record date of October 15, 2010. On October 28, 2010, we also paid a one-time special dividend of $6.0 million, with a record date of October 19, 2010. On January 18, 2011, we paid another quarterly dividend of $14.0 million, with a record date of January 3, 2011. On April 15, 2011, we paid another quarterly dividend of $14.2 million, with a record date of April 1, 2011. On June 17, 2011, we announced a quarterly cash dividend of $0.14 per share, payable on July 15, 2011, with a record date of July 1, 2011.

***Use of Proceeds***

Our registration statement on Form S-1 (File No. 333-170203) was declared effective on January 27, 2011, pursuant to which we registered the offering and sale of 33,350,000 shares of common stock at an initial public offering price of $27.00 per share. Our initial public offering included 4,000,000 newly issued shares of common stock sold by us (the primary offering) and 29,350,000 existing shares of common stock sold by selling stockholders (the secondary offering). The 29,350,000 shares of common stock sold by the selling stockholders in the secondary offering included 4,350,000 shares covered by an over-allotment option granted to the underwriters. On January 27, 2011, we sold 4,000,000 shares of common stock for gross proceeds of $108 million, before underwriters' discounts and offering expenses, and the selling stockholders sold 29,350,000 shares (including 4,350,000 shares pursuant to their over-allotment option) for gross proceeds of $792.5 million, before underwriters' discounts.

Morgan Stanley & Co. Incorporated and Merrill Lynch, Pierce, Fenner & Smith Incorporated acted as joint book-running managers for the offering and as representatives of the underwriters. In connection with the initial public offering and underwriters' exercise of the overallotment option, we paid $5.4 million in underwriting discounts to the underwriters and the selling stockholders paid $39.6 million in underwriters' discounts to the underwriters.

In connection with the initial public offering including the underwriters' exercise of the overallotment option, we received net proceeds of $98.6 million, after deducting underwriters' discounts of $5.4 million and additional estimated offering expenses of approximately $4.0 million. The offering expenses include SEC registration fees, FINRA filing fees, NYSE listing fees and expenses, legal fees and expenses, printing expenses, transfer agent and registrar fees and expenses, accounting fees and expenses as well as other miscellaneous expenses. The selling stockholders received net proceeds of approximately $752.3 million, after deducting underwriters' discounts of approximately $39.6 million. We did not receive any proceeds from the sale of shares by the selling stockholders in the secondary offering.

During the period from the closing of the offering on February 2, 2011 through the filing of this proxy statement/prospectus, we have used the net proceeds from the offering for general corporate purposes.

***Recent Sales of Unregistered Securities***

In the last three fiscal years, BankUnited, Inc. has issued the following ungesitered securities:

On April 28, 2009, in connection with its incorporation and initial capitalization, BankUnited, Inc. issued 1,000 shares of its common stock to BU Financial Holdings LLC for $10, which shares were subsequently canceled at the time of the Acquisition.

Since the Acquisition on May 21, 2009, BankUnited, Inc. issued an aggregate of 92,971,850 shares of its common stock to BU Financial Holdings LLC for consideration of $950.3 million in capital investment transactions.

The issuances of securities described in the preceding paragraphs were made in reliance upon the exemption from registration under Section 4(2) of the Securities Act of 1933, as amended, for transactions by an issuer not involving a public offering. BankUnited, Inc. did not offer or sell the securities by any form of general solicitation or general advertising, informed the purchaser that the securities had not been registered under the Securities Act and were subject to restrictions on transfer, and made offers only to the purchaser, whom BankUnited, Inc. believed had the knowledge and experience in financial and business matters to evaluate the merits and risks of an investment in the securities.

BankUnited, Inc. granted certain of its employees (none of whom are named executive officers other than Mr. Randy R. Melby) 1,031,700 options to purchase an aggregate of 1,031,700 shares of our common stock under our 2009 Stock Option Plan. 69,456 of these options were forfeited subsequent to grant. These grants were exempt from the registration requirements of the Securities Act pursuant to Rule 701 promulgated thereunder inasmuch as they were offered and sold under written compensatory benefit plans and otherwise in compliance with the provisions of Rule 701.

***Purchases of Equity Securities by the Issuer and Affiliated Purchasers***

None.

## Management's Discussion and Analysis of Financial Condition and Results of Operations March 31, 2011

*The following discussion and analysis should be read in conjunction with the consolidated financial statements of BankUnited, Inc. and the notes thereto included in this proxy statement/prospectus.*

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***Overview***

As of the close of business on May 21, 2009, BankUnited entered into a Purchase and Assumption Agreement, including Loss Sharing Agreements, with the FDIC to acquire substantially all of the assets and assume all of the non-brokered deposits and substantially all of the other liabilities of the Failed Bank from the FDIC. Neither the Company nor the Bank had any substantive operations prior to the Acquisition.

Through BankUnited's network of 81 branches in 13 Florida counties, we provide a full range of commercial and consumer banking services to growing companies and their executives, commercial and middle-market businesses and consumers in Florida's coastal regions. Through BankUnited Investment Services, the Company offers wealth management products as well as succession planning, estate planning and financial planning services to customers.

The Company's financial results continue to be impacted by the application of the acquisition method of accounting and BankUnited's Loss Sharing Agreements with the FDIC. The primary ways in which the Company's financial condition and results of operations are impacted are summarized as follows:

- Fair value adjustments of interest earning assets and interest bearing liabilities recorded at Acquisition are accreted to interest income or expense over the lives of the related assets or liabilities. Accretion generally has a positive impact on our net interest income.

- Accretion related to loans acquired with evidence of deterioration in credit quality since origination, or "ACI," loans has a positive impact on our net interest income, net interest margin and interest rate spread.

- An indemnification asset related to the Loss Sharing Agreements with the FDIC was recorded in conjunction with the Acquisition. Non-interest income includes the effects of accretion of discount on the indemnification asset.

- Non-interest income is impacted by gains and losses from resolution of Covered Loans, representing the difference in the projected losses from ACI loans and consideration received in satisfaction of such loans, by the corresponding decreases or increases in estimated cash flows to be received from the FDIC related to those resolutions, and by the reimbursement by the FDIC of certain OREO and foreclosure related expenses.

Highlights of the Company's financial condition and results of operations as of and for the three months ended March 31, 2011 follow:

- On February 2, 2011 the Company closed an initial public offering of 33,350,000 shares of common stock at $27 per share. In the offering, the Company sold 4,000,000 shares while selling stockholders sold 29,350,000 shares, including 4,350,000 shares sold pursuant to the over-allotment option exercised in full by the underwriters of the IPO. Gross proceeds to the Company, net of underwriting discounts, totaled $102.6 million. Direct costs of $3.1 million were charged to paid-in capital, resulting in a net increase in capital from the IPO of $99.5 million.

- After deducting a one-time compensation charge of $110.4 million recorded in conjunction with the IPO, the Company reported a net loss of $67.7 million or $0.72 per share for the quarter ended March 31, 2011 as compared to net income of $60.7 million or $0.65 per share for quarter ended March 31, 2010.

- In conjunction with completion of the IPO, outstanding Profits Interest Units held by certain members of management were exchanged for a combination of restricted and unrestricted common shares and vested and unvested options of the Company. Share-based compensation expense of $110.4 million related to these instruments was recorded at the time of the IPO. This expense was offset by an increase in paid-in capital, thus did not impact the Company's capital position. This expense is not deductible for income tax purposes.

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Net interest income increased by $19.8 million to $112.3 million for the three months ended March 31, 2011 from $92.5 million for the three months ended March 31, 2010. The primary components of the increase in net interest income were an increase in interest income on loans of $10.6 million, an increase in interest income on securities available for sale of $3.2 million and a decrease in interest expense on deposits of $8.0 million, partially offset by an increase in interest in expense on borrowings of $2.4 million. The increase in interest income on loans resulted from an increase in the average yield to 12.10% from 9.44%, primarily due to an increase in expected cash flows from the Company's acquired credit impaired loan portfolio leading to transfers from non-accretable difference to accretable yield. The increased yield was partially offset by a decline in the average balance of loans outstanding resulting from resolution of Covered Loans. Increased interest income on securities available for sale primarily resulted from growth in the investment portfolio driven by the deployment of cash generated by loan resolution activity, partially offset by a decline in the average yield. The decline in interest expense on deposits resulted from the continued run-off of higher cost time deposits assumed in the Acquisition, a shift in deposit mix toward lower cost deposit products and a decline in market interest rates. The increase in interest expense on borrowings resulted primarily from lower accretion of Acquisition related fair value adjustments on FHLB advances. The net interest margin increased to 5.76% for the quarter ended March 31, 2011 from 4.89% for the quarter ended March 31, 2010.

Non-interest income decreased by $18.2 million to $64.3 million for the three months ended March 31, 2011 from $82.5 million for the three months ended March 31, 2010. The primary factors contributing to this decrease were a decline of $34.8 million in accretion on the FDIC indemnification asset and a $37.1 million decrease in income from resolution of Covered Assets, offset by an increase of $49.4 million in the net gain on indemnification asset and an increase of $4.1 million in FDIC reimbursement of costs of resolution of Covered Assets. The decline in accretion of discount on the FDIC indemnification asset corresponded to the increase in expected cash flows from the Company's portfolio of Covered Loans which resulted in a decrease in expected cash flows from the FDIC indemnification asset. The decrease in income from resolution of Covered Assets corresponded to the transfer of amounts from non-accretable difference to accretable yield on loans and the resulting impact on the resolution of individual loans. The increase in net gain on indemnification asset corresponded to increased losses from impairment and sale of OREO and reduced income from resolution of Covered Assets.

Non-interest expense increased by $138.6 million, to $204.3 million for the three months ended March 31, 2011 as compared to $65.7 million for the three months ended March 31, 2010. Non-interest expense for the quarter ended March 31, 2011 was impacted by the $110.4 million compensation charge discussed above, a further increase of $9.5 million in share-based and other compensation expense and an increase of $16.0 million in OREO related expense and impairment and foreclosure expense. The increase in OREO and foreclosure related expense reflected continued home price depreciation in our primary market areas and the continued high level of foreclosure activity.

Total assets decreased by $61.1 million, to $10.8 billion at March 31, 2011 from $10.9 billion at December 31, 2010. Decreases in net loans of $189.0 million, cash and cash equivalents of $110.7 million, the FDIC indemnification asset of $240.3 million and OREO of $24.2 million, offset by an increase in investment securities available for sale of $500 million were the primary contributors to the overall decrease in total assets. Decreases in net loans, the FDIC indemnification asset and OREO resulted from continued resolution efforts related to Covered Assets. The increase in investment securities available for sale reflected the continued deployment of cash generated by loan resolution activity.

Total loans, net of discounts and deferred fees, but before the allowance for loan losses, declined by $185.8 million to $3.7 billion at March 31, 2011 from $3.9 billion at December 31, 2010.

Loans originated or purchased since the Acquisition increased by $54.9 million while loans acquired in the Acquisition declined by $240.7 million.

Asset quality remained strong, with a ratio of non-performing assets to total assets of 2.01%, a ratio of non-performing loans to total loans of 0.94% and a net charge-off ratio (net charge-offs to average loans) of 0.22%.

Total liabilities decreased by $244.6 million to $9.4 billion at March 31, 2011 from $9.6 billion at December 31, 2010. The primary driver of this decrease was a decline in total deposits of $261.8 million to $6.9 billion at March 31, 2011 from $7.2 billion at December 31, 2010.

Core deposits, which we define as demand, savings, and money market deposits, increased by $233.4 million for the quarter ended March 31, 2011 while time deposits declined by $495.2 million, reflecting continued run-off of time deposits assumed in the Acquisition.

Total stockholders' equity increased by $183.4 million to $1.4 billion at March 31, 2011 from $1.3 billion at December 31, 2010. The increase was primarily attributable to proceeds from the IPO.

BankUnited's capital ratios continue to exceed the requirements to be considered well capitalized under applicable regulatory guidelines, with a Tier 1 leverage ratio of 10.62%, a Tier 1 risk-based capital ratio of 44.04% and a Total risk-based capital ratio of 44.92% at March 31, 2011.

***Results of Operations***

The Company reported a net loss of $67.7 million for the three months ended March 31, 2011 and net income of $60.7 million for the three months ended March 31, 2010.

*Net Interest Income*

Net interest income is the difference between interest earned on interest earning assets and interest incurred on interest bearing liabilities and is the primary driver of core earnings. Net interest income is impacted by the relative mix of interest earning assets and interest bearing liabilities, the ratio of interest earning assets to total assets and of interest bearing liabilities to total funding sources, movements in market interest rates, levels of non-performing assets and pricing pressure from competitors. Due to the revaluation of Covered Assets in conjunction with the application of acquisition accounting and the resultant accretion, generally Covered Assets have higher yields than do assets purchased or originated since the Acquisition. Net interest income will be impacted in future periods as Covered Assets are repaid or mature and these assets comprise a lower percentage of total interest earning assets. The mix of interest earning assets is influenced by loan demand and by management's continual assessment of the rate of return and relative risk associated with various classes of earning assets.

The mix of interest bearing liabilities is influenced by management's assessment of the need for lower cost funding sources weighed against relationships with customers and growth requirements and is impacted by competition for deposits in the Bank's market and the availability and pricing of other sources of funds.

Net interest income is also impacted by accretion of fair value adjustments recorded in conjunction with the Acquisition and the accounting for ACI loans. Fair value adjustments of interest earning assets and interest bearing liabilities recorded at Acquisition are accreted to interest income or expense over the lives of the related assets or liabilities. Generally, accretion of fair value adjustments increases interest income and decreases interest expense, and thus has a positive impact on our net interest income, net interest margin and interest rate spread.

At Acquisition, ACI loans were recorded at fair value, measured based on the present value of expected cash flows. The excess of expected cash flows over carrying value, known as accretable yield,

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is being recognized as interest income over the lives of the underlying loans. Accretion related to ACI loans has a positive impact on our net interest income, net interest margin and interest rate spread.

Interest expense incurred on our interest bearing liabilities is impacted by the accretion of fair value adjustments on our time deposits and our advances from the FHLB recorded in connection with the Acquisition. The impact on interest expense decreased in the quarter ended March 31, 2011 as compared to the quarter ended March 31, 2010 and is expected to continue to decrease as these liabilities mature or are repaid. Accretion of fair value adjustments on time deposits totaled $2.5 million for the quarter ended March 31, 2011 as compared to $9.6 million for the quarter ended March 31, 2010. Accretion of fair value adjustments on FHLB advances totaled $4.7 million for the quarter ended March 31, 2011 as compared to $8.2 million for the quarter ended March 31, 2010.

Accretion of fair value adjustments will continue to have a significant impact on our net interest income as long as assets acquired and liabilities assumed in the Acquisition represent a significant portion of our interest earning assets and interest bearing liabilities.

The following table presents, for the periods indicated, information about (i) average balances, the total dollar amount of interest income from earning assets and the resultant average yields; (ii) average balances, the total dollar amount of interest expense on interest bearing liabilities and the resultant average rates; (iii) net interest income; (iv) the interest rate spread; and (v) the net interest margin. Nonaccrual and restructured loans are included in the average balances presented in this table; however, interest income foregone on nonaccrual loans is not included. Yields have been calculated on a pre-tax basis (*dollars in thousands*):

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| | Three Months Ended March 31, | | | | | |
|---|---|---|---|---|---|---|
| | 2011 | | | 2010 | | |
| | Average Balance | Interest | Yield/ Rate(1) | Average Balance | Interest | Yield/ Rate(1) |
| **Assets:** | | | | | | |
| Interest earning assets: | | | | | | |
| Investment securities available for sale | $ 701,341 | $ 5,414 | 3.09% | $ 103,858 | $ 855 | 3.29% |
| Mortgage-backed securities | 2,499,867 | 27,135 | 4.34% | 2,236,004 | 28,515 | 5.10% |
| Total investment securities available for sale | 3,201,208 | 32,549 | 4.07% | 2,339,862 | 29,370 | 5.02% |
| Other interest earning assets | 792,540 | 1,006 | 0.51% | 786,196 | 481 | 0.25% |
| Loans receivable | 3,802,786 | 114,651 | 12.10% | 4,423,336 | 104,086 | 9.44% |
| Total interest earning assets | 7,796,534 | 148,206 | 7.63% | 7,549,394 | 133,937 | 7.11% |
| Allowance for loan losses | (58,443) | | | (22,953) | | |
| Noninterest earning assets | 3,175,098 | | | 3,735,689 | | |
| Total assets | $ 10,913,189 | | | $ 11,262,130 | | |
| **Liabilities and Equity:** | | | | | | |
| Interest bearing liabilities: | | | | | | |
| Interest bearing deposits: | | | | | | |
| Interest bearing demand | $ 349,822 | $ 553 | 0.64% | $ 219,193 | $ 456 | 0.84% |
| Savings and money market | 3,252,484 | 7,226 | 0.90% | 2,661,337 | 9,562 | 1.46% |
| Time deposits | 2,893,837 | 12,527 | 1.76% | 4,398,955 | 18,261 | 1.68% |
| Total interest bearing deposits | 6,496,143 | 20,306 | 1.27% | 7,279,485 | 28,279 | 1.58% |
| Borrowings: | | | | | | |
| FHLB advances | 2,253,222 | 15,572 | 2.80% | 2,166,249 | 13,127 | 2.46% |
| Short term borrowings | 286 | 1 | 0.28% | 15,098 | 38 | 1.02% |
| Total interest bearing liabilities | 8,749,651 | 35,879 | 1.66% | 9,460,832 | 41,444 | 1.78% |

| | | | | |
|---|---|---|---|---|
| Non interest bearing demand deposits | 525,622 | | 344,759 | |
| Other non-interest bearing liabilities | 277,786 | | 319,442 | |
| Total liabilities | 9,553,059 | | 10,125,033 | |
| Equity | 1,360,130 | | 1,137,097 | |
| Total liabilities and equity | $ 10,913,189 | | $ 11,262,130 | |
| Net interest income | | $ 112,327 | | $ 92,493 |
| Interest rate spread | | 5.97% | | 5.33% |
| Net interest margin | | 5.76% | | 4.89% |

(1) Annualized.

Net interest income was $112.3 million for the three months ended March 31, 2011 and $92.5 million for the three months ended March 31, 2010, for an increase of $19.8 million. The increase in net interest income was comprised of an increase in interest income of $14.3 million and a decrease in interest expense of $5.5 million.

The increase in interest income was driven by increased interest income from both loans and investment securities. Increased interest income from loans is reflective of an increase in the average

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yield to 12.10% from 9.44%, partially offset by a decline in average loans outstanding resulting from pay-downs and resolutions. The increased yield reflected an increased yield on Covered Loans partially offset by the origination and purchase of new loans at lower prevailing market rates of interest. The average yield on loans originated and purchased since the Acquisition was 5.50% and 5.56% for the quarters ended March 31, 2011 and 2010, respectively. The yield on Covered Loans increased to 13.20% for the quarter ended March 31, 2011 from 9.59% for the quarter ended March 31, 2010 due to increases in projected cash flows from the covered ACI loans. The increase in interest income from investment securities resulted from an increase in average volume partially offset by a decline in the average yield. The average yield on investment securities declined to 4.07% for the quarter ended March 31, 2011 from 5.02% for the quarter ended March 31, 2010. The decrease in average yield resulted primarily from new purchases reflecting lower general market rates of interest.

Interest expense on deposits decreased by $8.0 million for the quarter ended March 31, 2011 as compared to the quarter ended March 31, 2010. The decrease reflected both a decline in the average balance of deposits and a decline in the average rate paid, partially offset by a decrease in accretion of Acquisition related fair value adjustments. The decline in volume was due to the continued run-off of time deposits assumed in the Acquisition, partially offset by growth in core deposits, including demand, savings and money market deposit accounts. The decrease in the average rate paid was a result of this shift in deposit mix to lower cost products coupled with declining market rates of interest. Accretion of fair value adjustments reduced interest expense by $2.5 million for the quarter ended March 31, 2011 as compared to $9.6 million for the quarter ended March 31, 2010. Interest expense on FHLB advances and other borrowings increased by $2.4 million primarily as a result of lower accretion of fair value adjustments. The decline in accretion was due to the maturity and repayment of a portion of the specific advances that were outstanding at the Acquisition date.

The net interest margin for the quarter ended March 31, 2011 was 5.76% as compared to 4.89% for the quarter ended March 31, 2010, an increase of 87 basis points. The average yield on interest earning assets increased by 52 basis points for the quarter ended March 31, 2011 as compared to the quarter ended March 31, 2010 while the average rate paid on interest bearing liabilities decreased by 12 basis points, for an improvement in the interest rate spread of 64 basis points. The improvement in both net interest margin and interest rate spread resulted primarily from the increased average yield on Covered Loans and the decrease in the average rate paid on deposits as discussed above.

*Provision for Loan Losses*

The provision for loan losses is the amount of expense that, based on our judgment, is required to maintain the allowance for loan losses at an adequate level to absorb probable losses inherent in the loan portfolio at the balance sheet date and that, in management's judgment, is appropriate under U.S. generally accepted accounting principles. Our determination of the amount of the allowance and corresponding provision for loan losses considers ongoing evaluations of the various segments of the Company's loan portfolio and of individually significant credits, levels of non-performing loans and charge-offs, statistical trends and economic and other relevant factors. The determination of the amount of the allowance is complex and involves a high degree of judgment and subjectivity.

The risk of loss associated with Covered Loans differs significantly from the risk of loss associated with non-Covered loans (as defined below). The Loss Sharing Agreements significantly limit the Company's exposure to credit losses on Covered Loans. Recognition of future losses on Covered Loans is also mitigated by the fair market value of loans established in the application of acquisition accounting.

Covered Loans may be further broken out into two broad categories: (i) ACI loans and (ii) non-ACI loans. A provision for loan losses related to ACI loans is recorded only when estimates of future cash flows related to these loans are revised downward, indicating further deterioration in credit quality. A provision for loan losses for non-ACI loans may be recorded if factors considered relevant by management indicate that the credit quality of the non-ACI loans has deteriorated.

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Since the recording of a provision for loan losses on Covered Loans represents an increase in the amount of reimbursement we ultimately expect to receive from the FDIC, we also record an increase in the FDIC indemnification asset for the present value of the projected increase in reimbursement, with a corresponding increase in non-interest income, recorded in the statement of operations line item "Net gain (loss) on indemnification asset." Therefore, the impact on our results of operations of any provision for loan losses on Covered Loans is significantly mitigated by an increase in non-interest income. For the quarters ended March 31, 2011 and 2010, we recorded provisions for loan losses on Covered Loans of $10.0 million and $7.7 million, respectively. The impact on earnings from these provisions was significantly mitigated by recording non-interest income of $6.6 million for each of the quarters ended March 31, 2011 and 2010.

For the quarters ended March 31, 2011 and 2010, we recorded provisions for loan losses of $1.4 million and $0.5 million, respectively, for loans we originated or purchased subsequent to the Acquisition. These loans are not protected by the Loss Sharing Agreements and as such, these provisions are not offset by an increase in non-interest income.

*Non-Interest Income*

The Company reported non-interest income of $64.3 million for the three months ended March 31, 2011 and $82.5 million for the three months ended March 31, 2010. The following table presents a comparison of the categories of non-interest income for the three month periods ended March 31, 2011 and 2010 (*dollars in thousands*):

| | **Three Months Ended March 31,** | |
|---|---|---|
| | **2011** | **2010** |
| Accretion of discount on FDIC indemnification asset | $ 19,570 | $ 54,384 |
| Income (loss) from resolution of Covered Assets, net | (710) | 36,397 |
| Net gain (loss) on indemnification asset | 26,322 | (23,035) |
| FDIC reimbursement of costs of resolution of Covered Assets | 10,500 | 6,435 |
| Non-interest income from Covered Assets | 55,682 | 74,181 |
| Service charges on deposits and other fee income | 2,152 | 2,111 |
| Service charges on loans | 532 | 520 |
| Mortgage insurance income | 1,301 | 2,802 |
| Other non-interest income | 4,595 | 2,842 |
| Total non-interest income | $ 64,262 | $ 82,456 |

For the quarters ended March 31, 2011 and 2010, the majority of our non-interest income resulted from accretion of discount on the FDIC indemnification asset, the resolution of assets covered by our Loss Sharing Agreements with the FDIC and reimbursement by the FDIC of costs of resolution of Covered Assets.

The FDIC indemnification asset represents the present value of estimated future cash payments from the FDIC for probable losses on Covered Assets, up to 90 days of past due interest, excluding interest related to loans on nonaccrual at Acquisition, and reimbursement of certain expenses. Accretion is a result of discounting and may also increase or decrease from period to period due to changes in expected cash flows from Covered Loans. If projected cash flows from the ACI loans increase, the yield on the loans will increase and the discount rate of accretion on the FDIC indemnification asset will decrease as less cash flow is expected to be recovered from the FDIC.

Accretion of discount on the FDIC indemnification asset totaled $19.6 million for the three months ended March 31, 2011 and $54.4 million for the three months ended March 31, 2010. The decrease in accretion for the quarter ended March 31, 2011 as compared to the quarter ended

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March 31, 2010 was related to the decrease in the average balance of the indemnification asset as well as a decrease in the average discount rate during the period to 3.2% from 7.1%. The decline in the average discount rate corresponded to the increased yield on Covered Loans.

A rollforward of the FDIC indemnification asset for the quarter ended March 31, 2011 and the year ended December 31, 2010 follows (*dollars in thousands*):

| | Three Months Ended March 31, 2011 | Year Ended December 31, 2010 |
|---|---|---|
| Balance, beginning of period | $ 2,667,401 | $ 3,279,165 |
| Accretion | 19,570 | 134,703 |
| Reduction for claims filed | (286,148) | (764,203) |
| Net gain (loss) on indemnification asset | 26,322 | 17,736 |
| Balance, end of period | $ 2,427,145 | $ 2,667,401 |

Accretion of discount on the FDIC indemnification asset results in an increase to the balance of the FDIC indemnification asset with a corresponding increase in non-interest income. We project the amount of accretion will continue to decline in future periods, because our projected cash flows from ACI loans have been increasing, and as a result we expect to collect less cash flow from the indemnification asset.

The balance of the FDIC indemnification asset is reduced as claims for reimbursement are filed with the FDIC. The balance of the FDIC indemnification asset is also reduced or increased as a result of decreases or increases in estimated cash flows to be received from the FDIC related to the ultimate resolution of Covered Assets. We record an offsetting entry in the statement of operations line item "Net gain (loss) on indemnification asset." This line item also includes a significantly mitigating impact related to loan loss provisions on Covered Loans, provisions for impairment of OREO and gains or losses on the sale of Covered Loans and OREO.

Covered loans may be resolved through repayment, foreclosure, short sale of the underlying collateral or, for the non-residential portfolio, charge-offs, or sale of the loans. The difference between consideration received in resolution of Covered Loans and the amount of projected losses from resolution of those loans as well as losses from permanent modifications of ACI loans accounted for in pools, is recorded in the statement of operations line item "Income (loss) from resolution of Covered Assets, net." Losses from the resolution or permanent modification of Covered Loans increase the amount recoverable from the FDIC under the Loss Sharing Agreements. Gains from the resolution of Covered Loans reduce the amount recoverable from the FDIC under the Loss Sharing Agreements. These additions to or reductions in amounts recoverable from the FDIC related to the resolution of Covered Loans are recorded in non-interest income in the line item "Net gain (loss) on indemnification asset" and reflected as corresponding increases or decreases in the FDIC indemnification asset. The amount of income recorded in any period will be impacted by the number and UPB of ACI loans resolved and our ability to accurately project cash flows from ACI loans in future periods. As expected, the impact of this line item on the results of operations decreased for the three months ended March 31, 2011 as compared to the three months ended March 31, 2010 as we have gained additional history in terms of the performance of the loans we acquired, which we have reflected in the update of our projected cash flows from ACI loans.

Additional impairment related to Covered Loans is recorded in earnings through the provision for losses on Covered Loans. Under the terms of the Loss Sharing Agreements, the Company is entitled to recover from the FDIC a portion of losses on these loans; therefore, the discounted amount of additional expected cash flows from the FDIC related to these losses is recorded in non-interest income in the line item "Net gain (loss) on indemnification asset" and reflected as a corresponding increase in the FDIC indemnification asset.

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The Company records impairment charges related to declines in the net realizable value of OREO properties subject to the Loss Sharing Agreements and recognizes additional gains or losses upon the eventual sale of such OREO properties. The estimated increase or reduction in amounts recoverable from the FDIC with respect to these gains and losses is reflected as an increase or decrease in the FDIC indemnification asset and in non-interest income in the line item "Net gain (loss) on indemnification asset."

When the Company recognizes gains or losses related to Covered Assets in its consolidated financial statements, changes in the estimated amount recoverable from the FDIC under the Loss Sharing Agreements with respect to those gains or losses are also reflected in the consolidated financial statements as discussed above. Net gain (loss) on indemnification asset of $26.3 million and $(23.0) million was recorded for the quarters ended March 31, 2011 and 2010, respectively. The net impact on earnings before taxes of transactions related to Covered Assets, plus the provision for loan losses on non-Covered loans, for the quarters ended March 31, 2011 and 2010 was $(7.7) million and $5.8 million, respectively, as detailed in the table below (*dollars in thousands*):

| | **March 31, 2011** | | | **March 31, 2010** | | |
|---|---|---|---|---|---|---|
| | | **Net Gain (Loss) on** | | | **Net Gain (Loss) on** | |
| | **Transaction Income (Loss)** | **Indemnification Asset** | **Net Impact on Pre-tax Earnings** | **Transaction Income (Loss)** | **Indemnification Asset** | **Net Impact on Pre-tax Earnings** |
| Provision for losses on Covered Loans | $ (10,017) | $ 6,639 | $ (3,378) | $ (7,684) | $ 6,610 | $ (1,074) |
| Provision for losses on non-Covered loans | (1,439) | | (1,439) | (499) | | (499) |
| Total provision for loan losses | (11,456) | 6,639 | (4,817) | (8,183) | 6,610 | (1,573) |
| Income (loss) from resolution of Covered Assets, net | (710) | 3,103 | 2,393 | 36,397 | (29,403) | 6,994 |
| Gain (loss) on sale of OREO | (12,210) | 8,943 | (3,267) | 1,474 | (912) | 562 |
| Impairment of OREO | (9,599) | 7,637 | (1,962) | (838) | 670 | (168) |
| | (21,809) | 16,580 | (5,229) | 636 | (242) | 394 |
| Total | $ (33,975) | $ 26,322 | $ (7,653) | $ 28,850 | $ (23,035) | $ 5,815 |

The following table provides further detail of the components of Income (loss) from resolution of Covered Assets, net (*dollars in thousands*):

| | **Three Months Ended March 31,** | |
|---|---|---|
| | **2011** | **2010** |
| Payments in full | $ 21,245 | $ 21,939 |
| Foreclosures | (13,131) | 9,187 |
| Short sales | (7,701) | 10,710 |
| Modifications | | (893) |
| Charge offs | (1,969) | (4,546) |
| Recoveries | 846 | |
| Income from resolution of Covered Assets, net | $ (710) | $ 36,397 |

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We incurred net losses from foreclosures and short sales for the quarter ended March 31, 2011 as compared to net gains for the quarter ended March 31, 2010 due to continuing home price deterioration in our primary market areas.

Certain OREO related expenses, including attorney's fees, foreclosure costs, property preservation costs, maintenance and repair costs, advances for taxes and insurance, appraisal costs and inspection costs are also reimbursed under the terms of the Loss Sharing Agreements with the FDIC. Such expenses are recorded in non-interest expense when incurred, and the reimbursement is recorded as "FDIC reimbursement of costs of resolution of Covered Assets" in non-interest income when submitted to the FDIC, generally upon ultimate resolution of the underlying covered asset. This may result in the expense and the related income from reimbursements being recorded in different periods. For the quarters ended March 31, 2011 and 2010, non-interest expense included approximately $8.8 million and $15.2 million, respectively, of disbursements subject to reimbursement under the loss sharing agreements. For those same periods, claims of $10.5 million and $6.4 million, respectively, were submitted to the FDIC for reimbursement. As of March 31, 2011, $24.2 million of disbursements remain to be submitted for reimbursement from the FDIC in future periods.

The increase in other non-interest income for the quarter ended March 31, 2011 as compared to the quarter ended March 31, 2010 related primarily to an increase in fees earned by BankUnited Investment Services and an increase in loan modification incentives received under the U.S. Treasury HAMP program.

*Non-Interest Expense*

Non-interest expense includes employee compensation and benefits, occupancy and equipment, impairment of OREO, foreclosure expense, OREO expense, deposit insurance expense, professional fees, telecommunications and data processing and other expense. The following table presents the components of non-interest expense for the three month periods ended March 31, 2011 and 2010 (*dollars in thousands*):

| | **Three Months Ended March 31,** | |
|---|---|---|
| | **2011** | **2010** |
| Employee compensation and benefits | $ 149,306 | $ 29,423 |
| Occupancy and equipment | 7,605 | 6,224 |
| Impairment of other real estate owned | 9,599 | 838 |
| Foreclosure expense | 4,470 | 11,443 |
| Loss/gain on sale of OREO and OREO related expense | 16,553 | 2,326 |
| Deposit insurance expense | 4,189 | 3,245 |
| Professional fees | 3,229 | 2,193 |
| Telecommunications and data processing | 3,448 | 2,990 |
| Other non-interest expense | 5,940 | 7,020 |
| Total non-interest expense | $ 204,339 | $ 65,702 |

As is typical for financial institutions, employee compensation and benefits represents the single largest component of recurring non-interest expense. Employee compensation and benefits increased by approximately $119.9 million for the quarter ended March 31, 2011 as compared to the quarter ended March 31, 2010. Our employee compensation and benefits expense includes expense related to Profits Interest Units, referred to as "PIUs," issued to certain members of executive management. The PIUs were divided into two equal types of profits interests. Half of the PIUs, referred to as "Time-based PIUs," vested with the passage of time following the grant date. The remaining half of the PIUs, referred to as "IRR-based PIUs," vested immediately prior to the consummation of the IPO of our

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common stock in February, 2011. Immediately prior to the consummation of the IPO, the time-based and IRR-based PIUs were exchanged for a combination of restricted shares and non-restricted shares of the Company's common stock and vested and unvested options. Share based compensation expense of $110.4 million related to these instruments was recorded in conjunction with the IPO. This charge to compensation expense was offset by a credit to paid-in capital and therefore did not impact the Company's capital position. Employee compensation and benefits expense for the quarter ended March 31, 2010 included $3.6 million related to PIUs. The increase in employee compensation and benefits expense for the quarter ended March 31, 2011 as compared to the quarter ended March 31, 2010 also reflected an additional increase in stock based compensation expense of $6.2 million related to stock options and shares granted to employees in 2010 and 2011, including the unvested shares and options received in exchange for PIUs.

OREO expense is comprised of net gains or losses on the sale of OREO properties and expenses of holding and maintaining OREO properties such as real estate taxes and insurance. Impairment of OREO represents further deterioration in the fair value of properties that were initially recorded at fair value at the time of foreclosure. OREO expense, foreclosure expense and impairment of OREO remain at high levels due to continuing deterioration in home prices coupled with the high volume of foreclosure activity. Impairment of OREO increased by $8.8 million for the quarter ended March 31, 2011 to $9.6 million from $0.8 million for the quarter ended March 31, 2010 while OREO expense increased by $14.2 million to $16.6 million, including $12.2 million in losses on the sale of OREO, for the quarter ended March 31, 2011, from $2.3 million, including $1.5 million in gains on the sale of OREO, for the quarter ended March 31, 2010.

Foreclosure expense decreased by $6.9 million, to $4.5 million for the quarter ended March 31, 2011 from $11.4 million for the quarter ended March 31, 2010. This decrease reflected a decline in the number of units in the foreclosure pipeline. At March 31, 2011, approximately 4,200 units were in the foreclosure process, down from approximately 6,700 units at March 31, 2010.

At March 31, 2011, all OREO properties were covered by the Loss Sharing Agreements with the FDIC. OREO losses and OREO and foreclosure expenses are therefore substantially offset by non-interest income related to indemnification by the FDIC as discussed above.

The primary components of other non-interest expense are promotion and advertising, the cost of regulatory examinations, and general office expense.

*Income Taxes*

The provision for income taxes for the quarters ended March 31, 2011 and 2010 was $28.5 million and $40.3 million, respectively. The Company's effective tax rate was (72.6)% and 39.9% for the quarters ended March 31, 2011 and 2010, respectively. For the quarter ended March 31, 2011, the Company's effective tax rate differed from the statutory federal tax rate of 35.0% primarily due to the $110.4 million charge to compensation expense recorded in conjunction with the IPO. This expense is not deductible for income tax purposes. Additionally, a provision of approximately $6.5 million was recorded for uncertain state income tax positions in the quarter ended March 31, 2011. For the quarter ended March 31, 2010, the Company's effective tax rate differed from the statutory federal tax rate primarily due to state income taxes. At March 31, 2011 and December 31, 2010, the Company had net deferred tax liabilities of $20.7 million and $4.6 million, respectively.

***Financial Condition***

Loans, OREO and certain investment securities, including certain private-label mortgage-backed and non-investment grade securities acquired in the Acquisition are covered by the Loss Sharing Agreements with the FDIC. The Loss Sharing Agreements afford the Company significant protection against future credit losses related to these assets. Under the Loss Sharing Agreements, the FDIC will cover 80% of losses and certain expenses related to the Covered Assets up to the $4.0 billion stated threshold and 95% of losses and certain expenses that exceed the $4.0 billion stated threshold. At March 31, 2011, $3.2 billion or 84.2% of loans, net of discounts and deferred origination fees and costs, were Covered Loans and $259.5 million or 7.6% of investment securities available for sale were Covered Securities. All of the Company's OREO at March 31, 2011 was covered by the Loss Sharing Agreements.

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Loans net of discounts and deferred origination fees and costs decreased to $3.7 billion at March 31, 2011 from $3.9 billion at December 31, 2010, primarily due to the continued resolution of ACI loans. Loans acquired in the Acquisition, or Covered Loans, declined by $240.7 million from December 31, 2010 to March 31, 2011 while loans originated since the Acquisition, or non-Covered loans, increased by $54.9 million. Loan demand in our primary market areas remains depressed, limiting the volume of new originations. Loan growth for the quarter was led by purchases of $33.5 million in residential mortgage loans. Growth also occurred in the commercial real estate and leasing portfolios during the first quarter of 2011.

The portfolio of available for sale securities has grown to $3.4 billion at March 31, 2011 from $2.9 billion at December 31, 2010. Growth of the investment portfolio continues to be driven by the deployment of cash generated from loan resolution activity during a period of diminished loan demand.

Average interest earning assets increased $247.1 million to $7.8 billion for the quarter ended March 31, 2011 from $7.5 billion for the quarter ended March 31, 2010. This increase was driven primarily by an increase in the average balance of investment securities, partially offset by a decline in the average balance of loans resulting from ACI loan resolutions. Average non-interest earning assets declined by $560.6 million, largely due to the decrease in the FDIC indemnification asset.

Average interest bearing liabilities decreased by $711.2 million to $8.7 billion for the quarter ended March 31, 2011 from $9.5 billion for the quarter ended March 31, 2010, reflecting a decrease in average interest-bearing deposits. The reduction in outstanding interest-bearing deposits resulted from the continued run-off of time deposits assumed in the Acquisition. Average non-interest bearing liabilities increased by $139.2 million, primarily as a result of an increase in non-interest bearing demand deposits. Average equity increased by $223.0 million, primarily as a result of the IPO.

*Investment Securities Available for Sale*

Our investment strategy continues to focus on providing liquidity necessary for day-to-day operations, adding a suitable balance of high credit quality, diversifying assets to the consolidated balance sheet, managing interest rate risk, and generating acceptable returns given our established risk parameters. We have sought to maintain liquidity and manage interest rate risk by investing a significant portion of the portfolio in high quality liquid securities consisting primarily of U.S. Government agency floating rate residential mortgage-backed securities. We have also invested in highly rated structured products including private label residential mortgage-backed securities and Re-securitized Real Estate Mortgage Investment Conduits, or "Re-Remics," bank preferred stocks and asset-backed securities collateralized primarily by auto loans, credit card receivables, student loans and floor plan loans that, while somewhat less liquid, provide us with higher yields. A relatively short effective portfolio duration helps mitigate interest rate risk arising from the currently low level of market interest rates.

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The following tables show, as of March 31, 2011 and December 31, 2010, the amortized cost and fair value of investment securities available for sale and the breakdown of covered and non-covered Securities (*dollars in thousands*):

| | March 31, 2011 | | | | | | | | | |
|---|---|---|---|---|---|---|---|---|---|---|
| | Covered Securities | | | | Non-Covered Securities | | | | Total | |
| | Amortized Cost | Gross Gains | Unrealized Losses | Fair Value | Amortized Cost | Gross Gains | Unrealized Losses | Fair Value | Amortized Cost | Fair Value |
| U.S. Government agency and sponsored enterprise residential mortgage-backed securities | $ | $ | $ | $ | $ 1,760,771 | $ 13,503 | $ (5,222) | $ 1,769,052 | $ 1,760,771 | $ 1,769,052 |
| Resecuritized real estate mortgage investment conduits ("Re-Remics") | | | | | 554,553 | 11,297 | (209) | 565,641 | 554,553 | 565,641 |
| Private label residential mortgage backed securities and CMO's | 182,027 | 55,162 | (1,522) | 235,667 | 123,465 | 2,793 | (77) | 126,181 | 305,492 | 361,848 |
| Non mortgage asset-backed securities | | | | | 429,225 | 3,876 | (76) | 433,025 | 429,225 | 433,025 |
| Mutual funds and preferred stocks | 16,382 | 680 | (802) | 16,260 | 184,552 | 7,111 | (541) | 191,122 | 200,934 | 207,382 |
| State and municipal obligations | | | | | 21,893 | 121 | (23) | 21,991 | 21,893 | 21,991 |
| Small Business Administration securities | | | | | 59,730 | 371 | (53) | 60,048 | 59,730 | 60,048 |
| Other debt securities | 3,805 | 3,804 | | 7,609 | | | | | 3,805 | 7,609 |
| Total | $ 202,214 | $ 59,646 | $ (2,324) | $ 259,536 | $ 3,134,189 | $ 39,072 | $ (6,201) | $ 3,167,060 | $ 3,336,403 | $ 3,426,596 |

| | December 31, 2010 | | | | | | | | | |
|---|---|---|---|---|---|---|---|---|---|---|
| | Covered Securities | | | | Non-Covered Securities | | | | Total | |
| | Amortized Cost | Gross Gains | Unrealized Losses | Fair Value | Amortized Cost | Gross Gains | Unrealized Losses | Fair Value | Amortized Cost | Fair Value |
| U.S. Government agency and sponsored enterprise residential mortgage-backed securities | $ | $ | $ | $ | $ 1,282,757 | $ 11,411 | $ (3,258) | $ 1,290,910 | $ 1,282,757 | $ 1,290,910 |
| Resecuritized real estate mortgage investment conduits | | | | | 599,682 | 14,054 | (1,105) | 612,631 | 599,682 | 612,631 |

| | | | | | | | | | | |
|---|---|---|---|---|---|---|---|---|---|---|
| ("Re-Remics") | | | | | | | | | | |
| Private label residential mortgage backed securities and CMO's | 181,337 | 61,679 | (1,726) | 241,290 | 138,759 | 2,906 | (35) | 141,630 | 320,096 | 382,920 |
| Non mortgage asset-backed securities | | | | | 407,158 | 1,908 | (72) | 408,994 | 407,158 | 408,994 |
| Mutual funds and preferred stocks | 16,382 | 57 | (922) | 15,517 | 120,107 | 3,402 | (491) | 123,018 | 136,489 | 138,535 |
| State and municipal obligations | | | | | 22,898 | 101 | (39) | 22,960 | 22,898 | 22,960 |
| Small Business Administration securities | | | | | 62,831 | 191 | (131) | 62,891 | 62,831 | 62,891 |
| Other debt securities | 3,695 | 3,066 | | 6,761 | | | | | 3,695 | 6,761 |
| Total | $ 201,414 | $ 64,802 | $ (2,648) | $ 263,568 | $ 2,634,192 | $ 33,973 | $ (5,131) | $ 2,663,034 | $ 2,835,606 | $ 2,926,602 |

Covered securities include private label mortgage-backed securities and mortgage-backed security mutual funds, trust preferred collateralized debt obligations, Agency preferred stocks, and corporate securities covered under the non-residential Loss Sharing Agreement. To date, the Company has not submitted any claims for reimbursement related to the Covered Securities.

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The following table shows the scheduled maturities, carrying values and current yields for our investment portfolio as of March 31, 2011. Scheduled maturities have been adjusted for anticipated prepayments of mortgage-backed and other pass through securities. Yields on tax-exempt securities have been calculated on a pre-tax basis (*dollars in thousands*):

| | Within One Year | | After One Year Through Five Years | | After Five Years Through Ten Years | | After Ten Years | | Total | |
|---|---|---|---|---|---|---|---|---|---|---|
| | Carrying Value | Weighted Average Yield | Carrying Value | Weighted Average Yield | Carrying Value | Weighted Average Yield | Carrying Value | Weighted Average Yield | Carrying Value | Weighted Average Yield |
| U.S. Government agency and sponsored enterprise residential mortgage-backed securities and CMO's | $ 191,047 | 2.05% | $ 592,419 | 2.04% | $ 576,752 | 2.50% | $ 408,834 | 1.39% | $ 1,769,052 | 2.04% |
| Resecuritized real estate mortgage investment conduits ("Re-Remics") | 150,019 | 4.75% | 327,863 | 3.74% | 83,654 | 3.15% | 4,105 | 2.83% | 565,641 | 3.92% |
| Private label residential mortgage backed securities and CMO's | 89,559 | 5.65% | 147,595 | 6.53% | 55,866 | 8.33% | 68,828 | 8.21% | 361,848 | 6.91% |
| Non mortgage asset-backed securities | 176,396 | 1.90% | 220,897 | 2.39% | 18,236 | 2.80% | 17,496 | 2.60% | 433,025 | 2.22% |
| State and municipal obligations | 5,944 | 0.55% | 15,491 | 1.68% | 248 | 6.97% | 308 | 4.87% | 21,991 | 1.48% |
| Small Business Administration securities | 12,010 | 2.53% | 28,362 | 2.52% | 15,409 | 2.39% | 4,267 | 2.23% | 60,048 | 2.47% |
| Other debt securities | | | | | | | 7,609 | 16.14% | 7,609 | 16.14% |
| | $ 624,975 | 3.17% | $ 1,332,627 | 3.02% | $ 750,165 | 3.01% | $ 511,447 | 2.59% | $ 3,219,214 | 2.98% |
| Mutual funds and preferred stocks with no scheduled maturity | | | | | | | | | 207,382 | 7.74% |
| Total investment securities available for sale | | | | | | | | | $ 3,426,596 | 3.27% |

At March 31, 2011, the weighted average life of the mortgage-backed securities portfolio was 5.11 years and the effective duration of the portfolio was 1.65 years.

We evaluate the credit quality of individual securities in the portfolio quarterly to determine whether any of the investments in unrealized loss positions are other-than-temporarily impaired. This evaluation considers the duration and severity of impairment; collateral values and levels of subordination or over-collateralization; collateral performance; the credit rating, earnings performance and business prospects of the issuer and other relevant factors. We may consider factors that raise significant concerns about an issuer's ability to continue as a going concern such as negative cash flows from operations, working capital deficiencies, or non-compliance with statutory capital requirements or debt covenants. We may also consider adverse changes in the regulatory or economic environment as well as significant adverse changes in general market conditions of the geographic area or the industry in which individual issuers operate. We consider both our intent to sell investment securities and whether it is more likely than not that we will be required to sell the securities prior to recovery of amortized cost basis, which might be until maturity for debt securities or for a reasonable forecasted period of recovery for equity securities.

The carrying value of investment securities in an unrealized loss position totaled $921.2 million with unrealized losses of $8.5 million at March 31, 2011. At December 31, 2010, the carrying value of investment securities in an unrealized loss position totaled $717.6 million with unrealized losses of $7.8 million. At March 31, 2011, securities with a carrying value of $23.9 million and unrealized losses of $0.3 million had been in unrealized loss positions for 12 months or longer. No securities had been in unrealized loss positions for 12 months or more at December 31, 2010.

No securities have been determined to be other-than-temporarily impaired as of March 31, 2011. Approximately 90.9% of the securities purchased since the Acquisition are agency-backed or currently

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rated AAA. The timely repayment of principal and interest on the U.S. Government agency and sponsored enterprise mortgage-backed securities and U.S. Small Business Administration securities is either explicitly or implicitly guaranteed by the full faith and credit of the U.S. Government. We engaged a third party to perform projected cash flow analyses of the private-label mortgage-backed securities and Re-Remics, incorporating CUSIP level collateral default rate, voluntary prepayment rate, severity and delinquency assumptions. Based on the results of this analysis, no credit losses were projected. We do not intend to sell securities in an unrealized loss position and it is not more likely than not that we will be required to sell them before recovery of their amortized cost basis.

As a member institution of the Federal Home Loan Bank of Atlanta, BankUnited is required to own capital stock in the FHLB. No market exists for this stock, and the Bank's investment can be liquidated only through repurchase by the FHLB; such repurchases have historically been at par. We monitor our investment in FHLB stock for impairment through review of recent financial results, dividend payment history and information from credit agencies. As of March 31, 2011, we had not identified any indicators of impairment of FHLB stock.

*Loans*

The loan portfolio comprises the Company's primary interest-earning asset. At March 31, 2011 and December 31, 2010, respectively, 84.2% and 86.3% of total loans were Covered Loans. The following table shows the composition of the Company's loan portfolio and the breakdown of the portfolio between covered ACI loans, covered non-ACI loans and non-Covered loans at March 31, 2011 and December 31, 2010 (*dollars in thousands*):

| | **March 31, 2011** | | | | | **December 31, 2010** | | | | |
|---|---|---|---|---|---|---|---|---|---|---|
| | **Covered Loans** | | | | | **Covered Loans** | | | | |
| | **Acquired Credit Impaired** | **Non-ACI** | **Non-Covered Loans** | **Total** | **Percent of Total** | **Acquired Credit Impaired** | **Non-ACI** | **Non-Covered Loans** | **Total** | **Percent of Total** |
| Residential: | | | | | | | | | | |
| 1-4 single family residential | $ 2,222,661 | $ 144,233 | $ 140,109 | $ 2,507,003 | 66.1% | $ 2,421,016 | $ 151,945 | $ 113,439 | $ 2,686,400 | 67.5% |
| Home equity loans and lines of credit | 92,874 | 202,130 | 2,344 | 297,348 | 7.8% | 98,599 | 206,797 | 2,255 | 307,651 | 7.7% |
| Total | 2,315,535 | 346,363 | 142,453 | 2,804,351 | 73.9% | 2,519,615 | 358,742 | 115,694 | 2,994,051 | 75.2% |
| Commercial: | | | | | | | | | | |
| Multi-family | 71,407 | 5,140 | 51,743 | 128,290 | 3.4% | 73,015 | 5,548 | 34,271 | 112,834 | 2.8% |
| Commercial real estate | 292,637 | 34,152 | 112,209 | 438,998 | 11.5% | 299,068 | 33,938 | 118,857 | 451,863 | 11.4% |
| Construction | 6,335 | | 10,895 | 17,230 | 0.5% | 8,267 | | 8,582 | 16,849 | 0.4% |
| Land | 42,668 | 169 | 2,151 | 44,988 | 1.2% | 48,251 | 170 | 1,873 | 50,294 | 1.3% |
| Commercial and industrial | 40,458 | 30,042 | 211,733 | 282,233 | 7.4% | 49,731 | 30,139 | 213,626 | 293,496 | 7.4% |
| Lease financing | | | 71,178 | 71,178 | 1.9% | | | 52,960 | 52,960 | 1.3% |
| Total | 453,505 | 69,503 | 459,909 | 982,917 | 25.9% | 478,332 | 69,795 | 430,169 | 978,296 | 24.6% |
| Consumer | 4,073 | | 3,512 | 7,585 | 0.2% | 4,403 | | 3,056 | 7,459 | 0.2% |
| Total loans | 2,773,113 | 415,866 | 605,874 | 3,794,853 | 100.0% | 3,002,350 | 428,537 | 548,919 | 3,979,806 | 100.0% |
| Unearned discount and | | (33,617) | (12,850) | (46,467) | | | (34,840) | (10,749) | (45,589) | |

| | | | | | | | | |
|---|---|---|---|---|---|---|---|---|
| deferred fees and costs, net | | | | | | | | |
| Loans net of discount and deferred fees and costs | 2,773,113 | 382,249 | 593,024 | 3,748,386 | 3,002,350 | 393,697 | 538,170 | 3,934,217 |
| Allowance for loan losses | (36,709) | (17,302) | (7,546) | (61,557) | (39,925) | (12,284) | (6,151) | (58,360) |
| Loans, net | $ 2,736,404 | $ 364,947 | $ 585,478 | $ 3,686,829 | $ 2,962,425 | $ 381,413 | $ 532,019 | $ 3,875,857 |

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*Residential Mortgages*

Loans secured by residential real estate have consistently represented the majority of the total loan portfolio. One-to-four single family residential mortgages totaled $2.5 billion, or 66.1%, of the portfolio and $2.7 billion, or 67.5%, of the portfolio at March 31, 2011 and December 31, 2010, respectively. The decline in this portfolio segment was primarily a result of the resolution of Covered Loans, including transfers to OREO. Home equity loans and lines of credit totaled 7.8% and 7.7% of the loan portfolio at March 31, 2011 and December 31, 2010, respectively. Substantially all of the home equity loans and lines of credit are Covered Loans.

The non-covered residential loan portfolio includes loans originated and purchased since the Acquisition. We currently originate residential mortgage loans with terms ranging from 10 to 40 years, with either fixed or adjustable interest rates, primarily to customers in the state of Florida. Newly originated residential mortgage loans are primarily closed-end first lien loans for the purchase or re-finance of owner occupied property. We also purchase loans to supplement our nascent mortgage origination platform and to geographically diversify our loan portfolio given the current credit environment of the non-agency mortgage market in Florida. At March 31, 2011, $31.0 million, or 22.1%, of our non-covered one-to-four single family residential loans were originated loans and $109.1 million, or 77.9%, of our non-covered residential loans were purchased loans.

We do not originate option ARM, "no-doc" or "reduced-doc" mortgages and do not utilize wholesale mortgage origination channels although the covered loan portfolio contains loans with these characteristics. All of these loans are Covered Loans; therefore, the Company's exposure to future losses on these mortgage loans is mitigated by the Loss Sharing Agreements.

*Commercial and commercial real estate loans and leases*

The commercial and commercial real estate portfolio segments collectively comprise 75.9% of loans originated or purchased since the Acquisition as of March 31, 2011.

Commercial real estate loans include term loans secured by income producing properties including rental apartments, industrial properties, retail shopping centers, office buildings and hotels as well as real estate secured lines of credit and acquisition, development and construction loans. Commercial real estate loans typically have shorter repayment periods and reprice more frequently than 1-4 single family residential loans. The Company's underwriting standards generally provide for loan terms of five years, with amortization schedules of no more than twenty-five years. Loan to value, or LTV, ratios are typically limited to no more than 80%. In addition, the Company usually obtains personal guarantees of the principals as additional security for most commercial real estate loans.

Commercial loans are typically made to growing companies and middle market businesses and include equipment loans, working capital lines of credit, asset-backed loans, acquisition finance credit facilities, lease financing and Small Business Administration product offerings. These loans may be structured as term loans, typically with maturities of five years or less, or revolving lines of credit which typically mature annually.

***Asset Quality***

In discussing asset quality, a distinction must be made between Covered Loans and loans originated or purchased by us since the Acquisition, or the "non-Covered loans." Non-Covered loans were underwritten under significantly different and generally more conservative standards than the Covered Loans. In particular, credit approval policies have been strengthened, wholesale mortgage origination channels have been eliminated, "no-doc" and option ARM, loan products have been eliminated, and real estate appraisal policies have been improved. Although the risk profile of Covered Loans is higher than that of the non-Covered loans, our exposure to loss related to the Covered Loans

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is significantly mitigated by the Loss Sharing Agreements and by the fair value basis recorded in these loans resulting from the application of acquisition accounting.

We have established a credit risk management framework and put in place an experienced team to lead the workout and recovery process for the commercial and commercial real estate portfolios. We have also implemented a dedicated internal loan review function that reports directly to our Audit Committee. We have an experienced resolution team in place for covered residential mortgage loans, and have implemented outsourcing arrangements with industry leading firms in certain areas such as OREO resolution.

Loan performance is monitored by our credit, workout and recovery and loan review departments. Commercial and commercial real estate loans are regularly reviewed by our internal loan review department. The Company utilizes an asset risk classification system as part of its efforts to monitor and improve commercial asset quality. Borrowers with credit weaknesses that may jeopardize collectability will likely demonstrate one or more of the following: payment defaults, frequent overdrafts, operating losses, increasing balance sheet leverage, inadequate cash flow, project cost over-runs, unreasonable construction delays, exhausted interest reserves, past due real estate taxes or declining collateral values. Generally, a loan with one or more of these identified weaknesses will be classified substandard. Loans that have credit weaknesses that render collection or liquidation in full highly questionable or improbable based on current circumstances are classified doubtful. Loans exhibiting potential credit weaknesses that deserve management's close attention and that if left uncorrected may result in deterioration of the repayment capacity of the borrower are categorized as special mention.

*Non-Covered Loans*

Overall asset quality of the non-covered loan portfolio at March 31, 2011 is considered by management to be strong.

A key credit quality indicator for commercial real estate and commercial loans is internal risk rating. At March 31, 2011, 4.5% of non-covered commercial and commercial real estate loans were rated special mention or adversely classified. Forty-five non-covered commercial and commercial real estate loans and leases aggregating $8.0 million were rated special mention and twenty-six non-covered commercial and commercial real estate loans and leases aggregating $12.2 million were classified substandard. At December 31, 2010, twenty non-covered commercial and commercial real estate loans aggregating $9.0 million were rated special mention and twelve non-covered commercial and commercial real estate loans aggregating $5.9 million were classified substandard.

Loan performance, or delinquency status, is considered the most significant credit quality indicator for the residential, home equity and consumer portfolios. There were no delinquencies in the non-covered residential mortgage or home equity loan portfolios at March 31, 2011 or December 31, 2010. Delinquent consumer loans in the non-covered portfolio were insignificant at March 31, 2011 and December 31, 2010.

The majority of our non-covered residential mortgage portfolio consists of purchased loans. The credit parameters for purchasing loans are similar to the underwriting guidelines in place for our mortgage origination platform. In general, we purchase performing jumbo mortgage pools which have average FICO scores above 700, primarily are owner-occupied and full documentation, and have a current LTV less than 80%. At March 31, 2011, the purchased loan portfolio had the following characteristics: 56.4% were fixed rate loans, 92.9% were full documentation and had an average FICO score of 754 and average LTV of 74.0%. The majority of this portfolio was owner-occupied, with 95.1% primary residence and 4.9% second homes. In terms of vintage, 10.3% of the portfolio was originated before 2007, 4.2% in 2007, 29.5% in 2008, 14.0% in 2009, 14.5% in 2010 and 27.5% in 2011.

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Similarly, the originated loan portfolio had the following characteristics at March 31, 2011: 82.8% were fixed rate loans, 100% were full documentation and had an average FICO score of 779 and average LTV of 62.0%. The majority of this portfolio was owner-occupied, with 94.8% primary residence and 5.2% second home. In terms of vintage, 16.6% of the portfolio was originated in 2009, 75.9% in 2010 and 7.5% in 2011.

*Covered Loans*

Covered Loans consist of both ACI loans and non-ACI loans. At March 31, 2011, ACI loans totaled $2.7 billion and non-ACI loans totaled $0.4 billion. Covered 1-4 single family residential loans were placed into homogenous pools at Acquisition and the ongoing credit quality and performance of these loans is monitored on a pool basis. At Acquisition, the fair value of the pools was measured based on the expected cash flows to be derived from each pool. Initial cash flow expectations incorporated significant assumptions regarding prepayment rates, frequency of default and loss severity. For ACI pools, the difference between total contractual payments due and the cash flows expected to be received at Acquisition was recognized as non-accretable difference. The excess of expected cash flows over the recorded fair value of each ACI pool at Acquisition, known as the accretable yield, is being recognized as interest income over the life of each pool. We monitor the pools quarterly to determine whether any material changes have occurred in expected cash flows that would be indicative of impairment or necessitate reclassification between non-accretable difference and accretable yield. Generally, improvements in expected cash flows less than 1% of the expected cash flows from a pool are not recorded. This threshold may be revised as we gain greater experience. Generally, commercial and commercial real estate loans are monitored individually due to their size and other unique characteristics.

Residential mortgage loans, including home equity loans, comprised 87.8% of the UPB of the acquired loan portfolio at the Acquisition date. We performed a detailed analysis of the portfolio to determine the key loan characteristics influencing performance. Key characteristics influencing the performance of the residential mortgage portfolio, including home equity loans, were determined to be delinquency status; product type, in particular, amortizing as opposed to option ARM products; current indexed LTV ratio; and original FICO score. The ACI loans in the residential mortgage portfolio were grouped into ten homogenous static pools based on these characteristics, and the non-ACI residential loans were grouped into two homogenous static pools.

1-4 single family residential non-ACI loans had an aggregate UPB of $212.8 million as of May 21, 2009. As of March 31, 2011, 32.2% of the UPB had been repaid, demonstrating the intent and ability of borrowers in this group to satisfy their mortgage obligations. At March 31, 2011, $9.2 million or 7.9% of the 1-4 single family residential non-ACI portfolio was delinquent by 60 days or more. At March 31, 2011, $581.0 million or 26.1% of ACI 1-4 single family residential loans were contractually delinquent by 60 days or more. However, future losses to the Company related to the Covered Loans are significantly mitigated by the Loss Sharing Agreements with the FDIC.

Covered home equity loans and lines of credit had a carrying amount of $290.7 million at March 31, 2011, including ACI loans of $92.9 million and non-ACI loans of $197.8 million. At March 31, 2011, $12.8 million or 6.5% of non-ACI and $18.0 million or 19.4% of ACI home equity loans and lines of credit were 60 days or more contractually delinquent. Losses related to these loans are significantly mitigated by the Loss Sharing Agreements.

Ongoing asset quality of significant commercial and commercial real estate loans is monitored on an individual basis through the Company's regular credit review and risk rating process. At March 31, 2011, non-ACI commercial and commercial real estate loans had a carrying value of $68.0 million, of which $4.8 million were rated special mention, $8.2 million were rated substandard and one relationship with a carrying value of $9.3 million was rated doubtful. At December 31, 2010, loans with

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a carrying value totaling $12.7 million were rated special mention and loans with a carrying value totaling $8.7 million were rated substandard. At March 31, 2011, ACI commercial and commercial real estate loans had a carrying value of $453.5 million of which $62.9 million were rated special mention, $177.3 million were rated substandard and $1.4 million were rated doubtful. The Company's exposure to future losses related to these loans is mitigated by the Loss Sharing Agreements.

*Impaired Loans and Non-Performing Assets*

As of March 31, 2011, substantially all of our non-performing assets are Covered Assets.

Non-performing assets consist of (i) non-accrual loans, including loans that have been restructured and placed on nonaccrual status because of deterioration in the financial condition of the borrower, (ii) accruing loans that are more than 90 days contractually past due as to interest or principal, excluding ACI loans, and (iii) OREO. Impaired loans also include ACI loans for which expected cash flows have been revised downward since Acquisition. Because of discount accretion, these loans have not been classified as nonaccrual loans and we do not consider them to be non-performing assets.

The following table summarizes the Company's impaired loans and other non-performing assets at March 31, 2011 and December 31, 2010 (*dollars in thousands*):

| | **March 31, 2011** | **December 31, 2010** |
|---|---|---|
| Nonaccrual loans | | |
| Residential loans: | | |
| 1-4 single family residential | $ 8,693 | $ 9,585 |
| Home equity loans and lines of credit | 11,062 | 10,817 |
| Total residential loans | 19,755 | 20,402 |
| Commercial: | | |
| Multi-family | 510 | 200 |
| Commercial real estate | 521 | 75 |
| Construction | | |
| Land | 332 | |
| Commercial | 13,940 | 5,106 |
| Lease financing | 68 | |
| Total commercial loans | 15,371 | 5,381 |
| Consumer | | |
| Total nonaccrual loans | 35,126 | 25,783 |
| Non-covered and Non-ACI loans 90 days or more past due still accruing | 25 | |
| Total non-performing loans | 35,151 | 25,783 |
| Other real estate owned | 182,482 | 206,680 |
| Total non-performing assets | 217,633 | 232,463 |
| Impaired ACI loans on accrual status | 255,247 | 262,130 |
| Total impaired loans and non-performing assets | $ 472,880 | $ 494,593 |
| Non-performing loans to total loans | 0.94% | 0.66% |
| Nonperforming assets to total assets | 2.01% | 2.14% |
| Allowance for loan losses to total loans | 1.64% | 1.48% |
| | 175.12% | 226.35% |

| | | |
|---|---|---|
| Allowance for loan losses to non-performing loans | | |
| Net charge-offs to average loans | 0.22% | 0.37% |

(1) Total loans for purposes of calculating these ratios is net of unearned discounts and deferred fees and costs.

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Contractually delinquent ACI loans are not reflected as nonaccrual loans because the discount continues to be accreted. Discount accretion continues to be recorded as there continues to be an expectation of future cash flows in excess of carrying amount from these loans. The carrying value of ACI loans contractually delinquent by more than 90 days or in foreclosure but still accruing was $621.7 million and $717.7 million at March 31, 2011 and December 31, 2010, respectively. The decrease in the carrying value of these loans was attributable to loan resolutions, including foreclosures as well as improvements in our roll rates.

At March 31, 2011 and December 31, 2010, 89.7% and 87.6% of non-performing loans were Covered Loans, respectively. All of our OREO properties were covered under the Loss Sharing Agreements at March 31, 2011 and December 31, 2010. The increase in non-performing loans at March 31, 2011 as compared to December 31, 2010 was attributable primarily to one non-ACI loan. One credit relationship comprised 76.2% of the non-performing loans in the non-covered portfolio at March 31, 2011.

As of March 31, 2011 and December 31, 2010, there were six and three commercial ACI relationships with aggregate carrying amounts of $6.2 million and $2.4 million, respectively, that were the subject of troubled debt restructurings. These loans are included in impaired ACI loans on accrual status in the table above. Under generally accepted accounting principles, modified ACI loans accounted for in pools are not considered troubled debt restructurings and are not separated from their respective pools when modified. There were no non-ACI loans or non-Covered Loans that were the subject of troubled debt restructurings at March 31, 2011 or December 31, 2010.

Except for ACI loans, loans are placed on nonaccrual status when (i) management has determined that full payment of all contractual principal and interest is in doubt, or (ii) the loan is past due 90 days or more as to principal and/or interest, unless the loan is well-secured and in the process of collection. Residential and consumer loans not accounted for in pools are returned to accrual status as of the date the loan is no longer delinquent in excess of 90 days and ultimate collectability is assured. Commercial real estate and commercial loans are returned to accruing status only after all past due principal and interest have been collected. Except for ACI loans accounted for in pools, loans that are the subject of troubled debt restructurings are placed on nonaccrual status at the time of the modification unless the borrower has no history of missed payments for six months prior to the restructuring. If borrowers perform pursuant to the modified loan terms for at least six months and the remaining loan balances are considered collectable, the loans are returned to accrual status.

Commercial and commercial real estate loans are charged off when, in management's judgment, the carrying amount of the loan is not collectible. Residential real estate loans and secured consumer loans are typically charged off when they become 120 to 180 days past due, depending on the collateral type. Secured loans may be written down to the fair value of the collateral less estimated disposition costs. Unsecured consumer loans are generally charged off when they become 90 days past due. Home equity loans and lines of credit are fully reserved for when they become 120 days past due, and generally fully charged off at or before reaching 270 days delinquency.

*Loss Mitigation Strategies*

Although our exposure to loss on Covered Assets is mitigated by the Loss Sharing Agreements, we have implemented strategies designed to minimize losses on these assets. We have increased the quality and experience level of our workout and recovery and mortgage servicing departments. We evaluate each ACI loan to determine the most effective loss mitigation strategy, which may be modification, short sale, or foreclosure. We offer loan modifications under HAMP for eligible borrowers in the residential ACI portfolio. HAMP is a uniform loan modification process that provides eligible borrowers with sustainable monthly mortgage payments equal to a target 31% of their gross monthly income. As of March 31, 2011, 8,662 borrowers had been counseled regarding their participation in

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HAMP; 6,128 of those borrowers were initially determined to be potentially eligible for loan modifications under the program. As of March 31, 2011, 1,452 borrowers who did not elect to participate in the program had been sent termination letters and 1,246 borrowers had been denied due to ineligibility. At March 31, 2011, there were 2,475 permanent loan modifications and 175 active trial modifications.

*Other Real Estate Owned*

All of the OREO properties owned by the Company are Covered Assets. The following table presents the changes in OREO for the quarters ended March 31, 2011 and 2010 (*dollars in thousands*):

| | Three Months Ended March 31, | |
|---|---|---|
| | **2011** | **2010** |
| Balance, beginning of period | $ 206,680 | $ 120,110 |
| Transfers from loan portfolio | 111,682 | 67,569 |
| (Decrease) increase from resolution of Covered Loans | (6,592) | 5,877 |
| Sales | (119,689) | (42,930) |
| Impairment | (9,599) | (838) |
| Balance, end of period | $ 182,482 | $ 149,788 |

***Analysis of the Allowance for Loan Losses***

The allowance for loan losses relates to (i) loans originated or purchased since the Acquisition, (ii) estimated additional losses arising on non-ACI loans subsequent to the Acquisition, and (iii) additional impairment recognized as a result of decreases in expected cash flows on ACI loans due to further credit deterioration. The impact of any additional provision for losses on Covered Loans is significantly mitigated by an increase in the FDIC indemnification asset.

*Non-Covered and non-ACI Loans*

Based on an analysis of historical performance of the non-ACI residential mortgage and home equity portfolio, OREO and short sale losses and recent trending data, we have concluded that changes in LTV ratios and FICO scores are the leading indicators of performance for this portfolio. The non-ACI residential mortgage portfolio has therefore been divided into homogenous pools based on LTV and FICO score for purposes of calculating the allowance for loan losses. Calculated frequency of roll to loss and severity percentages are applied to the dollar value of loans in each pool to calculate an overall loss allowance. FICO scores are refreshed quarterly and LTV ratios are updated using the Case-Shiller quarterly MSA Home Price Index to adjust the original appraised value of the underlying collateral. Frequency is calculated for each pool using a four month roll to loss percentage, based on the assumption that if an event has occurred with a borrower that will ultimately result in a loss, this will manifest itself as a loan in default and in process of foreclosure within four months. Loss severity given default is estimated based on internal data about OREO sales and short sales from the portfolio.

Due to the lack of similarity between the risk characteristics of non-Covered loans and Covered Loans in the residential and home equity loan portfolios, management does not believe it is appropriate to use the historical performance of the covered residential mortgage portfolio as a basis for calculating the allowance for loan losses applicable to non-Covered loans. The portfolio of loans originated and purchased since the Acquisition is not seasoned and has not yet developed an observable loss trend. Therefore, the allowance for loan losses for non-covered residential loans is based primarily on management's assessment of the risk of default and on the OTS "Thrift Industry Charge-Off Rates by Asset Type, annualized Net Charge-Off Rates Twelve Quarter Average" for the

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southeast region (the "OTS Charge-Off Rates"). We believe use of the twelve quarter average to be appropriate for this portfolio since it takes into account periods of both economic growth and serious economic contraction.

The allowance for non-covered and non-ACI commercial loans is based primarily on the Bank's internal credit risk rating system, the OTS Charge-Off Rates, and management's assessment of portfolio risk characteristics. The allowance is comprised of specific reserves for significant and classified loans that are individually evaluated and determined to be impaired as well as general reserves for individually evaluated loans determined not to be impaired and smaller balance, non-classified loans. For all commercial and commercial real estate exposures on non-accrual status or graded substandard or doubtful with committed credit facilities greater than or equal to $500,000, a quarterly net realizable value analysis is prepared by the credit, workout and recovery and loan review departments. This analysis forms the basis for specific reserves. Since the originated portfolio is not yet seasoned enough to exhibit a loss trend and the non-ACI portfolio has limited delinquency statistics, we currently use the OTS Charge-Off Rates and management's assessment of risk characteristics by portfolio segment in determining the appropriate general reserve percentages. We believe that loans rated special mention or substandard that are not determined to be individually impaired exhibit characteristics indicative of a heightened level of credit risk. Management may therefore augment general reserve percentages for loans in these categories.

Since the non-covered portfolio is not yet seasoned enough to exhibit a loss trend, the allowance for non-covered consumer loans is based primarily on the OTS Charge-Off Rates and management's assessment of portfolio risk characteristics.

In addition to the quantitative calculations described above, a dollar value adjustment is made to the allowance for relevant qualitative factors when there is a material observable trend in those factors not already taken into account in the quantitative calculations. Qualitative factors that may result in an adjustment to the allowance include: levels of and trends in delinquencies and impaired loans; levels of and trends in recoveries of prior charge-offs; trends in volume, type and terms of loans; effects of changes in lending policies and procedures; experience, ability and depth of lending management, loan review and workout and recovery staff; credit concentrations; national, regional and local economic trends; housing and banking industry conditions and trends; emerging trends for particular loan types; and strategic initiatives of the Company that may impact loan performance.

For non-ACI loans, the allowance is calculated based on UPB. The total of UPB, less the calculated allowance, is then compared to the carrying amount of the loans. If the calculated balance net of the allowance is less than the carrying amount, an additional allowance is established. Any such increase in the allowance for non-ACI loans will result in a corresponding increase in the FDIC indemnification asset. For the quarters ended March 31, 2011 and 2010, we recorded provisions for non-ACI loans of $6.2 million and $3.0 million, respectively.

*ACI Loans*

For ACI loans, a valuation allowance is established when periodic evaluations of expected cash flows reflect a decrease from the level of cash flows that were estimated to be collected at Acquisition plus any additional expected cash flows arising from revisions in those estimates. We perform a quarterly analysis of expected cash flows for ACI loans.

The analysis of expected cash flows for residential ACI pools incorporates updated pool level expected prepayment rates, default rates, and delinquency levels, and loan level loss severity given default assumptions. Prepayment, delinquency and default curves used for this purpose are derived from roll rates generated from the historical performance of the ACI residential loan portfolio observed over the immediately preceding four quarters. Given the static nature of the pools and unique characteristics of the loans, we believe that regularly updated historical information from the

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Company's own portfolio is the best available indicator of future performance. Estimates of default probability and severity of loss given default also incorporate updated LTV ratios. Historic and projected values for the Case-Shiller Home Price Index for the relevant MSA are utilized at the individual loan level to project current and future property values. Costs and fees represent an additional component of loss on default, and are projected using the "Making Home Affordable" cost factors provided by the Federal government.

The primary assumptions underlying estimates of expected cash flows for commercial and other loans are default probability and severity of loss given default. Updated assumptions for large balance and delinquent loans in the commercial and commercial real estate ACI portfolios are based on net realizable value analyses prepared at the individual loan level by the Company's workout and recovery department. Updated assumptions for smaller balance commercial loans are based on a combination of the Company's own historical delinquency data and industry level delinquency data. Delinquency data is used as a proxy for defaults as the Company's experience has been that few of these loans return to performing status after being delinquent greater than 60 days. An additional multiplier is also applied in developing assumptions for loans rated special mention, substandard, or doubtful based on the Company's historical loss experience with classified loans.

We recorded provisions for loan losses related to ACI loans of $3.8 million and $4.7 million for the quarters ended March 31, 2011 and 2010, respectively.

The following table provides an analysis of the allowance for loan losses, provision for loan losses and net charge-offs for period from December 31, 2010 through March 31, 2011 (*dollars in thousands*):

| | **Covered Loans** | | | |
|---|---|---|---|---|
| | **ACI Loans** | **Non-ACI Loans** | **Non-Covered Loans** | **Total** |
| Balance at December 31, 2010 | $ 39,925 | $ 12,284 | $ 6,151 | $ 58,360 |
| Provision for loan losses: | | | | |
| 1-4 single family residential | | 229 | 35 | 264 |
| Home equity loans and lines of credit | (7,838) | 583 | | (7,255) |
| Multi-family | (1,532) | 25 | 214 | (1,293) |
| Commercial real estate | 4,492 | 17 | 42 | 4,551 |
| Construction | 1,862 | (1) | 32 | 1,893 |
| Land | 6,178 | | 7 | 6,185 |
| Commercial | 682 | 5,320 | 895 | 6,897 |
| Consumer | | | 74 | 74 |
| Lease Financing | | | 140 | 140 |
| Total Provision | 3,844 | 6,173 | 1,439 | 11,456 |
| Charge-offs: | | | | |
| 1-4 single family residential | | (459) | | (459) |
| Home equity loans and lines of credit | | (696) | | (696) |
| Commercial real estate | (648) | | | (648) |
| Construction | (353) | | | (353) |
| Land | (5,594) | | | (5,594) |
| Commercial | (465) | | (48) | (513) |
| Lease Financing | | | (2) | (2) |
| Total Charge-offs | (7,060) | (1,155) | (50) | (8,265) |
| Recoveries: | | | | |
| Commercial | | | 6 | 6 |
| Total Recoveries | | | 6 | 6 |

| | | | | |
|---|---|---|---|---|
| Balance at March 31, 2011 | $ 36,709 | $ 17,302 | $ 7,546 | $ 61,557 |

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The following table shows the distribution of the allowance for loan losses, broken out between covered and non-Covered loans, as of March 31, 2011 and December 31, 2010 (*dollars in thousands*):

| | At March 31, 2011 | | | | | At December 31, 2010 | | | | |
|---|---|---|---|---|---|---|---|---|---|---|
| | Covered | | Non- | | | Covered | | Non- | | |
| | ACI | Non-ACI | Covered | Total | %(1) | ACI | Non-ACI | Covered | Total | %(1) |
| 1-4 single family residential | $ | $ 531 | $ 203 | $ 734 | 66.1% | $ | $ 761 | $ 168 | $ 929 | 67.5% |
| Home equity loans and lines of credit | 10,650 | 9,116 | 3 | 19,769 | 7.8% | 18,488 | 9,229 | 3 | 27,720 | 7.7% |
| Multi-family | 4,169 | 658 | 986 | 5,813 | 3.4% | 5,701 | 633 | 772 | 7,106 | 2.8% |
| Commercial real estate | 9,639 | 435 | 1,231 | 11,305 | 11.5% | 5,795 | 418 | 1,189 | 7,402 | 11.4% |
| Construction | 2,526 | | 150 | 2,676 | 0.5% | 1,017 | 1 | 118 | 1,136 | 0.4% |
| Land | 4,458 | 26 | 109 | 4,593 | 1.2% | 3,874 | 26 | 102 | 4,002 | 1.3% |
| Commercial | 5,267 | 6,536 | 4,529 | 16,332 | 7.4% | 5,050 | 1,216 | 3,676 | 9,942 | 7.4% |
| Lease financing | | | 206 | 206 | 1.9% | | | 68 | 68 | 1.3% |
| Consumer | | | 129 | 129 | 0.2% | | | 55 | 55 | 0.2% |
| Total allowance for loan losses | $ 36,709 | $ 17,302 | $ 7,546 | $ 61,557 | 100.0% | $ 39,925 | $ 12,284 | $ 6,151 | $ 58,360 | 100.0% |

(1) Represents percentage of loans receivable in each category to total loans receivable.

The most significant components of the change in the allowance for loan losses at March 31, 2011 as compared to December 31, 2010 include:

- A decrease of $7.8 million in the allowance related to ACI home equity loans and lines of credit resulting from our re-evaluation of expected cash flows from this portfolio for the first quarter of 2011;

- A $4.4 million net increase in impairment related to non-residential real estate ACI loans, also resulting from the first quarter re-evaluation of expected cash flows from the covered ACI loans;

- A $5.3 million increase in specific reserves related to one commercial relationship in the covered non-ACI portfolio.

The impact on earnings of the provision for loan losses related to Covered Loans for the three months ended March 31, 2011 was significantly offset by an increase in non-interest income and the FDIC indemnification asset of $6.6 million.

***Funding Sources***

Deposits are our primary funding source, supplemented by FHLB advances. We continue to work towards optimizing our deposit mix and lowering our cost of deposits by reducing rate sensitive time deposits. In the future, we expect commercial core deposits will drive core deposit growth. At March 31, 2011 approximately 39.0% of total deposits were concentrated in time deposits, with consumer core deposits accounting for 45.0% of total deposits and commercial core deposits accounting for 16.0% of total deposits. At December 31, 2010, time deposits accounted for 44.5% of total deposits while consumer core deposits represented 43.0% of the total and commercial core deposits represented 12.5% of total deposits. We anticipate that commercial core deposits will comprise an increasing percentage of our deposit base in the future.

The Bank's liquidity needs are primarily met by its cash position, growth in core deposits, cash flow from its amortizing investment and loan portfolios, and reimbursements under the Loss Sharing Agreements. If necessary, the Bank currently has the ability to raise additional liquidity through collateralized borrowings, FHLB advances or the sale of available for sale investment securities. We regularly monitor several measures of liquidity, including liquid assets, defined as cash and cash equivalents, and pledgeable securities, to total assets.

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*Deposits*

The following table presents information about our deposits for the quarters ended March 31, 2011 and 2010 (*dollars in thousands*):

| | Three Months Ended March 31, | | | |
|---|---|---|---|---|
| | 2011 | | 2010 | |
| | Average Balance | Average Rate Paid | Average Balance | Average Rate Paid |
| Demand deposits: | | | | |
| Non-interest bearing | $ 525,622 | 0.00% | $ 344,759 | 0.00% |
| Interest bearing | 349,822 | 0.64% | 219,193 | 0.84% |
| Money market | 1,986,058 | 0.92% | 1,482,826 | 1.45% |
| Savings | 1,266,426 | 0.88% | 1,178,511 | 1.46% |
| Time | 2,893,837 | 1.76% | 4,398,955 | 1.68% |
| Total | $ 7,021,765 | 1.17% | $ 7,624,244 | 1.50% |

The following table shows scheduled maturities of certificates of deposit with denominations greater than or equal to $100,000 as of March 31, 2011 (*dollars in thousands*):

| | At March 31, 2011 |
|---|---|
| Three months or less | $ 163,091 |
| Over three through six months | 240,690 |
| Over six through twelve months | 350,929 |
| Over twelve months | 323,320 |
| Total | $ 1,078,030 |

*Borrowed Funds*

The following table sets forth information regarding our short-term borrowings, consisting of securities sold under agreements to repurchase, as of and for the quarters ended March 31, 2011 and 2010 (*dollars in thousands*):

| | Three Months Ended March 31, | |
|---|---|---|
| | 2011 | 2010 |
| Maximum outstanding at any month-end | $ 257 | $ 2,455 |
| Balance outstanding at end of period | 105 | 2,455 |
| Average outstanding during the period | 286 | 15,098 |
| Average interest rate during the period | 0.28% | 1.02% |
| Average interest rate at end of period | 0.01% | 0.11% |

The Company also utilizes FHLB advances to finance its operations. The contractual balance of FHLB advances at March 31, 2011 totaled $2.2 billion, with $1.1 billion, $565.0 million, $505.0 million and $0.4 million maturing in 2012, 2013, 2014 and 2015, respectively.

***Liquidity and Capital Resources***

Stockholder's equity has been impacted primarily by proceeds from the IPO, the retention of earnings, and to a lesser extent, changes in the unrealized gains, net of taxes, on investment securities available for sale, changes in unrealized losses, net of taxes, on cash flow hedges and the payment of dividends. Stockholder's equity increased $183.4 million, or 14.6%, from $1.3 billion at December 31,

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2010, to $1.4 billion at March 31, 2011, due primarily to proceeds from the IPO, the retention of earnings exclusive of $116.8 million in stock based compensation that resulted in a credit to paid-in capital and therefore did not negatively impact the Company's capital position and the reclassification of $45.0 million in equity based instruments previously classified as liabilities, offset by $14.2 million in dividends.

The OTS and FDIC have adopted regulations setting forth a five-tier system for measuring the capital adequacy of the financial institutions they supervise. At March 31, 2011 and December 31, 2010, BankUnited had capital levels that exceeded the well-capitalized guidelines. In addition, a condition of approval of BankUnited's application for Federal Deposit Insurance requires BankUnited to maintain a tier 1 leverage ratio at no less than eight percent throughout the first three years of operation. To date, BankUnited has exceeded that requirement. The Bank's capital ratios as of March 31, 2011 are presented in the table below (*dollars in thousands*):

| | March 31, 2011 | | | | | |
|---|---|---|---|---|---|---|
| | Actual | | Required to be Considered Well Capitalized | | Required to be Considered Adequately Capitalized | |
| | Ratio | Amount | Ratio | Amount | Ratio | Amount |
| Tier 1 leverage ratio | 10.62% | $ 1,119,132 | 8.00% | $ 842,739 | 8.00% | $ 842,739 |
| Tier 1 risk-based capital ratio | 44.04% | $ 1,119,132 | 6.00% | $ 152,454 | 4.00% | $ 101,636 |
| Total risk based capital ratio | 44.92% | $ 1,141,381 | 10.00% | $ 254,090 | 8.00% | $ 203,272 |

The Company's tangible common equity to tangible assets ratio was 12.74% at March 31, 2011 and 10.97% at December 31, 2010 (see the section entitled "Information About BankUnited, Inc. Management's Discussion and Analysis of Financial Condition and Results of Operations March 31, 2011 Non-GAAP Financial Measure" below beginning on Page [ ]).

Liquidity involves the Company's ability to raise funds to support asset growth or reduce assets to meet deposit withdrawals and other borrowing needs, to maintain reserve requirements and to otherwise operate the Company on an ongoing basis. The Company's liquidity needs are primarily met by growth in core deposits, its cash position and cash flow from its amortizing investment and loan portfolios and reimbursements under the Loss Sharing Agreements. If necessary, the Bank has the ability to raise liquidity through collateralized borrowings, FHLB advances, or the sale of available for sale securities. The ALCO policy has established several measures of liquidity, including liquid assets (defined as cash and cash equivalents, and pledgeable securities) to total assets. The Company's liquidity is considered acceptable if liquid assets divided by total assets exceeds 2.5%. At March 31, 2011, the Company's liquid assets divided by total assets was 14.3%.

As a holding company, BankUnited, Inc. is a corporation separate and apart from our subsidiary BankUnited, and therefore, provides for its own liquidity. BankUnited, Inc.'s main sources of funding include management fees and dividends paid by its subsidiaries, and access to capital markets. There are regulatory limitations that affect the ability of BankUnited to pay dividends to BankUnited, Inc. Management believes that such limitations will not impact our ability to meet our on going short-term cash obligations.

We expect that our cash and liquidity requirements will continue to be generated by operations, including reimbursements under the Loss Sharing Agreements, and we intend to satisfy our capital requirements over the next 12 months through these sources of liquidity.

***Interest Rate Sensitivity***

The principal component of the Company's risk of loss arising from adverse changes in the fair value of financial instruments, or market risk, is interest rate risk, including the risk that assets and liabilities with similar repricing characteristics may not reprice at the same time or to the same degree. The primary objective of the Company's asset/liability management activities is to maximize net interest income, while maintaining acceptable levels of interest rate risk. ALCO is responsible for establishing policies to limit exposure to interest rate risk, and to ensure procedures are established to monitor compliance with these policies. The guidelines established by ALCO are reviewed and approved by the Company's Board of Directors.

Management believes that the simulation of net interest income in different interest rate environments provides the most meaningful measure of the Company's interest rate risk. Income simulation analysis is designed to capture not only the potential of all assets and liabilities to mature or reprice, but also the probability that they will do so. Income simulation also attends to the relative interest rate sensitivities of these items, and projects their behavior over an extended period of time. Finally, income simulation permits management to assess the probable effects on the balance sheet not only of changes in interest rates, but also of proposed strategies for responding to them.

The Company's income simulation model analyzes interest rate sensitivity by projecting net interest income over the next twenty four months in a most likely rate scenario based on forward interest rate curves versus net interest income in alternative rate scenarios. Management continually reviews and refines its interest rate risk management process in response to the changing economic climate. Currently, the Company's model projects a plus 100, plus 200, and plus 300 basis point change (with rates increasing 25 basis points per month until the applicable limit is reached) as well as a modified flat scenario incorporating a flattened yield curve. We did not simulate a decrease in interest rates at March 31, 2011 due to the extremely low rate environment.

The Company's ALCO policy has established that interest income sensitivity will be considered acceptable if net interest income in the plus 200 basis point scenario is within 10% of forecasted net interest income in the most likely rate scenario over the next twelve months and within 12% in the second year. At March 31, 2011, the impact on projected net interest income in a plus 200 basis point scenario is 1.6% in the first twelve months and 8.8% in the second year.

These forecasts are within an acceptable level of interest rate risk per the policies established by ALCO. In the event the model indicates an unacceptable level of risk, the Company could undertake a number of actions that would reduce this risk, including the sale of a portion of its available for sale investment portfolio or the use of risk management strategies such as interest rate swaps and caps.

Many assumptions were used by the Company to calculate the impact of changes in interest rates, including the change in rates. Actual results may not be similar to the Company's projections due to several factors including the timing and frequency of rate changes, market conditions and the shape of the yield curve. Actual results may also differ due to the Company's actions, if any, in response to the changing rates.

### *Off-Balance Sheet Arrangements*

#### *Commitments*

We routinely enter into commitments to extend credit to our customers, including commitments to fund loans or lines of credit and commercial and standby letters of credit. The credit risk associated with these commitments is essentially the same as that involved in extending loans to customers and they are subject to our normal credit policies and approval processes. While these commitments represent contractual cash requirements, a significant portion of commitments to extend credit may

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expire without being drawn upon. The following table details our outstanding commitments to extend credit as of March 31, 2011 (*dollars in thousands*):

| | | Commitments | |
|---|---|---|---|
| | Covered | Not Covered | Total |
| Commitments to fund loans | $ | $ 162,057 | $ 162,057 |
| Unfunded commitments under lines of credit | 170,200 | 199,969 | 370,169 |
| Commercial and standby letters of credit | | 8,653 | 8,653 |
| Total | $ 170,200 | $ 370,679 | $ 540,879 |

*Derivative Financial Instruments*

Interest rate swaps are one of the tools we use to manage interest rate risk. These derivative instruments are used to mitigate exposure to changes in interest rates on FHLB advances and time deposits. These interest rate swaps are designated as cash flow hedging instruments. The fair value of these instruments is included in other liabilities in our consolidated balance sheets and changes in fair value are reported in accumulated other comprehensive income. At March 31, 2011, outstanding interest rate swaps designated as cash flow hedges had an aggregate notional amount of $630.0 million. The aggregate fair value of interest rate swaps designated as cash flow hedges included in other liabilities at March 31, 2011 was $35.8 million.

***Critical Accounting Policies and Estimates***

The Company has made no significant changes in its critical accounting policies and significant estimates from those disclosed in its 2010 Annual Report on Form 10-K.

***Non-GAAP Financial Measure***

Tangible common equity to tangible assets is a non-GAAP financial measure. For purposes of computing tangible common equity to tangible assets, tangible common equity is calculated as common stockholder's equity less goodwill and other intangible assets, net, and tangible assets is calculated as total assets less goodwill and other intangible assets, net. Tangible common equity to tangible assets should not be viewed as a substitute for total stockholders' equity to total assets. The most directly comparable to GAAP financial measure is total stockholders' equity to total assets. See the reconciliation below:

| | March 31, 2011 | December 31, 2010 |
|---|---|---|
| Total stockholders' equity | $ 1,436,952 | $ 1,253,508 |
| Less: goodwill and other intangible assets, net | 68,919 | 69,011 |
| Tangible common stockholders' equity | $ 1,368,033 | $ 1,184,497 |
| Total assets | $ 10,808,443 | $ 10,869,560 |
| Less: goodwill and other intangible assets, net | 68,919 | 69,011 |
| Tangible Assets | $ 10,739,524 | $ 10,800,549 |
| Equity to assets | 13.29% | 11.53% |
| Tangible common equity to tangible assets | 12.74% | 10.97% |

Management of the Company believes this non-GAAP financial measure provides an additional meaningful method of evaluating certain aspects of the Company's capital strength from period to period on a basis that may not be otherwise apparent under GAAP. Management also believes that this non-GAAP financial measure, which complements the capital ratios defined by regulators, is useful to

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investors who are interested in the Company's equity to assets ratio exclusive of the effect of changes in intangible assets on equity and total assets.

## Management's Discussion and Analysis of Financial Condition and Results of Operations December 31, 2010

*The following discussion and analysis should be read in conjunction with the consolidated financial statement of the Company as of December 31, 2010 and the notes thereto included in this proxy statement/prospectus.*

### *Overview*

BankUnited, Inc. is a savings and loan holding company with two wholly-owned subsidiaries: BankUnited, which is one of the largest independent depository institutions headquartered in Florida by assets, and BankUnited Investment Services, a Florida insurance agency. As of the close of business on May 21, 2009, BankUnited entered into the Purchase and Assumption Agreement including the Loss Sharing Agreements with the FDIC to acquire substantially all of the assets and assume all of the non-brokered deposits and substantially all other liabilities of the Failed Bank. The Failed Bank was closed by the OTS and placed into receivership with the FDIC on May 21, 2009. Neither the Company nor the Bank had any substantive operations prior to the Acquisition.

BankUnited has a network of 81 branches in 13 Florida counties as of December 31, 2010. Since the Acquisition, we have focused on providing a full range of commercial and consumer banking services to growing companies and their executives, commercial and middle-market businesses and consumers in Florida's coastal regions. Through BankUnited, we deliver a comprehensive range of traditional depository and lending products, online banking services and cash management tools to our customers. Through its non-bank subsidiary, BankUnited Investment Services, the Company offers wealth management products as well as succession planning, estate planning and financial planning services.

In the fourth quarter of 2010, we acquired two leasing companies for total cash consideration of approximately $50.5 million to facilitate establishing a leasing platform on a national basis. Through United Capital Business Lending we offer equipment financing services and through Pinnacle Public Finance we offer municipal leasing services. In conjunction with those acquisitions, we recorded finance receivables valued at $42.7 million, goodwill of $7.9 million, customer relationship intangible assets of $0.4 million, premises and equipment of $0.6 million and liabilities of $1.1 million.

### *Periods Presented and Factors Affecting Comparability*

Financial information presented throughout this "Management's Discussion and Analysis of Financial Condition and Results of Operations" for the year ended December 31, 2010 and the period from May 22, 2009 through December 31, 2009 (which we refer to as the "post-Acquisition periods") is that of the Company. Historical financial information for the period from October 1, 2008 through May 21, 2009 and the fiscal year ended September 30, 2008 (which we refer to as the "pre-Acquisition periods") is that of the Failed Bank. Results of operations of the Company for the post-Acquisition periods are not comparable to the results of operations of the Failed Bank for the pre-Acquisition periods. Results of operations for the post-Acquisition periods reflect, among other things, the acquisition method of accounting.

Under the acquisition method of accounting, all of the assets acquired and liabilities assumed were initially recorded on the consolidated balance sheet of the Company at their estimated fair values as of May 21, 2009. These estimated fair values differed substantially from the carrying amounts of the assets acquired and liabilities assumed as reflected in the financial statements of the Failed Bank immediately

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prior to the Acquisition. The most significant reasons for the non-comparability of the consolidated financial statements include:

- The estimated fair value at which the acquired loans were initially recorded by the Company was significantly less than the pre-Acquisition carrying value of those loans on the balance sheet of the Failed Bank. No allowance for loan losses was recorded with respect to acquired loans at the Acquisition date. The write-down of loans to fair value in conjunction with the application of acquisition accounting and credit protection provided by the Loss Sharing Agreements resulted in a significantly lower impact on the results of operations related to the provision for loan losses subsequent to the Acquisition;

- Acquired investment securities were recorded at their estimated fair values at the Acquisition date, significantly reducing the potential for other-than-temporary impairment charges in periods subsequent to the Acquisition for the acquired securities;

- An indemnification asset related to the Loss Sharing Agreements with the FDIC was recorded in conjunction with the Acquisition;

- Interest income, interest expense and the net interest margin subsequent to the Acquisition reflect the impact of accretion of the fair value adjustments made to the carrying amounts of interest earning assets and interest bearing liabilities;

- Non-interest income for periods subsequent to the Acquisition includes the effects of accretion of discount on the indemnification asset and net gains associated with the resolution of Covered Assets;

- Certain loans reflected as nonaccrual loans in the financial statements of the Failed Bank are no longer categorized as non-performing assets due to the accounting treatment accorded such loans under Accounting Standards Codification, referred to as "ASC," Subtopic 310-30, *Loans and Debt Securities Acquired with Deteriorated Credit Quality*. The balances of non-performing assets were significantly reduced by the adjustments to fair value recorded in conjunction with the Acquisition;

- Goodwill and other intangible assets were recorded in conjunction with the Acquisition;

- The Company received $2.2 billion in cash from the FDIC upon consummation of the Acquisition; and

- The Company received a capital injection of $945.0 million at inception.

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A summary comparison of the pre-Acquisition carrying amounts and estimated fair values of assets acquired and liabilities assumed as of the Acquisition date follows (*dollars in thousands*):

| | As Recorded by the Failed Bank | Fair Value Adjustments | Net Cash Received From the FDIC | As Recorded by the Company |
|---|---|---|---|---|
| **Assets** | | | | |
| Cash and cash equivalents | $ 1,160,321 | $ | $ 2,156,393 | $ 3,316,714 |
| Investment securities, at fair value | 608,388 | (69,444) | | 538,944 |
| FHLB stock | 243,334 | | | 243,334 |
| Loans | 11,174,232 | (6,163,904) | | 5,010,328 |
| FDIC receivable | | 69,444 | | 69,444 |
| FDIC indemnification asset | | 3,442,890 | | 3,442,890 |
| Bank owned life insurance | 129,111 | | | 129,111 |
| Other real estate owned | 199,819 | (22,140) | | 177,679 |
| Deferred tax asset, net | | 37,269 | | 37,269 |
| Goodwill and other intangible assets | | 61,150 | | 61,150 |
| Other assets | 95,171 | (44,696) | | 50,475 |
| Total assets | 13,610,376 | (2,689,431) | 2,156,393 | 13,077,338 |
| **Liabilities** | | | | |
| Deposits | 8,225,916 | 108,566 | | 8,334,482 |
| Securities sold under agreements to repurchase | 1,310 | | | 1,310 |
| Federal Home Loan Bank advances | 4,429,350 | 201,264 | | 4,630,614 |
| Advance payments by borrowers for taxes and insurance | 52,362 | | | 52,362 |
| Other liabilities | 59,137 | (567) | | 58,570 |
| Total liabilities | 12,768,075 | 309,263 | | 13,077,338 |
| Net Assets | $ 842,301 | $ (2,998,694) | $ 2,156,393 | $ |

***Primary Factors Used to Evaluate Our Business***

We manage and evaluate various aspects of our results of operations and our financial condition. We evaluate the levels and trends of the line items included in our balance sheet and income statement, as well as various financial ratios that are commonly used in our industry. We analyze these ratios and financial trends against our own historical performance, our budgeted performance and the financial condition and performance of comparable financial institutions in our region and nationally.

Subsequent to the Acquisition, comparison of our financial performance to that of other financial institutions is impacted by the application of the acquisition method of accounting and the accounting for loans acquired with evidence of deterioration in credit quality as discussed below.

*Results of operations*

The primary line items we use to manage and evaluate our results of operations include net interest income, the provision for loan losses, non-interest income, non-interest expense and net income.

*Net interest income*

Net interest income is the difference between interest earned on interest earning assets and interest incurred on interest bearing liabilities and is the primary driver of core earnings. Net interest

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income is impacted by the relative mix of interest earning assets and interest bearing liabilities, the ratio of interest earning assets to total assets and of interest bearing liabilities to total funding sources, movements in market interest rates, levels of non-performing assets and pricing pressure from competitors. Due to the revaluation of Covered Assets in conjunction with the application of acquisition accounting and the resultant accretion, generally Covered Assets have higher yields than do assets purchased or originated since May 21, 2009. Net interest income will be impacted in future periods as Covered Assets are repaid or mature and these assets comprise a lower percentage of total interest earning assets. The mix of interest earning assets is influenced by loan demand and by management's continual assessment of the rate of return and relative risk associated with various classes of earning assets.

The mix of interest bearing liabilities is influenced by management's assessment of the need for lower cost funding sources weighed against relationships with customers and growth requirements and is impacted by competition for deposits in the Bank's market and the availability and pricing of other sources of funds.

Key measures that we use to evaluate our net interest income are the level and stability of the net interest margin and the interest rate spread. Net interest margin is calculated by dividing net interest income for the period by average interest earning assets. The interest rate spread is the difference between the yield earned on average interest earning assets and the rate paid on average interest bearing liabilities for the period.

For the post-Acquisition periods, net interest income is also impacted by accretion of fair value adjustments recorded in conjunction with the Acquisition and the accounting for ACI loans. Fair value adjustments of interest earning assets and interest bearing liabilities recorded at Acquisition are accreted to interest income or expense over the lives of the related assets or liabilities. Generally, accretion of fair value adjustments increases interest income and decreases interest expense, and thus has a positive impact on our net interest income, net interest margin and interest rate spread.

At Acquisition, ACI loans were recorded at fair value, measured based on the present value of expected cash flows. The excess of expected cash flows over the recorded fair value at Acquisition, known as accretable yield, is being recognized as interest income over the lives of the underlying loans. Since the post-Acquisition carrying value of ACI loans is based on the amount expected to be collected, and due to the resultant accretion, these loans are not classified as nonaccrual, although they may be contractually delinquent. Accretion related to ACI loans has a positive impact on our net interest income, net interest margin and interest rate spread. The impact of accretion and ACI loan accounting on net interest income makes it difficult to compare our net interest margin and interest rate spread to those reported by other financial institutions.

The accretion of fair value adjustments will continue to have a significant impact on our net interest income as long as Covered Assets represent a significant portion of our interest earning assets as opposed to assets originated or purchased after May 21, 2009. At December 31, 2010, Covered Loans represented 86.3% of our loan portfolio (based on book value) and Covered Securities represented 9.0% of our investment portfolio. In total, covered interest earning assets represented 47.8% of our interest earning assets at December 31, 2010.

Interest expense incurred on our interest bearing liabilities is impacted by the accretion of fair value adjustments on our time deposits and our advances from the FHLB recorded in connection with the Acquisition. However, the impact on interest expense has decreased significantly in 2010 and will continue to decrease in 2011. Accretion of fair value adjustments on time deposits totaled $21.4 million for the year ended December 31, 2010 as compared to $79.9 million for the period ended December 31, 2009. Accretion of fair value adjustments on FHLB advances totaled $23.9 million for the year ended December 31, 2010 as compared to $25.1 million for the period ended December 31, 2009. For 2011, accretion of fair value adjustments on time deposits is projected to be $7.0 million, and accretion of fair value adjustments on FHLB advances is projected to be $19.1 million.

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*Provision for loan losses*

The provision for loan losses is the amount of expense that, based on our judgment, is required to maintain the allowance for loan losses at an adequate level to absorb probable losses inherent in the loan portfolio at the balance sheet date and that, in management's judgment, is appropriate under U.S. generally accepted accounting principles. The determination of the amount of the allowance is complex and involves a high degree of judgment and subjectivity.

The risk of loss associated with Covered Loans differs significantly from the risk of loss associated with non-Covered Loans. The Loss Sharing Agreements significantly limit the Company's exposure to credit losses on Covered Loans. Recognition of future losses on Covered Loans is also mitigated by the fair market value of loans established in the application of acquisition accounting. Because the determination of fair value at which the loans acquired from the Failed Bank were initially recorded as of May 21, 2009 encompassed assumptions about expected future cash flows and credit risk, no allowance for loan losses was recorded at the date of acquisition. Fair value adjustments to the carrying amount of acquired loans totaled $6.2 billion.

Covered Loans may be further broken out into two broad categories: (i) ACI loans and (ii) loans that did not exhibit evidence of deterioration in credit quality at acquisition, or non-ACI loans. Subsequent to the Acquisition, an allowance for loan losses related to the ACI loans is recorded only when estimates of future cash flows related to these loans are revised downward, indicating further deterioration in credit quality. An allowance for loan losses for non-ACI loans may be established if factors considered relevant by management indicate that the credit quality of the non-ACI loans has deteriorated.

Since the recording of a provision for loan losses on Covered Loans represents an increase in the amount of reimbursement we expect to receive from the FDIC, we also record an increase in the FDIC indemnification asset for the present value of the projected increase in reimbursement, with a corresponding increase in non-interest income, recorded in "Net gain (loss) on indemnification asset resulting from net recoveries" as discussed below in the section entitled "Information About BankUnited, Inc. Management's Discussion and Analysis of Financial Condition and Results of Operations December 31, 2010 Non-interest income" on Page [ ]. Therefore, the impact on our results of operations of any provision for loan losses on Covered Loans is significantly mitigated by an increase in non-interest income. For the year ended December 31, 2010 and the period ended December 31, 2009, we recorded provisions for loan losses on Covered Loans of $46.5 million and $21.3 million, respectively. For the year ended December 31, 2010 and the period ended December 31, 2009, the impact to earnings from these provisions was significantly mitigated by recording non-interest income of $29.3 million and $14.4 million, respectively.

For the year ended December 31, 2010 and the period ended December 31, 2009, we recorded provisions for loan losses of $4.9 million and $1.3 million, respectively, for loans we originated or purchased subsequent to the Acquisition. These loans are not protected by the Loss Sharing Agreements and as such, these provisions are not offset by an increase in non-interest income.

*Non-interest income*

For the year ended December 31, 2010 and the period ended December 31, 2009, the majority of our non-interest income resulted from the resolution of assets covered by our Loss Sharing Agreements with the FDIC and accretion of discount on the FDIC indemnification asset. Typically, the primary components of non-interest income of financial institutions are service charges and fees and gains or losses related to the sale or valuation of investment securities, loans and other assets. Thus, it is difficult to compare the amount and composition of our non-interest income with that of other financial institutions of our size both regionally and nationally.

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The FDIC indemnification asset was initially recorded at its estimated fair value of $3.4 billion, represented by the present value of estimated future cash payments from the FDIC for probable losses on Covered Assets, up to 90 days of past due interest, excluding interest related to loans on nonaccrual at Acquisition, and reimbursement of certain expenses. The discount rate of 7.10% used in the initial calculation of fair value was determined using a risk-free yield curve plus a premium reflecting the uncertainty related to the collection, amount and timing of the cash flows and other liquidity concerns. Accretion is a result of discounting and may also increase or decrease from period to period due to changes in expected cash flows from the Covered Loans.

If projected cash flows from the ACI loans increase, the yield on the loans will increase and the discount rate of accretion on the FDIC indemnification asset will decrease as less cash flow is expected to be recovered from the indemnification asset. For the year ended December 31, 2010 and the period ended December 31, 2009, the average rate at which income was accreted on the FDIC indemnification asset was 4.69% and 7.10%, respectively.

A rollforward of the FDIC indemnification asset from May 21, 2009 to December 31, 2010 follows (*dollars in thousands*):

| | |
|---|---|
| Balance, May 21, 2009 | $ 3,442,890 |
| Accretion | 149,544 |
| Reduction for claims filed | (291,508) |
| Net gain (loss) on indemnification asset resulting from net recoveries | (21,761) |
| Balance, December 31, 2009 | 3,279,165 |
| Accretion | 134,703 |
| Reduction for claims filed | (764,203) |
| Net gain (loss) on indemnification asset resulting from net recoveries | 17,736 |
| Balance, December 31, 2010 | $ 2,667,401 |

Accretion of the discount on the FDIC indemnification asset results in an increase to the balance of the FDIC indemnification asset with a corresponding increase in non-interest income. We project the amount of accretion will decline in future periods, because our projected cash flows from ACI loans have been increasing, and as a result we expect to collect less cash flow from the indemnification asset as discussed above.

The balance of the FDIC indemnification asset is reduced as claims for reimbursement are filed with the FDIC. The receipt of payments from the FDIC results in an increase to cash.

The balance of the FDIC indemnification asset is also reduced or increased as a result of decreases or increases in estimated cash flows to be received from the FDIC related to the ultimate resolution of Covered Assets. We record an offsetting entry in the income statement line item "Net gain (loss) on indemnification asset resulting from net recoveries." This line item includes the significantly mitigating impact related to loan loss provisions on Covered Loans, the impact of lower projected FDIC reimbursement resulting from the favorable resolution of Covered Loans as described below, and the offsetting impact related to gains or losses on the sale of Covered Loans and OREO and impairment of OREO. The table below shows the various components of this income statement line item for the year ended December 31, 2010 and the period ended December 31, 2009.

Income from resolution of Covered Loans is included in the income statement line item "Income from resolution of Covered Assets, net" and represents the difference in the projected losses from ACI loans and consideration received in satisfaction of such loans that were resolved, either by prepayment, sale, foreclosure, short sale or, for the non-residential portfolio, charge-offs, as well as losses from permanent modification of ACI loans accounted for in pools during the period. Gains and losses from the resolution or permanent modification of Covered Loans are included in this line item. The amount

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of income recorded in any period will be impacted by the number and UPB of ACI loans resolved and our ability to accurately project cash flows from ACI loans in future periods. In general, we expect the amount of this income to decrease in future periods as we gain additional history in terms of the performance of the loans we acquired, which we will reflect in the update of our projected cash flows from ACI loans each quarter. Income from the resolution of non-ACI loans is not significant.

Under the Purchase and Assumption Agreement, we are permitted to sell on an annual basis up to 2.5% of the Covered Loans, based upon the UPB at Acquisition, or approximately $280.0 million, without prior consent of the FDIC. Any losses incurred from such loan sales are covered under the Loss Sharing Agreements. A loss of $76.4 million was recognized during the year ended December 31, 2010 on non-recourse sales of ACI loans with UPB of $272.2 million to third parties. During the period ended December 31, 2009, a loss of $47.1 million was recognized on non-recourse sales of ACI loans with UPB of $275.0 million to third parties. The losses for the year ended December 31, 2010 and the period ended December 31, 2009 were significantly mitigated by income of approximately $57.7 million and $37.6 million, respectively, included in the income statement line item "Net gain (loss) on indemnification asset resulting from net recoveries." We may continue to exercise our right to sell Covered Loans in future periods.

The following table summarizes the pre-tax components of the gains and losses associated with the resolution of Covered Assets as described above, plus the provision for loan losses on non-Covered Loans, for the year ended December 31, 2010 and period ended December 31, 2009 (*dollars in thousands*):

| | Year Ended December 31, 2010 | | | Period Ended December 31, 2009 | | |
|---|---|---|---|---|---|---|
| | Transaction Income (Loss) | Net Gain (Loss) on Indemnification Asset Resulting From Net Recoveries | Net Impact on Earnings | Transaction Income (Loss) | Net Gain (Loss) on Indemnification Asset Resulting From net Recoveries | Net Impact on Earnings |
| Provision for losses on Covered Loans | $ (46,481) | $ 29,291 | $ (17,190) | $ (21,287) | $ 14,433 | $ (6,854) |
| Provision for losses on non-Covered Loans | (4,926) | | (4,926) | (1,334) | | (1,334) |
| Total provision for loan losses | (51,407) | 29,291 | (22,116) | (22,621) | 14,433 | (8,188) |
| Income from resolution of Covered Assets, net | 121,462 | (84,138) | 37,324 | 120,954 | (88,801) | 32,153 |
| Net loss on sale of Covered Loans | (76,360) | 57,747 | (18,613) | (47,078) | 37,600 | (9,478) |
| | 45,102 | (26,391) | 18,711 | 73,876 | (51,201) | 22,675 |
| Loss on sale of OREO | (2,174) | 1,932 | (242) | (807) | | |
| Impairment of OREO | (16,131) | 12,904 | (3,227) | (21,055) | | |
| | (18,305) | 14,836 | (3,469) | (21,862) | 15,007 | (6,855) |
| Total | $ (24,610) | $ 17,736 | $ (6,874) | $ 29,393 | $ (21,761) | $ 7,632 |

In addition to the loss on Covered Loans reflected in the table above, the income statement line item "Loss on sale of loans, net" for the year ended December 31, 2010 includes approximately $50 thousand of gains on the sale of loans held for sale. These transactions are not subject to the loss sharing agreements.

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The following table provides further detail of the components of income from resolution of Covered Assets, net (*dollars in thousands*):

| | Year Ended December 31, 2010 | Period Ended December 31, 2009 |
|---|---|---|
| Payments in full | $ 142,172 | $ 76,428 |
| Foreclosures | (15,691) | 30,489 |
| Short sales | 7,801 | 28,610 |
| Modifications | (2,424) | |
| Charge-offs | (14,303) | (14,573) |
| Recoveries | 3,907 | |
| Income from resolution of Covered Assets, net | $ 121,462 | $ 120,954 |

The volume of loan resolutions resulting from repayments, modifications and recoveries increased for the year ended December 31, 2010 compared to the period ended December 31, 2009 as we augmented and enhanced our mortgage servicing and workout and recovery departments and were increasingly able to work with borrowers to effect resolution of outstanding loans. The impact of modifications on income from resolution of Covered Assets reflects increased participation by borrowers in the HAMP program during 2010. Net gains from foreclosures and short sales declined for the year ended December 31, 2010 due to continuing home price deterioration in our primary market areas. The impact of additional historical experience on our ability to estimate future cash flows from these types of resolutions has also reduced the effect of these resolutions on current period earnings.

Certain OREO related expenses, including attorney's fees, foreclosure costs, property preservation costs, maintenance and repair costs, advances for taxes and insurance, appraisal costs and inspection costs are also reimbursed under the terms of the Loss Sharing Agreements with the FDIC. Such expenses are recorded in non-interest expense when incurred, and the reimbursement is recorded as "FDIC reimbursement of costs of resolution of Covered Assets" in non-interest income when submitted to the FDIC, generally upon ultimate resolution of the underlying Covered Asset. This may result in the expense and the related income from reimbursements being recorded in different periods. For the year ended December 31, 2010 and the period ended December 31, 2009 non-interest expense includes approximately $49.7 million and $26.1 million, respectively, of disbursements subject to reimbursement under the loss sharing agreements. For those same periods, claims of $29.8 million and $8.1 million, respectively, were submitted to the FDIC for reimbursement. As of December 31, 2010, $28.5 million of disbursements remain to be submitted for reimbursement from the FDIC in future periods.

*Non-interest expense*

Non-interest expense includes employee compensation and benefits, occupancy and equipment, impairment of OREO, foreclosure expense, OREO expense, deposit insurance expense, professional fees, telecommunications and data processing and other expense. For the period ended December 31, 2009, non-interest expense included two significant non-recurring items. The first of these was the write-off of a receivable from the FDIC in the amount of $69.4 million, which was established at the date of the Acquisition and related to the disputed valuation of certain acquired investment securities. Given that the disagreement over the valuation extended past December 31, 2009 with the likelihood that no additional consideration would be paid, the receivable was written off in 2009. Subsequently, the Company reached a settlement with the FDIC regarding this dispute. Under the settlement, the Company received $24.1 million, which was reflected in non-interest income in the fourth quarter of 2010. The second of these non-recurring items was $39.8 million in direct costs associated with the Acquisition, consisting primarily of legal and investment banking advisory fees.

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Our employee compensation and benefits expense includes expense related to PIUs issued to certain members of executive management. The PIUs are divided into two equal types of profits interests. The Time-based PIUs vest with the passage of time following the grant date. The IRR-based PIUs vested immediately prior to the consummation of the IPO of our common stock in January, 2011. Fair value of PIUs is estimated using a Black-Scholes option pricing model including assumptions as to expected volatility, dividends, terms, and risk-free rates. Beginning with the third quarter of 2009, the fair value is updated quarterly. The fair value of the PIUs has increased since the third quarter of 2009 through December 31, 2010, driven by a reduction in risk-free rates, an increase in expected volatility and an increase in the value of our common shares. The estimated fair value per unit of the Company's PIUs from September 30, 2009 to December 31, 2010 is as follows (*dollars in thousands*):

| | |
|---|---|
| September 30, 2009 | $ 707.30 |
| December 31, 2009 | $ 850.30 |
| March 31, 2010 | $ 843.70 |
| June 30, 2010 | $ 1,029.85 |
| September 30, 2010 | $ 1,238.25 |
| December 31, 2010 | $ 1,627.01 |

For additional information, see "Information About BankUnited, Inc. Executive Compensation Equity-Based Compensation" on Page [ ].

Compensation expense for the Time-based PIUs is recorded over the vesting period based on their fair value. For the year ended December 31, 2010 and the period ended December 31, 2009, we recorded compensation expense related to Time-based PIUs of $36.2 million and $8.8 million, respectively.

In January 2011, in conjunction with the IPO, we recorded additional compensation expense of approximately $110.4 million related to the vesting of the IRR-based PIUs and the exchange of PIUs for a combination of common stock and options.

OREO expense and foreclosure expense is comprised of net gains or losses on the sale of OREO properties, expenses of holding and maintaining OREO properties such as real estate taxes and insurance, and legal fees and other foreclosure expenses. Impairment of OREO represents further deterioration in the fair value of properties that were initially recorded at fair value at the time of foreclosure. OREO expense, foreclosure expense and impairment of OREO have remained at high levels since the Acquisition due to continuing deterioration in home prices coupled with the high volume of foreclosures.

At December 31, 2010, all OREO properties were covered by the Loss Sharing Agreements with the FDIC. For the post-Acquisition periods, OREO losses are substantially offset by non-interest income related to indemnification by the FDIC. Generally, OREO related expenses are also reimbursed under the terms of the Loss Sharing Agreements with the FDIC.

Other non-interest expense includes the increase in value of the warrant issued to the FDIC in conjunction with the Acquisition. Based on its initial terms, the value of the warrant equals 10% of the value the Company realizes in an IPO or exit event in excess of the valuation that would be implied if the Company was valued at the average price-to-tangible book value multiple for the top quartile of publicly traded U.S. banks and thrifts in excess of $10 billion in assets. We utilized information provided by third party valuation specialists to assist in the determination of the fair value of the warrant at the Acquisition and at each quarter end beginning with September 30, 2009 through September 30, 2010. The warrant was initially recorded with a fair value of $1.5 million at May 21, 2009. In October 2010, the Company and the FDIC amended the warrant to guarantee a minimum value to the FDIC in the amount of $25.0 million. During year ended December 31, 2010 and the period ended December 31, 2009, we recorded $21.8 million and $1.7 million, respectively, of

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non-interest expense reflecting the increase in the value of the warrant which, at December 31, 2010, was adjusted to the guaranteed minimum value. In February, 2011, the Company redeemed the FDIC warrant for its agreed upon value of $25.0 million in cash.

We evaluate our non-interest expense based on measures including our efficiency ratio and trends in the individual categories of non-interest expense, after giving consideration to the planned growth of our business.

*Net income*

We evaluate our net income based on measures including return on average assets and return on average common stockholder's equity.

***Financial Condition***

Our balance sheets for the post-Acquisition periods reflect the impact of the application of acquisition accounting and the resulting adjustment of assets acquired and liabilities assumed to their fair values, and are therefore not comparable in many respects to balance sheets of the Failed Bank for the pre-Acquisition periods. In particular, the carrying amount of investment securities, loans, the FDIC indemnification asset, goodwill and other intangible assets, net deferred tax assets, deposit liabilities, and FHLB advances were materially impacted by these adjustments.

Loans, OREO and certain investment securities, including certain private-label mortgage-backed and non-investment grade securities acquired from the Failed Bank are covered by the Loss Sharing Agreements with the FDIC. The Loss Sharing Agreements afford the Company significant protection against future credit losses related to these assets. Under the Loss Sharing Agreements, the FDIC will cover 80% of losses and certain expenses related to the Covered Assets up to the $4.0 billion stated threshold and 95% of losses and certain expenses that exceed the $4.0 billion stated threshold. The Loss Sharing Agreements last for ten years for single family residential loans and for five years (with recoveries for eight years) for other loan types and investment securities. The Loss Sharing Agreements' coverage may be extended for two additional years under certain circumstances.

Of the securities acquired in the Acquisition, $263.6 million at fair value of private label mortgage-backed securities and mortgage-backed security mutual funds, trust preferred collateralized debt obligations, Agency preferred stocks, and corporate securities are covered under the non-residential Loss Sharing Agreement. BankUnited will be reimbursed 80% (95% if cumulative losses have exceeded the $4.0 billion stated threshold) of realized losses, other-than-temporary impairments and any reimbursable expenses. BankUnited must pay the FDIC 80% (95% if cumulative losses are greater than the stated threshold) of realized gains and other-than-temporary impairment recoveries. Unrealized mark-to-market changes from the application of fair value accounting do not qualify for loss sharing. BankUnited cannot sell securities covered under the Loss Sharing Agreements without prior approval of the FDIC. To date, we have not submitted any claims for reimbursement for the investment securities covered under the Loss Sharing Agreements.

The portfolio of available for sale securities has grown to $2.9 billion at December 31, 2010 from $2.2 billion at December 31, 2009 and $0.5 billion immediately following the Acquisition. Growth of the investment portfolio since the Acquisition has been driven primarily by the deployment of cash acquired and cash generated from loan resolution activity into higher yielding assets during a period of diminished loan demand. Our investment strategy has focused on providing liquidity necessary for day-to-day operations, adding a suitable balance of high credit quality, diversifying assets to the consolidated balance sheet, managing interest rate risk, and generating acceptable returns given our established risk parameters. We have sought to maintain liquidity and manage interest rate risk by investing a significant portion of the portfolio in high quality liquid securities consisting primarily of U.S. Government agency floating rate residential mortgage-backed securities. We have also invested in highly rated structured products including private label residential mortgage-backed securities and Re-REMICS, bank preferred stocks and asset-backed securities collateralized primarily by auto loans, credit card receivables, student loans and floor plan loans that, while somewhat less liquid, provide us with higher yields. A relatively short effective portfolio duration helps mitigate interest rate risk arising from the currently low level of market interest rates and the longer duration of the loan portfolio acquired from the Failed Bank.

Loans acquired in the Acquisition were recorded at their estimated fair values at Acquisition, which were substantially less than the UPB of the loans. Additionally, the allowance for loan losses, discounts, premiums, and deferred origination fees and costs related to the acquired loans were eliminated in the application of the acquisition method of accounting. Net loans decreased to $3.9 billion at December 31, 2010 from $4.6 billion at December 31, 2009 and $5.0 billion immediately following the Acquisition, primarily due to the resolution of ACI loans.

Residential loan demand in our primary market areas remains depressed, limiting the volume of new residential originations, but there has been growth in the commercial loan portfolio commensurate with a shift in our lending strategy to an emphasis on commercial and commercial real estate lending.

***Asset Quality***

In discussing asset quality, a distinction must be made between Covered Loans and non-Covered Loans. Non-Covered Loans were underwritten under significantly different and generally more conservative standards than the Covered Loans. In particular, credit approval policies have been strengthened, wholesale mortgage origination channels have been eliminated, "no-doc" and ARM loan products have been eliminated, and real estate appraisal policies have been improved. Although the risk profile of Covered Loans is higher than that of the non-Covered Loans, our exposure to loss related to the Covered Loans is significantly mitigated by the Loss Sharing Agreements and by the fair value basis recorded in these loans resulting from the application of acquisition accounting.

In monitoring asset quality, we consider the results of our internal credit risk rating process and certain key ratios including the ratio of non-performing loans to total loans, non-performing assets to total assets, portfolio delinquency and charge-off trends, among other factors. Comparison of these metrics to those reported by other financial institutions and to historical metrics of the Failed Bank is difficult because of the impact of the revaluation of the acquired loans and of ACI loan accounting. Our non-performing asset ratios as well as the ratio of the allowance for loan losses to total loans are lower and the ratio of the allowance for loan losses to non-performing loans is higher as a result of acquisition accounting and ACI loan accounting. ACI loans are not reflected as nonaccrual loans even though they may be contractually delinquent due to continuing discount accretion. Discount accretion continues to be recorded as there continues to be an expectation of future cash flows from these loans in excess of their carrying amounts.

As of December 31, 2010, substantially all of our non-performing assets are Covered Assets.

***Funding Sources***

Deposits are our primary funding source, supplemented by FHLB advances. Since the Acquisition, we have worked towards optimizing our deposit mix and lowering our cost of deposits by reducing rate sensitive time deposits. In the future, we expect commercial core deposits will drive core deposit growth. At Acquisition, approximately 74.8% of total deposits were concentrated in time deposits, with consumer core deposits accounting for 21.7% of total deposits and commercial core deposits accounting for 3.5% of total deposits. At December 31, 2010, time deposits accounted for 44.5% of total deposits while consumer core deposits represented 43.0% of the total and commercial core deposits represented 12.5% of total deposits.

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The Bank's liquidity needs are primarily met by its cash position, growth in core deposits, cash flow from its amortizing investment and loan portfolios, and reimbursements under the Loss Sharing Agreements. If necessary, the Bank currently has the ability to raise additional liquidity through collateralized borrowings, FHLB advances or the sale of available for sale investment securities. We regularly monitor several measures of liquidity, including liquid assets, defined as cash and cash equivalents, and pledgeable securities, to total assets.

***Strengths, Opportunities and Challenges***

Management believes that our Company has several key strengths, including:

- An experienced, re-built management team.
- A strong balance sheet due to significant protection from credit losses on Covered Assets arising from the Loss Sharing Agreements with the FDIC.
- A robust capital position. The Company was initially capitalized with common equity of $945.0 million, of which $875.0 million has been contributed to the Bank. The Bank currently exceeds "well-capitalized" guidelines under regulatory standards, with tier 1 leverage and tier 1 risk-based capital ratios of 10.3% and 41.3%, respectively, at December 31, 2010.

Management has identified significant opportunities for our Company, including:

- Our capital position, market presence and experienced lending team position us well to compete for high quality commercial credits in our primary market areas. As of December 31, 2010, the commercial real estate and commercial loan portfolios contained $430.2 million in gross loans originated since the Acquisition.
- Organic growth through planned expansion of our branch footprint.
- Potential growth through strategic acquisitions of healthy financial institutions and complementary businesses and participation in the resolution of failed and troubled institutions in the Southeast.
- The potential to further shift our deposit mix from time deposits into lower cost money market and transaction accounts. Since the Acquisition to December 31, 2010, we have increased our core deposits from $2.1 billion to $4.0 billion.

We have also identified significant challenges confronting the industry and our Company:

- The economic impact of the financial crisis continued into 2010 and has continued into 2011.
- Management expects that the Company and the banking industry as a whole may be required by market forces and/or regulation to operate with higher capital ratios than in the recent past.
- Continued distressed economic conditions in our primary markets, including home price depreciation, may lead to further elevated levels of non-performing assets and continued deterioration in credit quality, particularly in the acquired loan portfolio.
- Loan demand weakened throughout 2009 in the geographic markets that the Company serves as a result of sharply curtailed real estate activities and the economic recession. We believe that our capital and liquidity levels position us well to compete

successfully for quality credits in our market. Since the Acquisition, our loan origination strategy has focused on conservative underwriting and traditional, high quality commercial and single family residential loan products. However, continued distressed economic and real estate market conditions could negatively impact the credit quality of loans originated since the Acquisition. Additionally, weak loan demand may put pressure on our net interest margin.

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The current low interest rate environment limits the yields we are able to obtain on interest earning assets, including both new assets acquired as we grow and assets that replace existing, high yielding Covered Assets as they are paid down or mature. The yield on newly acquired assets will depend on prevailing interest rates at the date the assets are purchased or originated.

***Recent Regulatory Actions Impacting the Financial Services Industry***

Regulatory policy and actions have become increasingly subject to change and difficult to predict, both in general and as they may be applied specifically to the Company.

On July 21, 2010, the Dodd-Frank Act was signed into law. The Dodd-Frank Act implements far-reaching changes across the financial regulatory landscape, including provisions that, among other things, will:

- Abolish the OTS and transfer the supervision of federal thrifts, such as BankUnited, to the OCC, and the supervision of thrift holding companies, such as the Company, to the Federal Reserve.

- Centralize responsibility for consumer financial protection by creating a new agency, the Consumer Financial Protection Bureau, or CFPB, with broad rulemaking, supervision and enforcement authority.

- Require a variety of new capital rules.

- Change the assessment base for federal deposit insurance.

- Increase the minimum ratio of net worth to insured deposits of the DIF. This increase is generally expected to impose more deposit insurance cost on us and other institutions with assets of $10 billion or more.

- Provide for new disclosure and other requirements relating to executive compensation and corporate governance.

- Make permanent the $250,000 limit for federal deposit insurance and provide unlimited federal deposit insurance until January 1, 2013 for non-interest bearing demand transaction accounts at all insured depository institutions.

- Repeal the federal prohibitions on the payment of interest on demand deposits.

- Increase the examination and rule-making authority of the Federal Reserve.

- Require companies, including thrift holding companies that directly or indirectly control an insured depository institution to serve as a source of financial strength to their depository institution subsidiaries.

- Restrict proprietary trading by banks, bank holding companies and others, and their acquisition and retention of ownership interests in and sponsorship of hedge funds and private equity funds.

Many aspects of the Dodd-Frank Act are subject to rulemaking and will take effect over several years, making it difficult to anticipate the overall financial impact on the Company and the financial services industry more generally. Provisions in the legislation that affect deposit insurance assessments and payment of interest on demand deposits could increase the costs associated with deposits. Provisions in the legislation that will impose new capital requirements on the Company could require the Company to seek additional sources of capital in the future.

In addition, other proposals have been offered by the current administration, by members of Congress and international regulatory forums that, if enacted, may have significant and potentially adverse effects on the Company, the full impact of which is difficult to predict at this time. For additional discussion, see "Information About BankUnited, Inc. Information About BankUnited, Inc.'s Business Regulation and Supervision" on Page [ ].

***Results of Operations for the Post-Acquisition Periods***

The Company reported net income of $184.7 million for the year ended December 31, 2010 and $119.0 million for the period from April 28, 2009 (date of inception) through December 31, 2009.

***Net Interest Income***

The following table presents, for the periods indicated, information about (i) average balances, the total dollar amount of interest income from earning assets and the resultant average yields; (ii) average balances, the total dollar amount of interest expense on interest bearing liabilities and the resultant average rates; (iii) net interest income; (iv) the interest rate spread; and (v) the net interest margin. Nonaccrual and restructured loans are included in the average balances presented in this table; however, interest income foregone on nonaccrual loans is not included. Yields have been calculated on a pre-tax basis (*dollars in thousands*):

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| | Year Ended December 31, 2010 | | | Period From May 22, 2009 to December 31, 2009 | | |
|---|---|---|---|---|---|---|
| | Average Balance | Interest | Yield/ Rate | Average Balance | Interest | Yield/ Rate(1) |
| **Assets:** | | | | | | |
| Interest earning assets: | | | | | | |
| Investment securities available for sale | $ 472,033 | $ 12,073 | 2.56% | $ 69,778 | $ 1,999 | 4.71% |
| Mortgage-backed securities | 2,419,460 | 112,189 | 4.64% | 889,776 | 43,143 | 7.97% |
| Total investment securities available for sale | 2,891,493 | 124,262 | 4.30% | 959,554 | 45,142 | 7.73% |
| Other interest earning assets | 640,506 | 1,958 | 0.31% | 1,719,417 | 2,922 | 0.28% |
| Loans receivable | 4,181,062 | 431,468 | 10.32% | 4,754,739 | 287,460 | 9.92% |
| Total interest earning assets | 7,713,061 | 557,688 | 7.23% | 7,433,710 | 335,524 | 7.42% |
| Allowance for loan losses | (38,236) | | | (1,031) | | |
| Noninterest earning assets | 3,513,839 | | | 4,026,356 | | |
| Total assets | $ 11,188,664 | | | $ 11,459,035 | | |
| **Liabilities and Equity:** | | | | | | |
| Interest bearing liabilities: | | | | | | |
| Interest bearing deposits: | | | | | | |
| Interest bearing demand | $ 273,897 | $ 1,981 | 0.72% | $ 183,416 | $ 891 | 0.79% |
| Savings and money market | 2,870,768 | 34,243 | 1.19% | 2,153,446 | 25,578 | 1.94% |
| Time deposits | 3,889,961 | 72,120 | 1.85% | 5,506,320 | 31,360 | 0.93% |
| Total interest bearing deposits | 7,034,626 | 108,344 | 1.54% | 7,843,182 | 57,829 | 1.20% |
| Borrowings: | | | | | | |
| FHLB advances | 2,244,601 | 59,784 | 2.66% | 1,974,755 | 26,026 | 2.15% |
| Short term borrowings | 7,812 | 72 | 0.92% | 2,091 | 1 | 0.02% |
| Total interest bearing liabilities | 9,287,039 | 168,200 | 1.81% | 9,820,028 | 83,856 | 1.39% |
| Non interest bearing demand deposits | 440,673 | | | 303,810 | | |
| Other non-interest bearing liabilities | 263,789 | | | 313,399 | | |
| Total liabilities | 9,991,501 | | | 10,437,237 | | |
| Equity | 1,197,163 | | | 1,021,798 | | |
| Total liabilities and equity | $ 11,188,664 | | | $ 11,459,035 | | |
| Net interest income | | $ 389,488 | | | $ 251,668 | |
| Interest rate spread | | | 5.42% | | | 6.03% |
| Net interest margin | | | 5.05% | | | 5.58% |

(1) Annualized.

Increases and decreases in interest income and interest expense result from changes in average balances (volume) of interest earning assets and liabilities, as well as changes in average interest rates, which are impacted by accretion of fair value adjustments recorded in conjunction with the Acquisition.

The comparison of total interest income and total interest expense for the year ended December 31, 2010 to the period ended December 31, 2009 is also impacted by the different number of days in the comparative periods. The following table shows the effect that these factors had on the interest earned on our interest earning assets and the interest incurred on our interest bearing liabilities for the periods indicated. The effect of changes in volume is determined by multiplying the change in volume by the previous period's average rate. Similarly, the effect of rate changes is calculated by

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multiplying the change in average rate by the previous period's volume. Changes applicable to both volume and rate have been allocated to volume (*dollars in thousands*):

| | Year Ended December 31, 2010 Compared to Period Ended December 31, 2009 | | | |
|---|---|---|---|---|
| | Changes in Volume | Changes in Rate | Change due to Number of Days | Total Increase (Decrease) |
| **Interest Income Attributable to** | | | | |
| Investment securities available for sale | $ 6,846 | $ (1,501) | $ 4,729 | $ 10,074 |
| Mortgage-backed securities | 54,767 | (29,662) | 43,941 | 69,046 |
| Total investment securities available for sale | 61,613 | (31,163) | 48,670 | 79,120 |
| Other interest earning assets | (2,215) | 495 | 756 | (964) |
| Loans | (43,983) | 18,999 | 168,992 | 144,008 |
| Total interest income | 15,415 | (11,669) | 218,418 | 222,164 |
| **Interest Expense Attributable to** | | | | |
| Interest bearing demand deposits | $ 450 | $ (125) | $ 765 | $ 1,090 |
| Savings and money market deposit accounts | 11,429 | (15,992) | 13,228 | 8,665 |
| Time deposits | (38,087) | 50,987 | 27,860 | 40,760 |
| Total interest bearing deposits | (26,208) | 34,870 | 41,853 | 50,515 |
| FHLB advances | 475 | 10,188 | 23,095 | 33,758 |
| Short term borrowings | 24 | 19 | 28 | 71 |
| Total interest expense | (25,709) | 45,077 | 64,976 | 84,344 |
| Increase (decrease) in net interest income | $ 41,124 | $ (56,746) | $ 153,442 | $ 137,820 |

*Year ended December 31, 2010 compared to period from May 22, 2009 to December 31, 2009*

Net interest income was $389.5 million for the year ended December 31, 2010 and $251.7 million for the period ended December 31, 2009, for an increase of $137.8 million. The increase in net interest income was comprised of an increase in interest income of $222.1 million partially offset by an increase in interest expense of $84.3 million.

On an annualized basis, net interest income was $389.5 million and $414.9 million for the year ended December 31, 2010 and period ended December 31, 2009, respectively. The decline of $25.4 million, or 6.1%, in annualized net interest income was comprised of an increase of $31.6 million in interest expense partly offset by an increase of $6.2 million in interest income.

The increase in interest income on an annualized basis reflects increased interest income from investment securities partially offset by a decline in interest income from loans. The increase in interest income from investment securities resulted from an increase in average volume significantly mitigated by a decline in the average yield. The average yield on investment securities declined to 4.30% for the year ended December 31, 2010 from 7.73% for the period ended December 31, 2009. The decrease in average yield resulted primarily from new purchases reflecting lower general market rates of interest as well as the continued impact of a shift since the Acquisition in the type of securities purchased, including $1.2 billion of U.S. Government agency floating rate securities and $0.4 billion of non-mortgage asset-backed securities purchased as of December 31, 2010. The decline in interest income from loans is indicative of a decline in average volume resulting from pay-downs and resolutions, partially offset by an increase in the average yield to 10.32% for the year ended December 31, 2010 as compared to 9.92% for the period ended December 31, 2009. The increased yield reflects an increased yield on Covered Loans partially offset by the origination and purchase of new loans at lower prevailing market rates of interest. The average yield on loans originated and purchased since the Acquisition was 5.46% and 6.35% for the year ended December 31, 2010 and period ended December 31, 2009, respectively. The yield on Covered Loans increased to 10.66% for the year ended December 31, 2010 from 9.93% for the period ending December 31, 2009 due to an increase in projected cash flows from the covered ACI loans.

Interest expense on deposits increased on an annualized basis by $14.1 million for the year ended December 31, 2010 due to lower accretion of fair market value adjustments on time deposits, partially mitigated by a shift in deposit mix toward lower rate products and a decline in market rates. Accretion of fair value adjustments on time deposits totaled $21.4 million for the year ended December 31, 2010 as compared to $79.9 million for the period ended December 31, 2009. The decline in accretion of fair value adjustments on time deposits is attributable to the maturity and continued run-off of acquired time deposits. The average rate paid on time deposits excluding the impact of accretion was 2.41% for the year ended December 31, 2010 and 3.32% for the period ended December 31, 2009. The decline in the adjusted average rate is attributable to lower prevailing rates. Interest expense on FHLB advances and other borrowings increased by $17.4 million on an annualized basis as a result of lower accretion of fair value adjustments, as well as increased volume of outstanding FHLB advances. Accretion of fair value adjustments on FHLB advances totaled $23.9 million for the year ended December 31, 2010 as compared to $25.1 million for the period ended December 31, 2009. Accretion decreased the average rate paid on FHLB advances by 115 and 228 basis points for the year ended December 31, 2010 and period ended December 31, 2009, respectively. The decline in accretion is due to the maturity and repayment of a portion of the advances outstanding at the Acquisition date, along with the difference in the number of days in the comparative periods.

The net interest margin for the year ended December 31, 2010 was 5.05% as compared to 5.58% for the period ending December 31, 2009, a decline of 53 basis points. The average yield on interest earning assets declined by 19 basis points for the year ended December 31, 2010 as compared to the period ended December 31, 2009 while the average rate paid on interest bearing liabilities increased by 42 basis points, for a decline in the interest rate spread of 61 basis points. The decline in both net interest margin and interest rate spread resulted primarily from lower accretion of fair value adjustments, particularly on interest bearing liabilities, the origination and purchase of loans and investment securities at lower prevailing market rates of interest, and a shift in the composition of interest earning assets from loans to investment securities as discussed above.

*Provision for Loan Losses*

Our determination of the amount of the allowance and corresponding provision for loan losses considers ongoing evaluations of the various segments of the Company's loan portfolio and of individually significant credits, levels of non-performing loans and charge-offs, statistical trends and economic and other relevant factors. See "Information About BankUnited, Inc. Management's Discussion and Analysis of Financial Condition and Results of Operations December 31, 2010 Analysis of the Allowance for Loan Losses" below on Page [ ] for more information about how we determine the appropriate level of the allowance.

*Non-Interest Income*

The Company reported non-interest income of $297.8 million for the year ended December 31, 2010 and $253.6 million for the period from May 22, 2009 to December 31, 2009. The following table

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presents a comparison of the categories of non-interest income for the periods indicated (*dollars in thousands*):

| | Year Ended December 31, 2010 | Period From May 22, 2009 to December 31, 2009 |
|---|---|---|
| Accretion of discount on FDIC indemnification asset | $ 134,703 | $ 149,544 |
| Income from resolution of Covered Assets, net | 121,462 | 120,954 |
| Net gain (loss) on indemnification asset resulting from net recoveries | 17,736 | (21,761) |
| FDIC reimbursement of costs of resolution of Covered Assets | 29,762 | 8,095 |
| Loss on sale of loans, net | (76,310) | (47,078) |
| Non-interest income from Covered Assets | 227,353 | 209,754 |
| Service charges on deposits and other fee income | 8,606 | 4,923 |
| Service charges on loans | 1,961 | 1,840 |
| Net loss on sale or exchange of investment securities available for sale | (998) | (337) |
| Mortgage insurance income | 18,441 | 1,338 |
| Settlement with the FDIC | 24,055 | |
| Gain on extinguishment of debt | | 31,303 |
| Other non-interest income | 18,361 | 4,815 |
| Total non-interest income | $ 297,779 | $ 253,636 |

The following table summarizes the pre-tax components of the gains and losses associated with the resolution of Covered Assets, plus the provision for loan losses on non-Covered Loans, for the year ended December 31, 2010 and period ended December 31, 2009 (*dollars in thousands*):

| | Year Ended December 31, 2010 | | | Period Ended December 31, 2009 | | |
|---|---|---|---|---|---|---|
| | Transaction Income (Loss) | Net Gain (Loss) on Indemnification Asset Resulting From Net Recoveries | Net Impact on Earnings | Transaction Income (Loss) | Net Gain (Loss) on Indemnification Asset Resulting From Net Recoveries | Net Impact on Earnings |
| Provision for losses on Covered Loans | $ (46,481) | $ 29,291 | $ (17,190) | $ (21,287) | $ 14,433 | $ (6,854) |
| Provision for losses on non-Covered Loans | (4,926) | | (4,926) | (1,334) | | (1,334) |
| Total provision for loan losses | (51,407) | 29,291 | (22,116) | (22,621) | 14,433 | (8,188) |
| Income from resolution of Covered Assets, net | 121,462 | (84,138) | 37,324 | 120,954 | (88,801) | 32,153 |
| Net loss on sale of Covered Loans | (76,360) | 57,747 | (18,613) | (47,078) | 37,600 | (9,478) |
| | 45,102 | (26,391) | 18,711 | 73,876 | (51,201) | 22,675 |
| Loss on sale of OREO | (2,174) | 1,932 | (242) | (807) | | |
| Impairment of OREO | (16,131) | 12,904 | (3,227) | (21,055) | | |
| | (18,305) | 14,836 | (3,469) | (21,862) | 15,007 | (6,855) |

| | | | | | | |
|---|---|---|---|---|---|---|
| Total | $ (24,610) | $ 17,736 | $ (6,874) | $ 29,393 | $ (21,761) | $ 7,632 |

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*Year ended December 31, 2010 compared to period from May 22, 2009 to December 31, 2009*

For the year ended December 31, 2010 and the period from May 22, 2009 to December 31, 2009, non-interest income was significantly impacted by the effect of the Acquisition and the related Loss Sharing Agreements with the FDIC. Accretion of discount on the FDIC indemnification asset totaled $134.7 million for the year ended December 31, 2010 and $149.5 million for the period ended December 31, 2009. The decrease in accretion for the year ended December 31, 2010 as compared to the period ended December 31, 2009 was related to the decrease in the average balance of the indemnification asset as well as a decrease in the average discount rate during the period to 4.69% from 7.10%.

When the Company recognizes gains or losses related to Covered Assets in its consolidated financial statements, changes in the estimated amount recoverable from the FDIC under the Loss Sharing Agreements with respect to those gains or losses are also reflected in the consolidated financial statements. The net impact on earnings before taxes of transactions related to Covered Assets, plus the provision for loan losses on non-Covered Loans, for the year ended December 31, 2010 and period ended December 31, 2009 was $(6.9) million and $7.6 million, respectively, as detailed in the table above.

Additional impairment arising since the Acquisition related to Covered Loans is recorded in earnings through the provision for losses on Covered Loans. Under the terms of the Loss Sharing Agreements, the Company is entitled to recover from the FDIC a portion of losses on these loans; therefore, the discounted amount of additional expected cash flows from the FDIC related to these losses is recorded in non-interest income in the line item "Net gain (loss) on indemnification asset resulting from net recoveries" and reflected as a corresponding increase in the FDIC indemnification asset.

Covered Loans may be resolved through repayment, foreclosure, short sale of the underlying collateral or, for the non-residential portfolio, charge-offs, or sale of the loans. The difference between consideration received in resolution of Covered Loans and the amount of projected losses from resolution of those loans as well as losses from permanent modifications of ACI loans accounted for in pools, is recorded in the income statement line item "Income from resolution of Covered Assets, net." Losses from the resolution or permanent modification of Covered Loans increase the amount recoverable from the FDIC under the Loss Sharing Agreements. Gains from the resolution of Covered Loans reduce the amount recoverable from the FDIC under the Loss Sharing Agreements. These additions to or reductions in amounts recoverable from the FDIC related to the resolution of Covered Loans are recorded in non-interest income in the line item "Net gain (loss) on indemnification asset resulting from net recoveries" and reflected as corresponding increases or decreases in the FDIC indemnification asset. For the year ended December 31, 2010 and the period ended December 31, 2009, ACI loans with a UPB of $1.9 billion and $1.4 billion were resolved, resulting in income of $121.5 million and $121.0 million, respectively.

During the year ended December 31, 2010, Covered Loans with an UPB of $272.2 million and a carrying value of $143.5 million were sold on a non-recourse basis to third parties. During the period ended December 31, 2009, Covered Loans with an UPB of $275.0 million and a carrying value of $129.8 million were sold on a non-recourse basis to third parties. Losses on sale of $76.4 million and $47.1 million were recognized during the year ended December 31, 2010 and the period ending December 31, 2009, respectively. The amounts recoverable from the FDIC related to these losses were recorded as increases in the FDIC indemnification asset and corresponding increases in the non-interest income line item "Net gain (loss) on indemnification asset resulting from net recoveries" for the respective periods.

The Company records impairment charges related to declines in the net realizable value of OREO properties subject to the Loss Sharing Agreements and recognizes additional gains or losses upon the

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eventual sale of such OREO properties. The estimated increase or reduction in amounts recoverable from the FDIC with respect to these gains and losses is reflected as an increase or decrease in the FDIC indemnification asset and in non-interest income in the line item "Net loss on indemnification asset resulting from net recoveries."

Net gain (loss) on indemnification asset resulting from net recoveries of $17.7 million and $(21.8) million was recorded for the year ended December 31, 2010 and period ended December 31, 2009, respectively, representing the net change in the FDIC indemnification asset resulting from increases or decreases in cash flows estimated to be received from the FDIC related to the ultimate resolution of Covered Assets as discussed in the preceding paragraphs.

For the year ended December 31, 2010 and the period ended December 31, 2009, non-interest income includes $29.8 million and $8.1 million, respectively, related to claims that were submitted to the FDIC for reimbursement of certain disbursements made by the Company with respect to resolution of Covered Assets.

The Company prepaid FHLB advances with a principal balance of $2.7 billion during the period ended December 31, 2009. These advances had a carrying amount of $2.8 billion at the time of repayment. The Company recognized a gain of $31.3 million on this transaction.

During the year ended December 31, 2010, the Company incurred net losses of $1.0 million on the sale or exchange of investment securities available for sale. The net loss included a loss related to an exchange of certain non-covered trust preferred securities for preferred stock of the same issuer to achieve higher returns and more favorable tax treatment. Based on the market value of the trust preferred securities at the time of the exchange, the Company recognized a gross realized loss of $2.8 million on the transaction.

Mortgage insurance income represents mortgage insurance proceeds received with respect to Covered Loans in excess of the portion of losses on those loans that is recoverable from the FDIC. Mortgage insurance proceeds up to the amount of losses on Covered Loans reimbursable by the FDIC offsets amounts otherwise recoverable from the FDIC. The increase in mortgage insurance income for the year ended December 31, 2010 as compared to the period ended December 31, 2009 is a result of increased efforts by the Company to file and collect insurance claims.

Non-interest income for the year ended December 31, 2010 includes approximately $24.1 million representing the settlement of a dispute with the FDIC associated with the valuation established on certain investment securities at Acquisition. The increase in other non-interest income for the year ended December 31, 2010 as compared to the period ended December 31, 2009 related primarily to an increase in fees earned by BankUnited Investment Services and an increase in loan modification incentives received under the U.S. Treasury HAMP program.

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*Non-Interest Expense*

The following table presents the components of non-interest expense for the periods indicated (*dollars in thousands*):

| | Year Ended December 31, 2010 | Period From May 22, 2009 to December 31, 2009 |
|---|---|---|
| Employee compensation and benefits | $ 144,486 | $ 62,648 |
| Occupancy and equipment | 28,692 | 20,121 |
| Impairment of OREO | 16,131 | 21,055 |
| Foreclosure expense | 30,669 | 18,042 |
| Other real estate owned related expense | 21,177 | 8,384 |
| Change in value of FDIC warrant | 21,832 | 1,704 |
| Deposit insurance expense | 13,899 | 11,850 |
| Professional fees | 14,677 | 14,854 |
| Telecommunications and data processing | 12,321 | 6,440 |
| Other non-interest expense | 19,436 | 8,920 |
| | 323,320 | 174,018 |
| Loss on FDIC receivable | | 69,444 |
| Acquisition related costs | | 39,800 |
| Acquisition related expense | | 109,244 |
| Total non-interest expense | $ 323,320 | $ 283,262 |

*Year ended December 31, 2010 compared to period from May 22, 2009 to December 31, 2009*

On an annualized basis, non-interest expense as a percentage of average assets was 2.9% for the year ended December 31, 2010 as compared to 4.0% for the period ended December 31, 2009. The decline was primarily attributable to non-recurring expenses related to the Acquisition that were incurred during the period ended December 31, 2009, reduced professional fees, lower occupancy costs, and lower deposit insurance assessments, partially offset by increased employee compensation and benefits cost, OREO and foreclosure expense and the change in value of the FDIC warrant.

As is typical for financial institutions, employee compensation and benefits represents the single largest component of recurring non-interest expense. On an annualized basis, employee compensation and benefits increased by approximately $42.4 million, or 41.5%, for the year ended December 31, 2010 as compared to the period ended December 31, 2009. This increase resulted in part from continued enhancement of our management team and other personnel subsequent to the Acquisition. Employee compensation and benefits also included $36.2 million and $8.8 million for the year ended December 31, 2010 and period ended December 31, 2009, respectively, related to Time-based PIUs.

On an annualized basis, occupancy and equipment expense decreased by approximately $4.1million, or 12.5%, for the year ended December 31, 2010 as compared to the period ended December 31, 2009. The decline in occupancy and equipment expense for the year ended December 31, 2010 resulted primarily from renegotiation of leases.

Professional fees for the period ended December 31, 2009 included non-recurring legal and accounting fees related to certain litigation matters and formation of the Company.

OREO expense, foreclosure expense and impairment of OREO remained at high levels during the year ended December 31, 2010 and the period ended December 31, 2009 due to continuing deterioration in home prices and the high volume of foreclosures. The rate of home price deterioration moderated to some extent during 2010, contributing to reduced impairment charges for the year ended

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December 31, 2010 as compared to the period ended December 31, 2009. At December 31, 2010, approximately 4,700 units were in the foreclosure process, down from a peak of approximately 7,300 units in November of 2009.

OREO losses and OREO related expenses for the post-Acquisition periods are substantially offset by non-interest income related to indemnification by the FDIC. During the year ended December 31, 2010 and the period ended December 31, 2009, non-interest expense includes approximately $49.7 million and $26.1 million, respectively, of disbursements subject to reimbursement under the loss sharing agreements. For those same periods, claims of $29.8 million and $8.1 million, respectively, were submitted to the FDIC for reimbursement. As of December 31, 2010, $28.5 million of disbursements remain to be submitted for reimbursement from the FDIC in future periods.

The change in value of the FDIC warrant related to the adjustment of the warrant liability to the guaranteed value negotiated with the FDIC.

The primary components of other non-interest expense are promotion and advertising, the cost of regulatory examinations, and general office expense.

*Income Taxes*

The provision for income taxes for the year ended December 31, 2010 and period ended December 31, 2009 was $127.8 million and $80.4 million, respectively. The Company's effective tax rate was 40.9% and 40.3% for the year ended December 31, 2010 and period ended December 31, 2009. The Company's effective tax rate differed from the statutory federal tax rate of 35.0% primarily due to the effect of state income taxes and compensation expense related to PIUs. At December 31, 2010 and December 31, 2009, the Company had net deferred tax liabilities of $4.6 million and net deferred tax assets of $22.5 million, respectively. Based on an evaluation of the ultimate realization of deferred tax assets considering the availability of tax loss carry-backs, future taxable income that will result from reversal of existing taxable temporary differences, including negative goodwill recognized for tax purposes, and taxable income expected to be generated from future operations in light of the Company's current level of profitability, we have concluded it is more likely than not that the deferred tax assets will be realized.

***Balance Sheet Analysis for the Post-Acquisition Periods***

Average interest earning assets increased $279.4 million to $7.7 billion for the year ended December 31, 2010 from $7.4 billion for the period ended December 31, 2009. This increase was driven primarily by an increase in the average balance of investment securities resulting from continued deployment of cash acquired in the Acquisition as well as cash generated from loan resolutions and from reimbursements under the Loss Sharing Agreements. Average non-interest earning assets declined by $512.5 million, largely attributable to the decrease in the FDIC indemnification asset.

Average interest bearing liabilities decreased by $533.0 million to $9.3 billion for the year ended December 31, 2010 from $9.8 billion for the period ended December 31, 2009, reflecting a decrease in average interest-bearing deposits partially offset by an increase in outstanding FHLB advances. The reduction in outstanding interest-bearing deposits resulted from a reduction in rates offered and a shift in emphasis away from rate sensitive time deposits. Average non-interest bearing liabilities increased by $87.3 million, primarily as a result of an increase in non-interest bearing demand deposits. Average equity increased by $175.4 million, primarily due to earnings.

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*Investment Securities Available for Sale*

The following table shows the amortized cost and fair value of our investment securities as of the dates indicated. All of our investment securities are classified available for sale (*dollars in thousands*):

| | At December 31, 2010 | | At December 31, 2009 | |
|---|---|---|---|---|
| | Amortized Cost | Fair Value | Amortized Cost | Fair Value |
| U.S. Treasury securities | $ | $ | $ 10,066 | $ 10,072 |
| U.S. Government agency and sponsored enterprise residential mortgage-backed securities | 1,282,757 | 1,290,910 | 1,288,277 | 1,288,643 |
| Resecuritized real estate mortgage investment conduits ("Re-Remics") | 599,682 | 612,631 | 478,731 | 475,003 |
| Private label residential mortgage backed securities and CMO's | 320,096 | 382,920 | 319,765 | 366,508 |
| Non mortgage asset-backed securities | 407,158 | 408,994 | 30,000 | 30,000 |
| Mutual funds and preferred stocks | 136,489 | 138,535 | 43,344 | 43,523 |
| State and municipal obligations | 22,898 | 22,960 | 22,964 | 23,106 |
| Small Business Administration securities | 62,831 | 62,891 | | |
| Other debt securities | 3,695 | 6,761 | 3,581 | 6,288 |
| Total investment securities available for sale | $ 2,835,606 | $ 2,926,602 | $ 2,196,728 | $ 2,243,143 |

Our available for sale securities portfolio consists of the securities acquired in the Acquisition (the "acquired securities") and those purchased by us subsequent to the Acquisition. Investment securities increased by $1.7 billion, from $0.5 billion at May 21, 2009, to $2.2 billion at December 31, 2009 and by an additional $0.7 billion, to $2.9 billion, at December 31, 2010. Purchases of investment securities totaled $1.5 billion and $1.8 billion for the year ended December 31, 2010 and period ended December 31, 2009, respectively, offset by pay-downs, maturities and sales of $0.9 billion and $0.2 billion, respectively.

The following tables show, as of December 31, 2010 and December 31, 2009, the breakdown of Covered and non-Covered Securities in the Company's investment portfolio (*dollars in thousands*):

| | December 31, 2010 | | | | | | | |
|---|---|---|---|---|---|---|---|---|
| | Covered Securities | | | | Non-Covered Securities | | | |
| | | Gross Unrealized | | | | Gross Unrealized | | |
| | Amortized Cost | Gains | Losses | Fair Value | Amortized Cost | Gains | Losses | Fair Value |
| U.S. Government agency and sponsored enterprise residential mortgage-backed securities | $ | $ | $ | $ | $ 1,282,757 | $ 11,411 | $ (3,258) | $ 1,290,910 |
| Resecuritized real estate mortgage investment conduits ("Re-Remics") | | | | | 599,682 | 14,054 | (1,105) | 612,631 |
| Private label residential mortgage backed securities and CMO's | 181,337 | 61,679 | (1,726) | 241,290 | 138,759 | 2,906 | (35) | 141,630 |
| Non mortgage asset-backed securities | | | | | 407,158 | 1,908 | (72) | 408,994 |
| Mutual funds and preferred stocks | 16,382 | 57 | (922) | 15,517 | 120,107 | 3,402 | (491) | 123,018 |
| State and municipal obligations | | | | | 22,898 | 101 | (39) | 22,960 |
| Small Business Administration securities | | | | | 62,831 | 191 | (131) | 62,891 |
| Other debt securities | 3,695 | 3,066 | | 6,761 | | | | |
| Total | $ 201,414 | $ 64,802 | $ (2,648) | $ 263,568 | $ 2,634,192 | $ 33,973 | $ (5,131) | $ 2,663,034 |

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| | December 31, 2009 | | | | | | | |
|---|---|---|---|---|---|---|---|---|
| | Covered Securities | | | | Non-Covered Securities | | | |
| | | Gross Unrealized | | | | Gross Unrealized | | |
| | Amortized Cost | Gains | Losses | Fair Value | Amortized Cost | Gains | Losses | Fair Value |
| U.S. Treasury securities | $ | $ | $ | $ | $ 10,066 | $ 6 | $ | $ 10,072 |
| U.S. Government agency and sponsored enterprise residential mortgage-backed securities | | | | | 1,288,277 | 3,581 | (3,215) | 1,288,643 |
| Resecuritized real estate mortgage investment conduits ("Re-Remics") | | | | | 478,731 | 1,007 | (4,735) | 475,003 |
| Private label residential mortgage backed securities and CMO's | 201,149 | 51,285 | (480) | 251,954 | 118,616 | | (4,062) | 114,554 |
| Non mortgage asset-backed securities | | | | | 30,000 | | | 30,000 |
| Mutual funds and preferred stocks | 18,094 | 338 | (698) | 17,734 | 25,250 | 661 | (122) | 25,789 |
| State and municipal obligations | | | | | 22,964 | 143 | (1) | 23,106 |
| Other debt securities | 3,331 | 2,707 | | 6,038 | 250 | | | 250 |
| Total | $ 222,574 | $ 54,330 | $ (1,178) | $ 275,726 | $ 1,974,154 | $ 5,398 | $ (12,135) | $ 1,967,417 |

Covered securities include private label mortgage-backed securities and mortgage-backed security mutual funds, trust preferred collateralized debt obligations, Agency preferred stocks, and corporate securities covered under the non-residential Loss Sharing Agreement. BankUnited will be reimbursed 80%, or 95% if cumulative losses exceed the $4.0 billion stated threshold, of realized losses, other than temporary impairments, and reimbursable expenses associated with the Covered Securities. BankUnited must pay the FDIC 80%, or 95% if cumulative losses are greater than the stated threshold, of realized gains and other-than-temporary impairment recoveries. To date, the Company has not submitted any claims for reimbursement related to the Covered Securities.

The following table shows the composition, as of December 31, 2010, of securities added to the portfolio since the Acquisition (*dollars in millions*):

| | Fair Value |
|---|---|
| U.S. Government agency and sponsored enterprise residential mortgage-backed securities | $ 1,175,016 |
| Resecuritized real estate mortgage investment conduits ("Re-Remics") | 612,631 |
| Private label residential mortgage backed securities and CMO's | 141,630 |
| Non mortgage asset-backed securities | 408,994 |
| Mutual funds and preferred stocks | 123,018 |
| State and municipal obligations | 18,861 |
| Small business administration securities | 62,891 |
| Total | $ 2,543,041 |

The following table shows the scheduled maturities adjusted for anticipated prepayments of mortgage-backed and other pass through securities, carrying values and current yields for our investment portfolio as of December 31, 2010. Yields on tax-exempt securities have been calculated on a pre-tax basis (*dollars in thousands*):

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| | Within One Year | | After One Year Through Five Years | | After Five Years Through Ten Years | | After Ten Years | | Total | |
|---|---|---|---|---|---|---|---|---|---|---|
| | Carrying Value | Weighted Average Yield | Carrying Value | Weighted Average Yield | Carrying Value | Weighted Average Yield | Carrying Value | Weighted Average Yield | Carrying Value | Weighted Average Yield |
| U.S. Government agency and sponsored enterprise residential mortgage-backed securities | $ 270,174 | 1.74% | $ 607,571 | 1.62% | $ 291,397 | 1.63% | $ 121,768 | 1.62% | $ 1,290,910 | 1.65% |
| Resecuritized real estate mortgage investment conduits ("Re-Remics") | 206,020 | 4.96% | 370,232 | 4.39% | 36,379 | 4.51% | | 612,631 | 4.59% | |
| Private label residential mortgage backed securities and CMO's | 106,837 | 6.30% | 174,534 | 7.63% | 60,952 | 10.16% | 40,597 | 10.68% | 382,920 | 7.99% |
| Non mortgage asset-backed securities | 195,042 | 2.04% | 174,414 | 2.26% | 18,176 | 2.80% | 21,362 | 2.36% | 408,994 | 2.18% |
| State and municipal obligations | 6,858 | 0.20% | 15,512 | 2.15% | 274 | 6.96% | 316 | 3.82% | 22,960 | 1.65% |
| Small Business Administration securities | 6,290 | 2.81% | 19,465 | 2.91% | 22,751 | 2.96% | 14,385 | 3.10% | 62,891 | 2.96% |
| Other debt securities | | | | | | | 6,761 | 15.75% | 6,761 | 15.75% |
| | $ 791,221 | 3.26% | $ 1,361,728 | 3.25% | $ 429,929 | 3.20% | $ 205,189 | 4.06% | $ 2,788,067 | 3.31% |
| Mutual funds and preferred stocks with no scheduled maturity | | | | | | | | | 138,535 | 7.58% |
| Total investment securities available for sale | | | | | | | | | $ 2,926,602 | 3.39% |

The effective duration of the mortgage-backed securities portfolio as of December 31, 2010 is 1.0 years.

We evaluate the credit quality of individual securities in the portfolio quarterly to determine whether any of the investments in unrealized loss positions are other-than-temporarily impaired. This evaluation considers the duration and severity of impairment; collateral values and levels of subordination or over-collateralization; collateral performance; the credit rating, earnings performance and business prospects of the issuer and other relevant factors. We may consider factors that raise significant concerns about an issuer's ability to continue as a going concern such as negative cash flows from operations, working capital deficiencies, or non-compliance with statutory capital requirements or debt covenants. We may also consider adverse changes in the regulatory or economic environment as well as significant adverse changes in general market conditions of the geographic area or the industry in which individual issuers operate. We consider both our intent to sell investment securities and whether it is more likely than not that we will be required to sell the securities prior to recovery of amortized cost basis, which might be until maturity for debt securities or for a reasonable forecasted period of recovery for equity securities.

No securities were determined to be other-than-temporarily impaired during the year ended December 31, 2010 or the period ended December 31, 2009. Approximately 91.4% of the securities purchased since the Acquisition are agency-backed or currently rated AAA. At December 31, 2010, securities in unrealized loss positions included U.S. Government agency and sponsored enterprise mortgage-backed securities with total unrealized losses of $3.3 million, private label residential mortgage backed securities and collateralized mortgage obligations, or "CMO's," with total unrealized losses of $1.8 million, Re-Remics with total unrealized losses of $1.1 million, mutual funds and preferred stocks with total unrealized losses of $1.4 million and other securities in unrealized loss positions totaling $0.2 million. At December 31, 2009, securities in significant unrealized loss positions

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included U.S. Government agency mortgage-backed securities with total unrealized losses of $3.2 million, Re-Remics with total unrealized losses of $4.7 million, private label residential mortgage backed securities and CMO's with total unrealized losses of $4.5 million and mutual funds and preferred stocks with total unrealized losses of $0.8 million. All of these securities had been in unrealized loss positions for less than twelve months at December 31, 2010 and at December 31, 2009.

The timely repayment of principal and interest on the U.S. Government agency and sponsored enterprise mortgage-backed securities is either explicitly or implicitly guaranteed by the full faith and credit of the U.S. Government. Management engaged a third party to perform projected cash flow analyses of the private-label mortgage-backed securities and Re-Remics, incorporating CUSIP level collateral default rate, voluntary prepayment rate, severity and delinquency assumptions. Based on the results of this analysis, no credit losses were projected. We do not intend to sell these securities and it is not more likely than not that we will be required to sell them before recovery of their amortized cost basis. Given the expectation of timely repayment of principal and the limited duration and severity of impairment, we concluded that none of the debt securities were other-than-temporarily impaired. Given the results of our analysis of the underlying issuers and the limited duration and severity of impairment, we considered the impairment of the equity securities to be temporary.

As a member institution of the Federal Home Loan Bank of Atlanta, BankUnited is required to own capital stock in the FHLB. No market exists for this stock, and the Bank's investment can be liquidated only through repurchase by the FHLB. During the year ended December 31, 2010, $25.9 million of FHLB stock was redeemed at par. The Company monitors its investment in FHLB stock for impairment through review of recent financial results, dividend payment history and information from credit agencies. As of December 31, 2010, management had not identified any indicators of impairment of FHLB stock.

*Loan Portfolio*

The loan portfolio comprises the Company's primary interest-earning asset. At December 31, 2010 and December 31, 2009, respectively, 92.3% and 98.4% of real estate loans and 86.3% and 97.3% of total loans were Covered Loans. The following table shows the composition of the Company's loan

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portfolio and the breakdown of the portfolio between covered ACI loans, covered non-ACI loans and non-Covered Loans at the dates indicated (*dollars in thousands*):

| | December 31, 2010 | | | | | December 31, 2009 | | | | |
|---|---|---|---|---|---|---|---|---|---|---|
| | Covered Loans | | Non-Covered Loans | Total Loans | % of Total | Covered Loans | | Non-Covered Loans | Total Loans | % of Total |
| | ACI | Non-ACI | | | | ACI | Non-ACI | | | |
| Real Estate Loans: | | | | | | | | | | |
| 1-4 single family residential | $ 2,421,016 | $ 151,945 | $ 113,439 | $ 2,686,400 | 67.5% | $ 3,306,306 | $ 184,669 | $ 43,110 | $ 3,534,085 | 76.0% |
| Home equity loans and lines of credit | 98,599 | 206,797 | 2,255 | 307,651 | 7.7% | 113,578 | 215,591 | 1,615 | 330,784 | 7.1% |
| Multi-family | 73,015 | 5,548 | 34,271 | 112,834 | 2.8% | 71,321 | 4,971 | 700 | 76,992 | 1.7% |
| Commercial real estate | 299,068 | 33,938 | 118,857 | 451,863 | 11.4% | 363,965 | 39,733 | 24,460 | 428,158 | 9.2% |
| Construction | 8,267 | | 8,582 | 16,849 | 0.4% | 44,812 | 377 | | 45,189 | 1.0% |
| Land | 48,251 | 170 | 1,873 | 50,294 | 1.3% | 43,903 | 173 | | 44,076 | 0.9% |
| Total | 2,948,216 | 398,398 | 279,277 | 3,625,891 | 91.1% | 3,943,885 | 445,514 | 69,885 | 4,459,284 | 95.9% |
| Other Loans: | | | | | | | | | | |
| Commercial and industrial | 49,731 | 30,139 | 213,626 | 293,496 | 7.4% | 81,765 | 48,635 | 51,565 | 181,965 | 3.9% |
| Lease financing | | | 52,960 | 52,960 | 1.3% | | | | | 0.0% |
| Consumer | 4,403 | | 3,056 | 7,459 | 0.2% | 7,065 | | 3,151 | 10,216 | 0.2% |
| Total | 54,134 | 30,139 | 269,642 | 353,915 | 8.9% | 88,830 | 48,635 | 54,716 | 192,181 | 4.1% |
| Total loans | 3,002,350 | 428,537 | 548,919 | 3,979,806 | 100.0% | 4,032,715 | 494,149 | 124,601 | 4,651,465 | 100.0% |
| Unearned discount and deferred fees and costs, net | | (34,840) | (10,749) | (45,589) | | | (39,986) | 40 | (39,946) | |
| Loans net of discount and deferred fees and costs | 3,002,350 | 393,697 | 538,170 | 3,934,217 | | 4,032,715 | 454,163 | 124,641 | 4,611,519 | |
| Allowance for loan losses | (39,925) | (12,284) | (6,151) | (58,360) | | (20,021) | (1,266) | (1,334) | (22,621) | |
| Loans, net | $ 2,962,425 | $ 381,413 | $ 532,019 | $ 3,875,857 | | $ 4,012,694 | $ 452,897 | $ 123,307 | $ 4,588,898 | |

*Residential Mortgages*

The portfolio contains option ARM, "no-doc" or "reduced-doc" and wholesale production loans originated by the Failed Bank prior to the Acquisition. All of these loans are Covered Loans; therefore, the Company's exposure to future losses on these mortgage loans is mitigated by the Loss Sharing Agreements as well as by the fair value basis recorded in these loans resulting from the application of acquisition accounting. Loans secured by residential real estate have consistently represented the majority of the total loan portfolio. The Covered Loan portfolio includes Covered Loans which have been modified by us under HAMP, or other loan modification programs.

The non-covered residential loan portfolio includes loans originated and purchased post-Acquisition. Subsequent to the Acquisition, we shut down the broker origination channel of the Failed Bank and we launched our retail-focused origination platform at the end of 2009. We currently originate residential mortgage loans with terms ranging from 10 to 40 years, with either fixed or adjustable interest rates, primarily to customers in the state of Florida. Newly originated residential mortgage loans are primarily closed-end first lien loans for the purchase or re-finance of owner occupied property. At December 31, 2010, $28.9 million, or 25.6%, of our non-Covered one-to-four single family residential loan portfolio were originated loans. Significantly all of our newly originated residential mortgage loans are not refinancings of Covered Loans.

We have decided to purchase loans to supplement our nascent mortgage origination platform and to geographically diversify our loan portfolio given the current credit environment of the non-agency mortgage market in Florida. At December 31, 2010, $84.5 million, or 74.4%, of our non-Covered residential loan portfolio were purchased loans.

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One-to-four single family residential mortgages totaled $2.7 billion, or 67.5%, of the portfolio and $3.5 billion, or 76.0%, of the portfolio at December 31, 2010 and December 31, 2009, respectively. The decline in this portfolio segment subsequent to the Acquisition, both in total and as a percentage of loans, is primarily a result of the resolution of Covered Loans and transfers to OREO.

The following table presents a breakdown of the 1-4 single family residential mortgage portfolio categorized between fixed rate and adjustable rate mortgages at the dates indicated (*dollars in thousands*):

| | December 31, 2010 | | | | December 31, 2009 | | | |
|---|---|---|---|---|---|---|---|---|
| | Covered Loans | Non-Covered Loans | Total | % of Total | Covered Loans | Non-Covered Loans | Total | % of Total |
| 1-4 Fixed rate loans | $ 653,814 | $ 72,067 | $ 725,881 | 27.0% | $ 645,871 | $ 42,577 | $ 688,448 | 19.5% |
| ARM Loans | 1,919,147 | 41,372 | 1,960,519 | 73.0% | 2,845,104 | 533 | 2,845,637 | 80.5% |
| Total(1) | $ 2,572,961 | $ 113,439 | $ 2,686,400 | 100.0% | $ 3,490,975 | $ 43,110 | $ 3,534,085 | 100.0% |

(1) Before deferred fees and costs, unearned discounts, premiums and the allowance for loan losses.

Included in ARM loans above are payment option ARMs representing 32.1% and 46.8% of total one-to-four single family residential loans outstanding as of December 31, 2010 and 2009, respectively. All of the option ARMs are Covered Loans.

At December 31, 2010 and 2009, based on unpaid principal balance, the majority of the 1-4 single family residential loans outstanding were to customers domiciled in the following states (*dollars in thousands*):

| | December 31, 2010 | | December 31, 2009 | |
|---|---|---|---|---|
| | Amount | % | Amount | % |
| Florida | $ 3,772,764 | 57.9% | $ 4,663,822 | 56.8% |
| California | 451,578 | 6.9% | 667,672 | 8.1% |
| New Jersey | 381,198 | 5.8% | 466,007 | 5.7% |
| Illinois | 377,975 | 5.8% | 459,755 | 5.6% |
| Arizona | 256,979 | 3.9% | 400,096 | 4.9% |
| Others | 1,280,379 | 19.7% | 1,547,180 | 18.9% |
| | $ 6,520,873 | 100.0% | $ 8,204,532 | 100.0% |

No other state represented borrowers with more than 4% of 1-4 single family residential loans outstanding at December 31, 2010.

*Other Loans*

Other loans include commercial real estate, commercial and consumer loans.

Commercial real estate loans include term loans secured by income producing properties including rental apartments, industrial properties, retail shopping centers, office buildings and hotels as well as real estate secured lines of credit and acquisition, development and construction loans. Commercial real estate loans typically have shorter repayment periods and reprice more frequently than 1-4 single family residential loans. The Company's underwriting standards generally provide for loan terms of five years, with amortization schedules of no more than twenty-five years. Loan to value, or LTV, ratios are typically limited to no more than 80%. In addition, the Company usually obtains personal guarantees of the principals as additional security for most commercial real estate loans.

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Commercial loans are typically made to growing companies and middle market businesses and include equipment loans, working capital lines of credit, asset-backed loans, acquisition finance credit facilities, lease financing and Small Business Administration product offerings. These loans may be structured as term loans, typically with maturities of five years or less, or revolving lines of credit which typically mature annually.

Since the Acquisition, management's loan origination strategy has been more heavily focused on the commercial and commercial real estate portfolio segments, which collectively comprise 78.4% of loans originated or purchased since the Acquisition as of December 31, 2010. In addition, significantly all of our newly originated loans are not refinancings of Covered Loans.

Consumer loans include loans secured by certificates of deposit, auto loans, demand deposit account overdrafts and unsecured personal lines of credit.

The following table sets forth, as of December 31, 2010, the anticipated repayments of our loan portfolio by category, based on UPB. Anticipated repayments are based on contractual maturities adjusted for an estimated rate of prepayments and defaults based on historical trends, current interest rates, types of loans and refinance patterns (*dollars in thousands*):

| | One Year or Less | Due in After One Through Five Years | After Five Years | Total |
|---|---|---|---|---|
| Real Estate Loans: | | | | |
| 1-4 single family residential | $ 953,036 | $ 3,520,737 | $ 2,047,100 | $ 6,520,873 |
| Home equity loans and lines of credit | 68,718 | 185,407 | 168,574 | 422,699 |
| Multi-family | 24,467 | 119,750 | 4,308 | 148,525 |
| Commercial real estate | 83,619 | 475,614 | 45,878 | 605,111 |
| Construction | 10,825 | 16,208 | 6,732 | 33,765 |
| Land | 35,785 | 45,095 | 241 | 81,121 |
| Total real estate loans | 1,176,450 | 4,362,811 | 2,272,833 | 7,812,094 |
| Other Loans | | | | |
| Commercial | 82,255 | 180,315 | 36,850 | 299,420 |
| Consumer | 3,655 | 4,007 | 1,076 | 8,738 |
| Lease financing | 15,528 | 35,386 | 2,046 | 52,960 |
| Total other loans | 101,438 | 219,708 | 39,972 | 361,118 |
| Total loans | $ 1,277,888 | $ 4,582,519 | $ 2,312,805 | $ 8,173,212 |

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The following table shows the distribution of UPB of those loans that mature in more than one year between fixed and adjustable interest rate loans as of December 31, 2010 (*dollars in thousands*):

| | Interest Rate Type | | |
|---|---|---|---|
| | **Fixed** | **Adjustable** | **Total** |
| Real Estate Loans | | | |
| 1-4 single family residential | $ 1,254,886 | $ 4,312,951 | $ 5,567,837 |
| Home equity loans and lines of credit | 40,331 | 313,650 | 353,981 |
| Multi-family | 49,788 | 74,270 | 124,058 |
| Commercial real estate | 261,863 | 259,629 | 521,492 |
| Construction | 669 | 22,271 | 22,940 |
| Land | 6,466 | 38,870 | 45,336 |
| Total real estate loans | 1,614,003 | 5,021,641 | 6,635,644 |
| Other Loans | | | |
| Commercial | 39,049 | 178,116 | 217,165 |
| Lease financing | 37,432 | | 37,432 |
| Consumer | 3,579 | 1,504 | 5,083 |
| Total other loans | 80,060 | 179,620 | 259,680 |
| Total loans | $ 1,694,063 | $ 5,201,261 | $ 6,895,324 |

***Asset Quality***

We recognize that developing and maintaining a strong credit culture is paramount to the success of the Company. We have established a credit risk management framework and put in place an experienced team to lead the workout and recovery process for the commercial and commercial real estate portfolios. We have also implemented a dedicated internal loan review function that reports directly to our Audit Committee. We have an experienced resolution team in place for covered residential mortgage loans, and have implemented outsourcing arrangements with industry leading firms in certain areas such as OREO resolution.

Loan performance is monitored by our credit, workout and recovery and loan review departments. Commercial and commercial real estate loans are regularly reviewed by our internal loan review department. The Company utilizes an asset risk classification system as part of its efforts to monitor and improve commercial asset quality. Borrowers with credit weaknesses that may jeopardize collectability will likely demonstrate one or more of the following: payment defaults, frequent overdrafts, operating losses, increasing balance sheet leverage, inadequate cash flow, project cost over-runs, unreasonable construction delays, exhausted interest reserves, past due real estate taxes or declining collateral values. Generally, a loan with one or more of these identified weaknesses will be classified substandard. Loans that have credit weaknesses that render collection or liquidation in full highly questionable or improbable based on current circumstances are classified doubtful. Loans exhibiting potential credit weaknesses that deserve management's close attention and that if left uncorrected may result in deterioration of the repayment capacity of the borrower are categorized as special mention.

*Non-Covered Loans*

At December 31, 2010, twenty non-Covered commercial loans aggregating $9.0 million were rated special mention and twelve non-Covered commercial loans aggregating $5.9 million were classified substandard. At December 31, 2009, no non-Covered commercial loans were rated special mention and none were adversely classified.

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There were no delinquencies in the non-covered residential mortgage or home equity loan portfolios as of December 31, 2010 or December 31, 2009.

The majority of our non-covered residential mortgage portfolio consists of purchased loans. The credit parameters for purchasing loans are similar to the underwriting guidelines in place for our mortgage origination platform. For purchasing seasoned loans, good payment history is needed. In general, we purchase performing jumbo mortgage pools which have average FICO scores above 700, primarily are owner-occupied and full documentation, and have a current LTV less than 80%. We perform due diligence on the purchased loans for credit, compliance, counterparty, payment history and property valuation.

At December 31, 2010, the purchased loan portfolio had the following characteristics: 56.9% were fixed rate loans, 90.7% were full documentation and had an average FICO score of 754 and average LTV of 71.8%. The majority of this portfolio was owner-occupied, with 88.5% primary residence and 11.5% second homes. In terms of vintage, 14.0% of the portfolio was originated pre 2007, 5.4% in 2007, 48.9% in 2008, 19.2% in 2009 and 12.6% in 2010.

Similarly, the originated loan portfolio had the following characteristics at December 31, 2010: 83.9% were fixed rate loans, 100% were full documentation and had an average FICO score of 780 and average LTV of 62.1%. The majority of this portfolio was owner-occupied, with 94.2% primary residence and 5.8% second home. In terms of vintage, 18.4% of the portfolio was originated in 2009 and 81.6% in 2010.

Delinquent consumer loans in the originated portfolio were insignificant as of December 31, 2010 and December 31, 2009.

*Covered Loans*

Covered Loans consist of both ACI loans and non-ACI loans. At December 31, 2010, ACI loans totaled $3.0 billion and non-ACI loans totaled $0.4 billion. Covered 1-4 single family residential loans were placed into homogenous pools at Acquisition and the ongoing credit quality and performance of these loans is monitored on a pool basis. At Acquisition, the fair value of the pools was measured based on the expected cash flows to be derived from each pool. Initial cash flow expectations incorporated significant assumptions regarding prepayment rates, frequency of default and loss severity. For ACI pools, the difference between total contractual payments due and the cash flows expected to be received at Acquisition was recognized as non-accretable difference. The excess of expected cash flows over the recorded fair value of each ACI pool at Acquisition, known as the accretable yield, is being recognized as interest income over the life of each pool. We monitor the pools quarterly to determine whether any material changes have occurred in expected cash flows that would be indicative of impairment or necessitate reclassification between non-accretable difference and accretable yield. Generally, improvements in expected cash flows less than 1% of the expected cash flows from a pool are not recorded. This threshold may be revised as we gain greater experience. Generally, commercial and commercial real estate loans are monitored individually due to their size and other unique characteristics.

Residential mortgage loans, including home equity loans, comprised 87.8% of the UPB of the acquired loan portfolio at the Acquisition date. We performed a detailed analysis of the portfolio to determine the key loan characteristics influencing performance. Key characteristics influencing the performance of the residential mortgage portfolio, including home equity loans, were determined to be delinquency status; product type, in particular, amortizing as opposed to option ARM products; current indexed LTV ratio; and original FICO score. The ACI loans in the residential mortgage portfolio were grouped into ten homogenous static pools based on these characteristics, and the non-ACI residential loans were grouped into two homogenous static pools. There were other variables which we initially expected to have a significant influence on performance and which were considered in our analysis;

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however, the results of our analysis demonstrated that their impact was less significant after controlling for current indexed LTV, product type, and FICO score. Therefore, these additional factors were not used in grouping the covered residential loans into pools and are not used in monitoring ongoing asset quality of the pools. The factors we considered but determined not to be significant included the level and type of documentation required at origination, i.e., whether a loan was originated under full documentation, reduced documentation, or no documentation programs; occupancy, defined as owner occupied vs. non-owner occupied collateral properties; geography; and vintage, i.e., year of origination.

1-4 single family residential non-ACI loans had an aggregate UPB of $212.8 million as of May 21, 2009. As of December 31, 2010, 28.6% of the UPB had been repaid, demonstrating the intent and ability of borrowers in this group to satisfy their mortgage obligations.

At December 31, 2010, 27.2% of the total UPB of the covered 1-4 single family residential loans was contractually delinquent by 60 days or more. However, future losses to the Company related to these loans are significantly mitigated by the Loss Sharing Agreements with the FDIC.

Covered home equity loans and lines of credit had a carrying amount of $305.4 million at December 31, 2010, including ACI loans of $98.6 million and non-ACI loans of $206.8 million. At December 31, 2010, 12.3% of covered home equity loans and lines of credit were 60 days or more contractually delinquent. Of the ACI home equity portfolio, 19.0% was 60 days or more contractually delinquent while 5.7% of the non-ACI portfolio was 60 days or more delinquent. Losses related to these loans are significantly mitigated by the Loss Sharing Agreements.

Commercial and other Covered Loans were stratified at Acquisition based primarily on product/collateral type and delinquency status. Ongoing asset quality of significant commercial and commercial real estate loans is monitored on an individual basis through the Company's regular credit review and risk rating process. Homogenous groups of smaller balance commercial and consumer loans are monitored collectively.

At December 31, 2010, non-ACI commercial and other loans had an aggregate UPB of $30.1 million and a carrying value, net of discounts of $28.5 million. Non-ACI commercial and other loans had an aggregate UPB of $48.6 million at December 31, 2009. The majority of these loans were rated "pass" or "good" at December 31, 2010 and December 31, 2009 and the portfolio segment has limited delinquency history. At December 31, 2010, 31 loans with a carrying value totaling $12.7 million were rated special mention and 47 loans with a carrying value totaling $8.7 million were rated substandard.

*Impaired Loans and Non-Performing Assets*

Non-performing assets consist of (i) non-accrual loans, including loans that have been restructured and placed on nonaccrual status because of deterioration in the financial condition of the borrower, (ii) accruing loans that are more than 90 days contractually past due as to interest or principal, excluding ACI loans, and (iii) OREO. Impaired loans also include ACI loans for which expected cash flows have been revised downward since Acquisition. Because of discount accretion, these loans have not been classified as nonaccrual loans and we do not consider them to be non-performing assets. As of December 31, 2010 and December 31, 2009, substantially all of the nonaccrual loans and all of the OREO are Covered Assets. Five commercial loans originated since the Acquisition with a balance of approximately $3.2 million were on nonaccrual status at December 31, 2010. There are no other loans originated since the Acquisition that fall within these categories. The Company's exposure to loss related to Covered Assets is significantly mitigated by the Loss Sharing Agreements with the FDIC and by the fair value basis recorded in these loans resulting from the application of acquisition accounting.

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The following table summarizes the Company's impaired loans and other non-performing assets at the dates indicated (*dollars in thousands*):

| | December 31, 2010 | December 31, 2009 |
|---|---|---|
| Nonaccrual loans | | |
| Real Estate Loans | | |
| 1-4 single family residential | $ 9,585 | $ 14,495 |
| Home equity loans and lines of credit | 10,817 | 2,726 |
| Multi-family | 200 | |
| Commercial real estate | 75 | |
| Construction | | |
| Land | | |
| Total real estate loans | 20,677 | 17,221 |
| Other loans | | |
| Commercial | 5,106 | 150 |
| Consumer | | |
| Total commercial and consumer loans | 5,106 | 150 |
| Total nonaccrual loans | 25,783 | 17,371 |
| Non-Covered and non-ACI loans 90 days or more past due still accruing | | |
| Total non-performing loans | 25,783 | 17,371 |
| OREO | 206,680 | 120,110 |
| Total non-performing assets | 232,463 | 137,481 |
| Impaired ACI loans on accrual status | 262,130 | 567,253 |
| Total impaired loans and non-performing assets | $ 494,593 | $ 704,734 |
| Non-performing loans to total loans(1) | 0.66% | 0.38% |
| Nonperforming assets to total assets | 2.14% | 1.24% |
| Allowance for loan losses to total loans(1) | 1.48% | 0.49% |
| Allowance for loan losses to non-performing loans | 226.35% | 130.22% |
| Net charge-offs to average loans | 0.37% | 0.00% |

(1) Total loans for purposes of calculating these ratios is net of unearned discounts and deferred fees and costs.

At December 31, 2010 and December 31, 2009, substantially all of the nonaccrual loans consist of non-ACI loans that have been placed on nonaccrual status. Contractually delinquent ACI loans are not reflected as nonaccrual loans because the discount continues to be accreted. Discount accretion continues to be recorded as there continues to be an expectation of future cash flows in excess of carrying amount from these loans. The carrying value of ACI loans contractually delinquent by more than 90 days but still accruing was $0.7 billion and $1.2 billion at December 31, 2010 and December 31, 2009, respectively.

Non-performing assets reported for the post-Acquisition periods are substantially lower than non-performing assets for the pre-Acquisition periods primarily due to the recording of these assets at their fair value in conjunction with the application of acquisition accounting and the fact that ACI loans are no longer reflected as nonaccrual loans as discussed above. The lower ratio of the allowance for loan losses to total loans at dates subsequent to the Acquisition is a direct result of the fact that no allowance was initially recorded with respect to the acquired loans. Rather, the estimated fair value at which these loans were initially recorded incorporated significant assumptions related to credit quality and default probabilities. Due to the foregoing factors, the ratios presented in the table above may lack comparability to those of our peers.

Except for ACI loans, loans are placed on nonaccrual status when (i) management has determined that full payment of all contractual principal and interest is in doubt, or (ii) the loan is past due 90 days or more as to principal and/or interest, unless the loan is well-secured and in the process of collection. Residential and consumer loans not accounted for in pools are returned to accrual status as of the date the loan is no longer delinquent in excess of 90 days and ultimate collectability is assured. Commercial real estate and commercial loans are returned to accruing status only after all past due principal and interest have been collected. Except for ACI loans accounted for in pools, loans that are the subject of troubled debt restructurings are placed on nonaccrual status at the time of the modification unless the borrower has no history of missed payments for six months prior to the restructuring. If borrowers perform pursuant to the modified loan terms for at least six months and the remaining loan balances are considered collectable, the loans are returned to accrual status. Interest income foregone on nonaccrual loans amounted to $0.6 million for the year ended December 31, 2010 and to $0.6 million for period ended December 31, 2009. Interest income reversed due to loans being placed on nonaccrual status amounted to $175.6 thousand and $77.0 thousand for the year ended December 31, 2010 and period ending December 31, 2009, respectively.

A loan modification is considered a troubled debt restructuring if the Company, for economic or legal reasons related to the borrower's financial difficulties, grants a concession to the borrower that the Company would not otherwise grant. These concessions may take the form of temporarily or permanently reduced interest rates, payment abatement periods, extensions of maturity, or in some cases, partial forgiveness of principal. Under generally accepted accounting principles, modified ACI loans accounted for in pools are not considered troubled debt restructurings and are not separated from their respective pools when modified. As of December 31, 2010, there were three commercial ACI relationships with a total carrying value of $2.4 million that were the subject of troubled debt restructurings. There were no non-ACI loans or non-Covered Loans that were the subject of troubled debt restructurings.

Commercial and commercial real estate loans are charged off when, in management's judgment, the carrying amount of the loan is not collectible. Residential real estate loans and secured consumer loans are typically charged off when they become 120 to 180 days past due, depending on the collateral type. Secured loans may be written down to the fair value of the collateral less estimated disposition costs. Unsecured consumer loans are generally charged off when they become 90 days past due. Home equity loans and lines of credit are fully reserved for when they become 120 days past due, and generally fully charged off at or before reaching 270 days delinquency.

*Loss Mitigation Strategies*

Although our exposure to loss on Covered Assets is mitigated by the Loss Sharing Agreements, we have implemented strategies designed to minimize losses on these assets. We have increased the quality and experience level of our workout and recovery and mortgage servicing departments. We evaluate each ACI loan to determine the most effective loss mitigation strategy, which may be modification, short sale, or foreclosure. In 2009, we began loan modifications under HAMP for eligible borrowers in the residential ACI portfolio. HAMP is a uniform loan modification process that provides eligible borrowers with sustainable monthly mortgage payments equal to a target 31% of their gross monthly income. As of December 31, 2010, 8,373 borrowers had been counseled regarding their participation in HAMP; 5,987 of those borrowers were initially determined to be potentially eligible for loan modifications under the program. As of December 31, 2010, 1,608 borrowers who did not elect to participate in the program had been sent termination letters and 1,276 borrowers had been denied due to ineligibility. At December 31, 2010, there were 2,234 permanent loan modifications and 198 active trial modifications.

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***Other Real Estate Owned***

All of the OREO properties owned by the Company are Covered Assets. The following table presents the changes in OREO for the year ended December 31, 2010 and period ending December 31, 2009 (*dollars in thousands*):

| | December 31, 2010 | December 31, 2009 |
|---|---|---|
| Balance, beginning of period | $ 120,110 | $ 177,679 |
| Transfers from loan portfolio | 401,763 | 115,192 |
| (Decrease) increase from resolution of Covered Loans | (9,530) | 25,702 |
| Sales | (289,532) | (177,408) |
| Impairment | (16,131) | (21,055) |
| Balance, end of period | $ 206,680 | $ 120,110 |

The majority of our OREO properties are located in the state of Florida. At December 31, 2010, 50.9% of properties were located in Florida, 12.5% in California, 7.2% in Illinois, 6.8% in Arizona and 4.2% in New Jersey.

***Analysis of the Allowance for Loan Losses***

The allowance for loan losses at dates subsequent to the Acquisition relates to (i) loans originated or purchased since the Acquisition, (ii) estimated additional losses arising on non-ACI loans subsequent to the Acquisition, and (iii) additional impairment recognized as a result of decreases in expected cash flows on ACI loans due to further credit deterioration. The impact of any additional provision for losses on Covered Loans is significantly mitigated by an increase in the FDIC indemnification asset.

*Non-Covered and non-ACI Loans*

Based on an analysis of historical performance of the non-ACI residential mortgage and home equity portfolio, OREO and short sale losses and recent trending data, we have concluded that changes in LTV ratios and FICO scores are the leading indicators of performance for this portfolio. The non-ACI residential mortgage portfolio has therefore been divided into homogenous pools based on LTV and FICO score for purposes of calculating the allowance for loan losses. Calculated frequency of roll to loss and severity percentages are applied to the dollar value of loans in each pool to calculate an overall loss allowance. FICO scores are refreshed quarterly and LTV ratios are updated using the Case-Shiller quarterly MSA Home Price Index to adjust the original appraised value of the underlying collateral. Frequency is calculated for each pool using a four month roll to loss percentage, based on the assumption that if an event has occurred with a borrower that will ultimately result in a loss, this will manifest itself as a loan in default and in process of foreclosure within four months. Loss severity given default is estimated based on internal data about OREO sales and short sales from the portfolio.

Due to the lack of similarity between the risk characteristics of non-Covered Loans and Covered Loans in the residential and home equity loan portfolios, management does not believe it is appropriate to use the historical performance of the Failed Bank's residential mortgage portfolio as a basis for calculating the allowance for loan losses applicable to non-Covered Loans. The portfolio of loans originated and purchased since the Acquisition is not seasoned and has not yet developed an observable loss trend. Therefore, the allowance for loan losses for non-covered residential loans is based primarily on management's assessment of the risk of default and on the OTS Charge-Off Rates. We believe use of the twelve quarter average to be appropriate for this portfolio since it takes into account periods of both economic growth and serious economic contraction.

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The allowance for non-covered and non-ACI commercial loans is based primarily on the Bank's internal credit risk rating system, the OTS Charge-Off Rates, and management's assessment of portfolio risk characteristics. The allowance is comprised of specific reserves for significant and classified loans that are individually evaluated and determined to be impaired as well as general reserves for individually evaluated loans determined not to be impaired and smaller balance, non-classified loans. For all commercial and commercial real estate exposures graded substandard or doubtful with committed credit facilities greater than or equal to $1,000,000, a quarterly net realizable value analysis is prepared by the credit, workout and recovery and loan review departments. This analysis forms the basis for specific reserves. Since the originated portfolio is not yet seasoned enough to exhibit a loss trend and the non-ACI portfolio has limited delinquency statistics, we currently use the OTS Charge-Off Rates and management's assessment of risk characteristics by portfolio segment in determining the appropriate general reserve percentages. We believe that loans rated special mention or substandard that are not determined to be individually impaired exhibit characteristics indicative of a heightened level of credit risk. Management may therefore augment general reserve percentages for loans in these categories.

Since the non-covered portfolio is not yet seasoned enough to exhibit a loss trend, the allowance for non-covered and non-ACI consumer loans is based primarily on the OTS Charge-Off Rates and management's assessment of portfolio risk characteristics.

In addition to the quantitative calculations described above, a dollar value adjustment is made to the allowance for relevant qualitative factors when there is a material observable trend in those factors not already taken into account in the quantitative calculations. Qualitative factors that may result in an adjustment to the allowance include: levels of and trends in delinquencies and impaired loans; levels of and trends in recoveries of prior charge-offs; trends in volume, type and terms of loans; effects of changes in lending policies and procedures; experience, ability and depth of lending management, loan review and workout and recovery staff; credit concentrations; national, regional and local economic trends; housing and banking industry conditions and trends; emerging trends for particular loan types; and strategic initiatives of the Company that may impact loan performance.

For non-ACI loans, the allowance is calculated based on UPB. The total of UPB, less the calculated allowance, is then compared to the carrying amount of the loans. If the calculated balance net of the allowance is less than the carrying amount, an additional allowance is established. Any such increase in the allowance for non-ACI loans will result in a corresponding increase in the FDIC indemnification asset. For the year ended December 31, 2010 and the period ended December 31, 2009, we recorded a provision for non-ACI loans of $12.6 million and $1.3 million, respectively.

*ACI Loans*

For ACI loans, a valuation allowance is established when periodic evaluations of expected cash flows reflect a decrease from the level of cash flows that were estimated to be collected at Acquisition plus any additional expected cash flows arising from revisions in those estimates. We perform a quarterly analysis of expected cash flows for ACI loans.

The analysis of expected cash flows for residential ACI pools incorporates updated pool level expected prepayment rates, default rates, and delinquency levels, and loan level loss severity given default assumptions. Prepayment, delinquency and default curves used for this purpose are derived from roll rates generated from the historical performance of the ACI residential loan portfolio observed over the immediately preceding four quarters. Given the static nature of the pools and unique characteristics of the loans, we believe that regularly updated historical information from the Company's own portfolio is the best available indicator of future performance. Estimates of default probability and severity of loss given default also incorporate updated LTV ratios. Historic and projected values for the Case-Shiller Home Price Index for the relevant MSA are utilized at the

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individual loan level to project current and future property values. Costs and fees represent an additional component of loss on default, and are projected using the "Making Home Affordable" cost factors provided by the Federal government.

Our analysis at December 31, 2009 indicated a decrease in expected cash flows due to credit related assumptions related to two ACI residential mortgage pools; therefore, a provision for loan losses of $20.0 million was recorded, along with a corresponding increase in the FDIC indemnification asset of $14.4 million. As of December 31, 2010, our analysis evidenced a significant improvement in expected cash flows related to these two ACI residential pools and an offsetting decrease in expected cash flows due to credit related assumptions related to the ACI home equity loan pool. As a result, the $20.0 million allowance established at December 31, 2009 related to ACI residential pools, along with the increase in the FDIC indemnification asset of $14.4 million, was reversed, and a provision for loan losses of $18.5 million, along with a corresponding increase in the FDIC indemnification asset of $14.0 million, was recorded related to the pooled home equity ACI loans during the year ended December 31, 2010.

The primary assumptions underlying estimates of expected cash flows for commercial and other loans are default probability and severity of loss given default. Updated assumptions for large balance and delinquent loans in the commercial and commercial real estate ACI portfolios are based on net realizable value analyses prepared at the individual loan level by the Company's workout and recovery department. Updated assumptions for smaller balance commercial loans are based on a combination of the Company's own historical delinquency data and industry level delinquency data. Delinquency data is used as a proxy for defaults as the Company's experience has been that few of these loans return to performing status after being delinquent greater than 60 days. An additional multiplier is also applied in developing assumptions for loans rated special mention, substandard, or doubtful based on the Company's historical loss experience with classified loans. Cash flow estimates for consumer loan pools are based primarily on regularly updated historical performance information.

For the period ended December 31, 2009, there were no decreases in expected cash flows for commercial and other ACI loans; therefore, no allowance for loan losses was provided related to these loans. For the year ended December 31, 2010, our analysis indicated a decrease in expected cash flows from certain ACI commercial and commercial real estate loans evaluated individually for credit impairment, resulting in a provision for loan losses of $35.5 million related to these ACI loans. An increase in the FDIC indemnification asset of $19.9 million was recorded related to this provision.

In the aggregate, the provision for losses related to ACI loans was $33.9 million for the year ended December 31, 2010, comprised of the $20.0 million reversal and the provisions of $18.5 million and $35.5 million discussed above.

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The following table provides an analysis of the allowance for loan losses, provision for loan losses, and net charge-offs for the periods indicated (*dollars in thousands*):

| | Year Ended December 31, 2010 | Period from May 22, 2009 to December 31, 2009 |
|---|---|---|
| Allowance for loan losses, beginning of period | $ 22,621 | $ |
| Provision for loan losses: | | |
| Provision for losses on covered ACI loans | 33,928 | 20,021 |
| Provision for losses on covered non-ACI loans | 12,553 | 1,266 |
| Provision for losses on non-Covered Loans | 4,926 | 1,334 |
| Total provision for loan losses | 51,407 | 22,621 |
| Charge-offs: | | |
| 1-4 single family residential | | |
| Home equity loans and lines of credit | (1,125) | |
| Multi-family | (1,580) | |
| Commercial real estate | (3,274) | |
| Construction | (4,957) | |
| Land | (3,441) | |
| Commercial | (1,076) | |
| Lease financing | | |
| Consumer | (215) | |
| Total charge-offs | (15,668) | |
| Total recoveries | | |
| Net charge-offs | (15,668) | |
| Allowance for loan losses, end of period | $ 58,360 | $ 22,621 |
| Increase in the indemnification asset related to the provision for loan losses on Covered Loans | $ 29,291 | $ 14,433 |
| Ratio of net charge-offs to average loans receivable outstanding during the period(1) | 0.37% | 0.00% |

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The following table shows the distribution of the allowance for loan losses, broken out between Covered and non-Covered Loans, as of December 31, 2010 and December 31, 2009 (*dollars in thousands*):

| | At December 31, 2010 | | | | | At December 31, 2009 | | | | |
|---|---|---|---|---|---|---|---|---|---|---|
| | Covered | | | | | Covered | | | | |
| | ACI | Non-ACI | Non-Covered | Total | %(1) | ACI | Non-ACI | Non-Covered | Total | %(1) |
| 1-4 single family residential | $ | $ 761 | $ 168 | $ 929 | 67.5% | $ 20,021 | $ 119 | $ 65 | $ 20,205 | 76.0% |
| Home equity loans and lines of credit | 18,488 | 9,229 | 3 | 27,720 | 7.7% | | 11 | 4 | 15 | 7.1% |
| Multi-family | 5,701 | 633 | 772 | 7,106 | 2.8% | | 60 | 11 | 71 | 1.7% |
| Commercial real estate | 5,795 | 418 | 1,189 | 7,402 | 11.4% | | 465 | 303 | 768 | 9.2% |
| Construction | 1,017 | 1 | 118 | 1,136 | 0.4% | | 5 | | 5 | 1.0% |
| Land | 3,874 | 26 | 102 | 4,002 | 1.3% | | 2 | | 2 | 0.9% |
| Commercial | 5,050 | 1,216 | 3,676 | 9,942 | 7.4% | | 604 | 905 | 1,509 | 3.9% |
| Lease financing | | | 68 | 68 | 1.3% | | | | | 0.0% |
| Consumer | | | 55 | 55 | 0.2% | | | 46 | 46 | 0.2% |
| Total allowance for loan losses | $ 39,925 | $ 12,284 | $ 6,151 | $ 58,360 | 100.00% | $ 20,021 | $ 1,266 | $ 1,334 | $ 22,621 | 100.00% |

(1) Represents percentage of loans receivable in each category to total loans receivable.

***Goodwill and Other Intangible Assets***

In conjunction with the Acquisition, the Company recognized approximately $59.4 million of goodwill and a $1.8 million core deposit intangible. Goodwill was assigned to BankUnited. The Company performs goodwill impairment testing in the third quarter of each fiscal year or more frequently if events or circumstances indicate that impairment may exist. As of the 2010 impairment testing date, the estimated fair value of the reporting unit exceeded its carrying amount; therefore, no impairment was indicated.

In conjunction with the acquisition of two leasing companies in the fourth quarter of 2010, we recorded customer relationship intangible assets of $0.4 million and additional goodwill of $7.9 million.

*Other Assets*

The increase in other assets at December 31, 2010 as compared to December 31, 2009 resulted primarily from an increase in our investment in bank owned life insurance as well as additions to premises and equipment of approximately $27.9 million related to improvements to new and existing branch facilities and increased investment in our technology platforms.

***Deposits***

The following table presents information about our deposits for the periods indicated (*dollars in thousands*):

| | At December 31, 2010 | | At December 31, 2009 | |
|---|---|---|---|---|
| | Average Balance | Average Rate Paid | Average Balance | Average Rate Paid |
| Demand deposits: | | | | |
| Non-interest bearing | $ 440,673 | 0.00% | $ 303,810 | 0.00% |
| Interest bearing | 273,897 | 0.72% | 183,416 | 0.79% |
| Money market | 1,667,277 | 1.20% | 1,205,446 | 1.93% |
| Savings | 1,203,491 | 1.18% | 948,000 | 1.94% |
| Time | 3,889,961 | 1.85% | 5,506,320 | 0.93% |

| | | | | | | |
|---|---|---|---|---|---|---|
| Total | $ | 7,475,299 | 1.45% | $ | 8,146,992 | 1.16% |

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Excluding the impact of accretion from fair value adjustments due to acquisition accounting, the average rate paid on interest bearing deposits for the year ended December 31, 2010 and period ended December 31, 2009 was 1.85% and 2.77%, respectively.

The following table shows scheduled maturities of certificates of deposit with denominations greater than or equal to $100,000 as of December 31, 2010 and December 31, 2009 (*dollars in thousands*):

| | December 31, 2010 | December 31, 2009 |
|---|---|---|
| Three months or less | $ 331,660 | $ 415,049 |
| Over three through six months | 163,520 | 394,805 |
| Over six through twelve months | 472,199 | 684,966 |
| Over twelve months | 339,044 | 411,347 |
| Total | $ 1,306,423 | $ 1,906,167 |

***Borrowed Funds***

The following table sets forth information regarding our short-term borrowings, consisting of securities sold under agreements to repurchase, as of December 31, 2010 and 2009 and for the year ended December 31, 2010 and the period ended December 31, 2009 (*dollars in thousands*):

| | December 31, 2010 | December 31, 2009 |
|---|---|---|
| Maximum outstanding at any month-end | $ 17,459 | $ 2,972 |
| Balance outstanding at end of year | 492 | 2,972 |
| Average outstanding during the year | 7,812 | 2,091 |
| Average interest rate during the year | 0.92% | 0.02% |
| Average interest rate at end of year | 0.43% | 0.01% |

The Company also utilizes FHLB advances to finance its operations. FHLB advances are secured by stock in the FHLB required to be purchased in proportion to outstanding advances and qualifying first mortgage, commercial real estate, and home equity loans and mortgage-backed securities. The contractual balance of FHLB advances at December 31, 2010 totaled $2.2 billion, with $1.1 billion, $565.0 million, $505.0 million and $0.4 million maturing in 2012, 2013, 2014 and 2015, respectively. The book value of outstanding FHLB advances decreased from $4.6 billion at Acquisition to $2.1 billion at December 31, 2009 and $2.3 billion at December 31, 2010 primarily due to repayment of outstanding advances with cash received in the Acquisition.

***Results of Operations for the Pre-Acquisition Periods***

The Failed Bank reported net losses of $(1.2) billion and $(858.4) million for the period from October 1, 2008 through May 21, 2009 and for the fiscal year ending September 30, 2008, or fiscal 2008, respectively. The net losses for the period ending May 21, 2009 and the fiscal year ending September 30, 2008 resulted primarily from severe deterioration in the Failed Bank's asset quality and the resultant reduction in net interest income, increase in the provision for loan losses, and impairment charges related to investment securities, OREO and mortgage servicing rights.

*Net Interest Income*

The following table presents, for the periods indicated, information about: (i) average balances, the total dollar amount of interest income from earning assets and the resultant average yields; (ii) average

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balances, the total dollar amount of interest expense on interest bearing liabilities and the resultant average rates; (iii) net interest income; (iv) the interest rate spread; and (v) the net interest margin. Average balance information is based on daily average balances for the periods indicated. Nonaccrual and restructured loans are included in the average balances presented in this table; however, interest income foregone on nonaccrual loans is not included. Yields have been calculated on a pre-tax basis (*dollars in thousands*):

| | Period from October 1, 2008 to May 21, 2009 | | | Fiscal Year Ended September 30, 2008 | | |
|---|---|---|---|---|---|---|
| | **Average Balance** | **Interest** | **Yield/ Rate(1)** | **Average Balance** | **Interest** | **Yield/ Rate** |
| **Assets:** | | | | | | |
| Interest earning assets: | | | | | | |
| Investment securities available for sale | $ 88,655 | $ 1,685 | 2.97% | $ 141,935 | $ 7,417 | 5.23% |
| Mortgage-backed securities | 576,131 | 20,722 | 5.63% | 780,279 | 43,017 | 5.51% |
| Total investment securities available for sale | 664,786 | 22,407 | 5.28% | 922,214 | 50,434 | 5.47% |
| Other interest earning assets | 1,325,075 | 3,667 | 0.43% | 630,204 | 21,856 | 3.47% |
| Loans receivable | 11,596,788 | 312,994 | 4.22% | 12,564,903 | 762,170 | 6.07% |
| Total interest earning assets | 13,586,649 | 339,068 | 3.91% | 14,117,321 | 834,460 | 5.91% |
| Allowance for loan losses | (905,440) | | | (184,884) | | |
| Noninterest earning assets | 869,381 | | | 510,000 | | |
| Total assets | $ 13,550,590 | | | $ 14,442,437 | | |
| **Liabilities and Equity:** | | | | | | |
| Interest bearing liabilities: | | | | | | |
| Interest bearing deposits: | | | | | | |
| Interest bearing demand | $ 164,669 | $ 895 | 0.85% | $ 199,942 | $ 2,145 | 1.07% |
| Savings and money market accounts | 1,485,455 | 28,009 | 2.95% | 1,873,728 | 67,600 | 3.61% |
| Time deposits | 6,611,919 | 170,666 | 4.04% | 4,929,198 | 223,110 | 4.53% |
| Total interest bearing deposits | 8,262,043 | 199,570 | 3.78% | 7,002,868 | 292,855 | 4.18% |
| Borrowings: | | | | | | |
| FHLB advances | 4,965,251 | 133,764 | 4.22% | 5,605,211 | 259,000 | 4.62% |
| Repurchase agreements | 22,732 | 58 | 0.40% | 124,564 | 3,739 | 3.00% |
| Total interest bearing liabilities | 13,250,026 | 333,392 | 3.94% | 12,732,643 | 555,594 | 4.36% |
| Non-interest bearing demand deposits | 282,215 | | | 441,570 | | |
| Other non-interest bearing liabilities | 113,006 | | | 130,225 | | |
| Total liabilities | 13,645,247 | | | 13,304,438 | | |
| Equity | (94,657) | | | 1,137,999 | | |
| Total liabilities and equity | $ 13,550,590 | | | $ 14,442,437 | | |
| Net interest income | | $ 5,676 | | | $ 278,866 | |
| Interest rate spread | | | (0.03)% | | | 1.55% |
| Net interest margin | | | 0.06% | | | 1.98% |

(1) Annualized.

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Increases and decreases in interest income and interest expense result from changes in average balances (volume) of interest earning assets and liabilities, as well as changes in average interest rates. The comparison of total interest income and total interest expense for the period ending May 21, 2009 to the fiscal year ending September 30, 2008 is also impacted by the different number of days in the comparative periods. The following table shows the effect that these factors had on the interest earned on the interest earning assets and the interest incurred on the interest bearing liabilities for the periods indicated. The effect of changes in volume is determined by multiplying the change in volume by the previous period's average rate. Similarly, the effect of rate changes is calculated by multiplying the change in average rate by the previous period's volume. Changes applicable to both volume and rate have been allocated to volume (*dollars in thousands*):

| | Period from October 1, 2008 to May 21, 2009 Compared to the Fiscal Year Ended September 30, 2008 Increase (Decrease) Due To | | | |
|---|---|---|---|---|
| | **Changes in Volume** | **Changes in Rate** | **Change due to Number of Days** | **Total Increase (Decrease)** |
| **Interest Income Attributable to** | | | | |
| Investment securities available for sale | $ (1,002) | $ (2,049) | $ (2,681) | $ (5,732) |
| Mortgage-backed securities | (7,368) | 598 | (15,525) | (22,295) |
| Total investment securities available for sale | (8,370) | (1,451) | (18,206) | (28,027) |
| Other interest earning assets | 1,949 | (12,230) | (7,908) | (18,189) |
| Loans receivable | (25,250) | (148,510) | (275,416) | (449,176) |
| Total interest earning assets | (31,671) | (162,191) | (301,530) | (495,392) |
| **Interest Expense Attributable to** | | | | |
| Interest bearing demand deposits | $ (196) | $ (281) | $ (773) | $ (1,250) |
| Savings and money market deposit accounts | (7,235) | (7,894) | (24,462) | (39,591) |
| Time deposits | 43,727 | (15,418) | (80,753) | (52,444) |
| Total interest bearing deposits | 36,296 | (23,593) | (105,988) | (93,285) |
| FHLB advances | (17,272) | (14,312) | (93,652) | (125,236) |
| Repurchase agreements | (262) | (2,067) | (1,352) | (3,681) |
| Total interest bearing liabilities | 18,762 | (39,972) | (200,992) | (222,202) |
| Decrease in net interest income | $ (50,433) | $ (122,219) | $ (100,538) | $ (273,190) |

*Period from October 1, 2008 through May 21, 2009 compared to the fiscal year ending September 30, 2008*

Net interest income was $5.7 million for the period ended May 21, 2009 as compared to $278.9 million for the fiscal year ended September 30, 2008, for a decline of $273.2 million. The decline in net interest income was comprised of a decline in interest income of $495.4 million and a decline in interest expense of $222.2 million. On an annualized basis, net interest income for the period from October 1, 2008 through May 21, 2009 decreased by $270.0 million or 96.8% as compared with the year ending September 30, 2008. The decrease in net interest income was comprised of a decline in annualized interest income of $303.3 million partially offset by a decline in annualized interest expense of $33.3 million.

The decrease in interest income resulted primarily from an increase in non-performing assets, evidenced by a decrease in the average yield on loans of 185 basis points from 6.07% for the year ending September 30, 2008 to 4.22% for the period ending May 21, 2009. Nonaccrual loans grew from $1.2 billion at September 30, 2008 to $2.4 billion at May 21, 2009. Decreases in the average volume of

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both investment securities and loans outstanding and a decline in market rates on variable rate investment securities also contributed to the decline in interest income. The decline in average volume of loans and investment securities resulted from the reduction in the scope of the Failed Bank's residential mortgage business and the size of the balance sheet in response to capital requirements and growth restrictions imposed by the OTS.

The decline in interest expense resulted from lower rates paid on both deposits and FHLB advances, reflective of continued repricing of liabilities at lower market rates, partly offset by an increase in the average volume of outstanding interest bearing liabilities.

The net interest margin decreased by 192 basis points from 1.98% for the fiscal year ending September 30, 2008 to 0.06% for the period ending May 21, 2009 while the interest rate spread declined by 158 basis points from 1.55% to (0.03)%. The primary driver of the decline in net interest margin and interest rate spread was the increase in non-performing assets.

*Provision for Loan Losses*

The provision for loan losses recorded by the Failed Bank was $919.1 million and $856.4 million for the period from October 1, 2008 through May 21, 2009 and the fiscal year ending September 30, 2008, respectively. The increases in the provision for the period ending May 21, 2009 and the fiscal year ending September 30, 2008 largely reflected severe deterioration in the residential housing market, particularly in Florida and California. Total non-performing loans were $2.7 billion, or 24.6%, of total loans at May 21, 2009. Net charge-offs totaled $407.9 million for the period from October 1, 2008 to May 21, 2009 and $199.1 million for the fiscal year ending September 30, 2008. The majority of charge-offs were concentrated in the 1-4 single family residential portfolio.

*Non-Interest Income (Loss)*

The Failed Bank reported a non-interest loss of $81.4 million for the period from October 1, 2008 to May 21, 2009 and a non-interest loss of $128.9 million for the fiscal year ending September 30, 2008.

The following table presents a comparison of the categories of non-interest income (loss) for the periods indicated (*dollars in thousands*):

| | Period from October 1, 2008 to May 21, 2009 | Fiscal Year Ended September 30, 2008 |
|---|---|---|
| Service charges on deposits and other fee income | $ 5,357 | $ 9,712 |
| Service charges on loans | 2,072 | 4,630 |
| Loan servicing fees | 2,543 | 5,601 |
| Impairment and amortization of mortgage servicing rights | (26,595) | (8,434) |
| Net gain (loss) on sale of investment securities | 39 | (1,465) |
| Net gain (loss) on sale and writedown of loans held for sale | 196 | (9,784) |
| Other-than-temporary impairment of securities available for sale | (68,609) | (142,035) |
| Fees received from BankUnited Financial Corporation | 1,824 | 5,193 |
| Other non-interest income | 1,742 | 7,723 |
| Total non-interest income (loss) | $ (81,431) | $ (128,859) |

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*Period from October 1, 2008 to May 21, 2009 compared to the fiscal year ending September 30, 2008*

The non-interest loss for the period from October 1, 2008 to May 21, 2009 was largely driven by additional impairment charges on securities available for sale and mortgage servicing rights. See the section entitled "Information About BankUnited, Inc. Management's Discussion and Analysis of Financial Condition and Results of Operations December 31, 2010 Balance Sheet Analysis for the Pre-Acquisition Periods Investment Securities Available for Sale" below on Page [ ] for further discussion of impairment charges related to investment securities. The impairment of mortgage servicing assets resulted primarily from termination of the Failed Bank's rights to service loans for the Federal National Mortgage Association, or "FNMA," and the Federal Home Loan Mortgage Corporation, or "FHLMC," during the period ending May 21, 2009. A continued decline in secondary market mortgage activity led to a reduced gain (loss) on sale of loans for the period ending May 21, 2009. The reduction in other non-interest income resulted primarily from an adjustment to outstanding mortgage insurance claims receivable.

*Non-Interest Expense*

The following table presents the components of non-interest expense for the periods indicated (*dollars in thousands*):

| | Period from October 1, 2008 to May 21, 2009 | Fiscal Year Ended September 30, 2008 |
|---|---|---|
| Employee compensation and benefits | $ 51,695 | $ 88,893 |
| Occupancy and equipment | 25,247 | 46,743 |
| OREO expense | 34,697 | 17,901 |
| Impairment of OREO | 38,742 | 22,749 |
| Professional fees | 10,062 | 8,910 |
| Foreclosure expense | 4,907 | 6,007 |
| Deposit insurance expense | 38,299 | 6,147 |
| Telecommunications and data processing | 9,573 | 13,536 |
| Other non-interest expense | 25,181 | 35,594 |
| Total non-interest expense | $ 238,403 | $ 246,480 |

Non-interest expense as a percentage of average assets increased to 2.8% (annualized) for the period ended May 21, 2009 from 1.7% for the fiscal year ending September 30, 2008. The primary drivers of increasing non-interest expense over this period were increased impairment of OREO, higher OREO expense, foreclosure expense and the deposit insurance expense.

*Period from October 1, 2008 to May 21, 2009 compared to the fiscal year ending September 30, 2008*

On an annualized basis, employee compensation and benefits as a percentage of average assets remained consistent over the period ending May 21, 2009 and the fiscal year ending September 30, 2008. The total decline in employee compensation and benefits expense of $7.9 million or approximately 9% on an annualized basis was primarily a result of an approximate 70% reduction in the Failed Bank's wholesale residential lending staff and other reductions in the workforce.

OREO expense, foreclosure expense and impairment of OREO continued to increase during the period ending May 21, 2009 due to further deterioration in home prices and the increasing volume of foreclosures. As of May 21, 2009, there were slightly over 6,000 units in the foreclosure process as compared to approximately 3,000 units at September 30, 2008.

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Deposit insurance expense was significantly impacted by additional assessments by the FDIC during the period ending May 21, 2009.

*Income Taxes*

For the period ending May 21, 2009 and the fiscal year ending September 30, 2008, the Failed Bank recorded an income tax provision (benefit) of $0.0 and $(94.5) million, respectively. The Failed Bank's effective tax rate for the period ending May 21, 2009 and the fiscal year ending September 30, 2008 was 0.1% and 9.9%, respectively. The effective tax rate varied from the federal statutory tax rate of 35.0% primarily due to state income taxes and the valuation allowance established related to deferred tax assets. The Failed Bank had net deferred tax assets, prior to any valuation allowance, of $730.0 million at May 21, 2009.

***Balance Sheet Analysis for the Pre-Acquisition Periods***

Average total assets of the Failed Bank declined by $891.8 million to $13.6 billion for the period ending May 21, 2009 from $14.4 billion for the fiscal year ended September 30, 2008. This decline related primarily to the decline in average loans, which was fueled by increased impairments and foreclosures during the period combined with normal paydowns and a curtailment in lending activity. Average total liabilities increased by $340.8 million to $13.6 billion for the period ending May 21, 2009 from $13.3 billion for the fiscal year ending September 30, 2008. Average deposits increased by $1.1 billion, offset by a $741.8 million decline in average outstanding borrowings.

*Investment Securities Available for Sale*

The following table shows the amortized cost and fair value of the investment securities as of the dates indicated. All of the investment securities were classified available for sale (*dollars in thousands*):

| | At May 21, 2009 | |
|---|---|---|
| | **Amortized Cost** | **Fair Value** |
| U.S. Treasury securities | $ 35,167 | $ 35,423 |
| U.S. Government agency and sponsored enterprise residential mortgage-backed securities | 224,587 | 227,879 |
| Other residential collateralized mortgage obligations | 3,371 | 1,785 |
| Residential mortgage pass-through certificates | 323,829 | 230,091 |
| Mutual funds and preferred stocks | 18,241 | 18,094 |
| State and Municipal obligations | 22,671 | 22,696 |
| Other debt securities | 4,317 | 2,976 |
| Total investment securities available for sale | $ 632,183 | $ 538,944 |

Investment securities decreased by $216.3 million from September 30, 2008 to May 21, 2009 primarily due to impairment charges of $68.6 million coupled with paydowns and sales of $106.3 million, offset by purchases of $10.4 million.

During the period from October 1, 2008 through May 21, 2009, the Failed Bank recognized other-than-temporary impairment charges of $68.6 million, consisting of $39.4 million related to subordinate tranches of the Failed Bank's 2005 mortgage securitization (the "2005 securities"), $16.1 million related to private-label CMO's, $6.4 million related to trust preferred securities, $1.5 million related to FNMA and FHLMC preferred stock and $5.2 million related to a mutual fund. The majority of the impairment charges recorded during the period ending May 21, 2009 represented further deterioration in value of securities for which other-than-temporary impairment charges were initially recorded in fiscal 2008 as discussed below. Additional impairment of the 2005 securities and private-label CMO's was reflective of further deterioration in projected cash flows from the underlying collateral resulting from increasing frequency and severity of defaults. Recognition of other-than-temporary impairment of pooled trust preferred securities was based on a third party discounted cash flow analysis incorporating proprietary collateral default rate assumptions that indicated less than full recovery of principal, as well as consideration of the severity and duration of impairment. Other-than-temporary impairment of FNMA and FHLMC preferred stock was based on further deterioration in the market price of these securities coupled with lack of evidence of improvement in the financial condition of the issuers. Cash flow analysis incorporating updated underlying collateral default assumptions led to further other-than-temporary impairment of the mutual fund investment.

During the fiscal year ending September 30, 2008, the Failed Bank recorded other-than-temporary impairment charges totaling $142.0 million, including $89.3 million relating to the 2005 securities, $5.8 million relating to private-label CMO's, $37.8 million relating to FNMA and FHLMC preferred stocks, $8.1 million relating to a mutual fund, and $1.0 million relating to other debt securities. The determination that unrealized losses on the 2005 securities were other-than-temporary was based on an analysis of discounted expected future cash flows using third party developed models that incorporated proprietary behavioral assumptions about collateral default rates, loss severity levels and voluntary annual prepayment rates. Cash flow projections for the underlying mortgages, given current loss trends, indicated that projected losses could completely erode the value of certain subordinate classes and significantly erode the value of several other subordinate classes of the 2005 securitization, leading to the determination that these securities were other-than-temporarily impaired. Management's determination that certain other private-label CMO's were other-than-temporarily impaired was also based on the analysis of discounted expected future cash flows. The magnitude and duration of unrealized losses was considered in these determinations as well. As a result of significant declines in value of FNMA and FHLMC preferred stock after these entities were placed into conservatorship on September 7, 2008, the cost basis of these investments was well in excess of the market price of the stock at September 30, 2008. The determination that impairment of these securities was other-than-temporary was based on the severity of impairment and uncertainty about the potential for market recovery of the issuers. The mutual fund determined to be other-than-temporarily impaired was a fund that invested primarily in mortgage related investments, the majority of which were subordinate securities with increasing levels of underlying collateral delinquencies and defaults. The severity of impairment combined with the high probability of significant principal loss of the underlying collateral led to the conclusion that the security was other-than-temporarily impaired. The other debt securities consisted of pooled trust preferred securities, collateralized by subordinated debt issued by financial institutions. Management's determination that these securities were other-than-temporarily impaired was based on an analysis of projected collateral cash flows.

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*Loan Portfolio*

The following table presents the composition of the loan portfolio as of the dates indicated (*dollars in thousands*):

| | At May 21, 2009 | | At September 30, 2008 | | 2007 | | 2006 | |
|---|---|---|---|---|---|---|---|---|
| | **Balance** | **%** | **Balance** | **%** | **Balance** | **%** | **Balance** | **%** |
| Real estate loans: | | | | | | | | |
| 1-4 single family residential | $ 8,993,077 | 83.1% | $ 9,916,696 | 84.4% | $ 10,693,832 | 86.3% | $ 9,661,913 | 85.9% |
| Home equity loans and lines of credit | 505,642 | 4.7% | 486,467 | 4.1% | 420,386 | 3.4% | 355,822 | 3.2% |
| Multi-family | 129,481 | 1.2% | 144,324 | 1.2% | 120,058 | 1.0% | 85,544 | 0.8% |
| Commercial real estate | 594,877 | 5.5% | 600,261 | 5.1% | 496,556 | 4.0% | 413,637 | 3.7% |
| Construction | 187,333 | 1.7% | 171,213 | 1.5% | 146,557 | 1.2% | 174,466 | 1.5% |
| Land | 219,736 | 2.0% | 224,723 | 1.9% | 303,294 | 2.5% | 337,023 | 3.0% |
| Total real estate loans | 10,630,146 | 98.2% | 11,543,684 | 98.2% | 12,180,683 | 98.4% | 11,028,405 | 98.1% |
| Other loans: | | | | | | | | |
| Commercial | 181,484 | 1.7% | 197,985 | 1.7% | 187,951 | 1.5% | 194,269 | 1.7% |
| Consumer | 12,179 | 0.1% | 12,740 | 0.1% | 16,228 | 0.1% | 17,809 | 0.2% |
| Total other loans | 193,663 | 1.8% | 210,725 | 1.8% | 204,179 | 1.6% | 212,078 | 1.9% |
| Total loans | 10,823,809 | 100.0% | 11,754,409 | 100.0% | 12,384,862 | 100.0% | 11,240,483 | 100.0% |
| Unearned discount, premiums and deferred costs, net | 190,406 | | 210,875 | | 235,454 | | 196,601 | |
| Loans held in portfolio, net of discount premiums and deferred costs | 11,014,215 | | 11,965,284 | | 12,620,316 | | 11,437,084 | |
| Allowance for loan losses | (1,227,173) | | (715,917) | | (58,623) | | (36,378) | |
| Total loans held in portfolio, net | $ 9,787,042 | | $ 11,249,367 | | $ 12,561,693 | | $ 11,400,706 | |
| Loans held for sale | $ 788 | | $ 10,050 | | $ 174,868 | | $ 9,542 | |

Net loans held in portfolio decreased to $9.8 billion at May 21, 2009 from $11.2 billion at September 30, 2008 and $12.6 billion at September 30, 2007. This decrease was driven by the decline in the Failed Bank's 1-4 single family residential portfolio as discussed below.

*Residential Mortgages*

1-4 single family residential loans amounted to $9.0 billion or 83.1% of total loans at May 21, 2009. Beginning in fiscal 2008, the Failed Bank curtailed growth of the 1-4 single family residential portfolio. Total originations of residential loans were $22.8 million for the period ending May 21, 2009.

The Failed Bank also terminated its option ARM and reduced documentation loan programs during fiscal 2008. Originations of option ARM loans totaled $187.0 million for fiscal 2008 and $3.1 billion for fiscal 2007, representing 11.9% and 77.5%, respectively, of total residential loan originations. Option ARM loans generally started with a below market incentive interest rate that adjusted to an applicable index rate plus a defined margin after a specified period of time. Each month, the borrower had the option to make one of several payments, including a minimum payment that may not have covered the interest accrued on the loan for the month, resulting in the deferred interest being added to the loan balance. The contractual terms of option ARM loans limited the amount of the increase in the loan balance to 115% of the original balance. At the earlier of 5 years from origination or reaching the 115% cap, the loan was contractually reset to be repaid on a fully amortizing basis over its remaining term. Some residential mortgage loans were also originated under "reduced-doc" and "no-doc" programs requiring reduced or no verification of the borrowers' income, employment and assets.

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The following table presents a breakdown of the 1-4 single family residential mortgage portfolio categorized between fixed rate, option adjustable rate mortgages and non-option adjustable rate mortgages at the dates indicated (*dollars in thousands*):

| | At May 21, 2009 | |
|---|---|---|
| | Total Loans | % of Total |
| 1-4 single family residential loans | | |
| Fixed rate loans | $ 1,774,598 | 19.7% |
| Adjustable rate loans | | |
| Option adjustable rate mortgages(1) | 4,685,090 | 52.1% |
| Non-option adjustable rate mortgages | 2,533,389 | 28.2% |
| Total | $ 8,993,077 | 100.0% |

(1) Payment option loans with balances of $3.8 billion representing 78.9% of the payment option portfolio were negatively amortizing at May 21, 2009. As of May 21, 2009, negative amortization included in the payment option portfolio totaled $265.3 million or 5.6% of the portfolio.

A breakdown of 1-4 single family residential loans by state as of the dates indicated follows (*dollars in millions*):

| | At May 21, 2009 | |
|---|---|---|
| | Amount | % |
| Florida | $ 5,076 | 56.4% |
| California | 721 | 8.0% |
| Illinois | 501 | 5.6% |
| Arizona | 500 | 5.6% |
| New Jersey | 480 | 5.3% |
| Virginia | 348 | 3.9% |
| States with less than 4% | 1,367 | 15.2% |
| Total | $ 8,993 | 100.0% |

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*Asset Quality*

*Impaired Loans and Non-performing Assets*

The following table summarizes the Company's impaired loans, including troubled debt restructurings, and other non-performing assets as of the dates indicated (*dollars in thousands*):

| | At May 21, 2009 | At September 30, 2008 | 2007 | 2006 |
|---|---|---|---|---|
| Nonaccrual loans | | | | |
| Real estate loans: | | | | |
| 1-4 single family residential | | | | |
| Payment option | $ 1,674,325 | $ 968,647 | $ 149,749 | $ 11,757 |
| Non-payment option | 453,743 | 153,125 | 22,894 | 5,826 |
| Total 1-4 single family residential | 2,128,068 | 1,121,772 | 172,643 | 17,583 |
| Home equity loans and lines of credit | 27,263 | 8,866 | 2,251 | 58 |
| Multi-family | 21,544 | 10,028 | | |
| Commercial real estate | 2,888 | | 5,593 | |
| Construction | 78,403 | 58,549 | | |
| Land | 94,493 | 38,465 | | |
| Total real estate loans | 2,352,659 | 1,237,680 | 180,487 | 17,641 |
| Other loans: | | | | |
| Commercial | 763 | 65 | 232 | 3,073 |
| Consumer | 23 | 30 | 91 | 26 |
| Total other loans | 786 | 95 | 323 | 3,099 |
| Total nonaccrual loans | 2,353,445 | 1,237,775 | 180,810 | 20,740 |
| Accruing loans 90 days or more past due | | 71 | 493 | |
| Other impaired loans still accruing | 353,903 | 195,073 | 19,771 | |
| Total non-performing loans | 2,707,348 | 1,432,919 | 201,074 | 20,740 |
| OREO | 177,679 | 135,324 | 27,732 | 729 |
| Total non-performing assets | 2,885,027 | 1,568,243 | 228,806 | 21,469 |
| Troubled debt restructurings in compliance with modified terms(1) | 651,236 | 68,033 | | |
| Total impaired loans and non-performing assets | $ 3,536,263 | $ 1,636,276 | $ 228,806 | $ 21,469 |
| Non-performing loans to total loans | 24.58% | 11.98% | 1.59% | 0.18% |
| Non-performing assets to total assets | 23.53% | 11.13% | 1.51% | 0.16% |
| Non-performing loans and troubled debt restructurings to total loans | 30.49% | 12.54% | 1.59% | 0.18% |
| Allowance for loan losses to total loans | 11.14% | 5.98% | 0.46% | 0.32% |
| Allowance for loan losses to non-performing loans | 45.33% | 49.96% | 29.15% | 175.40% |

(1) Consists of only 1-4 single family residential loans.

The increase in total non-performing assets to $2.9 billion at May 21, 2009 resulted directly from the economic downturn, both nationally and in the Failed Bank's primary geographic markets, particularly the precipitous decline in housing prices. Non-performing loans were concentrated in the option ARM portfolio, and a significant percentage of the non-performing loans were those with higher LTV ratios, originated during periods of historically high housing prices.

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Interest income foregone on nonaccrual loans amounted to $88.9 million for the period ending May 21, 2009. Interest income reversed due to loans being placed on nonaccrual status amounted to $20.1 million for the period ending May 21, 2009.

Nonaccrual loans include troubled debt restructured loans of $177.3 million at May 21, 2009. Additional interest income that would have been recognized on troubled debt restructured loans not on nonaccrual status if they had been current based on their original contractual terms was $3.3 million and $0.5 million for the period ended May 21, 2009 and the fiscal year ending September 30, 2008, respectively. Interest income recognized on these loans for the period ended May 21, 2009 and the fiscal year ended September 30, 2008 was $14.6 million and $2.9 million, respectively.

***Analysis of the Allowance for Loan Losses***

The following table provides an analysis of the allowance for loan losses and net charge-offs for the periods indicated (*dollars in thousands*):

| | Period from October 1, 2008 to May 21, 2009 | Fiscal Years Ended September 30, | | |
|---|---|---|---|---|
| | | 2008 | 2007 | 2006 |
| Allowance for loan losses, beginning of period | $ 715,917 | $ 58,623 | $ 36,378 | $ 25,755 |
| Provision for loan losses | 919,139 | 856,374 | 31,500 | 10,400 |
| Charge-offs: | | | | |
| 1-4 single family residential | (434,391) | (211,323) | (5,347) | (130) |
| Home equity loans and lines of credit | (12,676) | (9,396) | (620) | (241) |
| Multi-family | | | | |
| Commercial real estate | | | | |
| Construction | | (1,218) | | |
| Land | | (6,647) | (2,651) | |
| Commercial | (879) | (1,468) | (2,425) | (902) |
| Consumer | (1,064) | (257) | (7) | |
| Total charge-offs | (449,010) | (230,309) | (11,050) | (1,273) |
| Recoveries: | | | | |
| 1-4 single family residential | 40,825 | 31,079 | 1,407 | |
| Home equity loans and lines of credit | 111 | 34 | 73 | |
| Multi-family | | | | |
| Commercial real estate | | | | |
| Construction | | | | |
| Land | | | | |
| Commercial | 189 | 115 | 306 | 1,482 |
| Consumer | 2 | 1 | 9 | 14 |
| Total recoveries | 41,127 | 31,229 | 1,795 | 1,496 |
| Net charge-offs | (407,883) | (199,080) | (9,255) | 223 |
| Allowance for loan losses, end of period | $ 1,227,173 | $ 715,917 | $ 58,623 | $ 36,378 |
| Ratio of net charge-offs to average loans receivable outstanding during the period | 5.51%(1) | 1.58% | 0.08% | 0.00% |

(1) Annualized.

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The following table allocates the allowance for loan losses by loan category as of the dates indicated (*dollars in thousands*):

| | At May 21, 2009 | | At September 30, 2008 | | 2007 | | 2006 | |
|---|---|---|---|---|---|---|---|---|
| | Amount | %(1) | Amount | %(1) | Amount | %(1) | Amount | %(1) |
| 1-4 single family residential | $ 890,551 | 83.1% | $ 616,486 | 84.4% | $ 33,911 | 86.3% | $ 12,917 | 85.9% |
| Home equity loans and lines of credit | 41,638 | 4.7% | 16,055 | 4.1% | 6,850 | 3.4% | 3,971 | 3.2% |
| Multi-family | 1,461 | 1.2% | 836 | 1.2% | 960 | 1.0% | 684 | 0.8% |
| Commercial real estate | 186,130 | 5.5% | 891 | 5.1% | 8,092 | 4.0% | 6,316 | 3.7% |
| Construction | 53,452 | 1.7% | 47,495 | 1.5% | 1,173 | 1.2% | 1,396 | 1.5% |
| Land | 47,986 | 2.0% | 30,699 | 1.9% | 2,426 | 2.5% | 2,696 | 3.0% |
| Commercial | 5,102 | 1.7% | 2,860 | 1.7% | 4,331 | 1.5% | 7,613 | 1.7% |
| Consumer | 853 | 0.1% | 595 | 0.1% | 880 | 0.1% | 785 | 0.2% |
| Total allowance for loan losses | $ 1,227,173 | 100.0% | $ 715,917 | 100.0% | $ 58,623 | 100.0% | $ 36,378 | 100.0% |

(1) Represents percentage of loans receivable in each category to total loans receivable.

***Other Assets***

*Goodwill and Other Intangible Assets*

Goodwill of $28.4 million at May 21, 2009 arose from previous business combinations entered into by the Failed Bank. Goodwill impairment tests were performed as of May 21, 2009. As of May 21, 2009, the carrying value of the reporting unit to which goodwill was assigned was negative, therefore, the first phase of the goodwill impairment test was passed and no impairment of goodwill was recorded. Based on this comparison, the implied fair value of goodwill exceeded its carrying amount; therefore, no impairment was indicated.

*Other Assets*

Other assets totaled $212.3 million at May 21, 2009. The most significant components of the decrease in other assets from September 30, 2008 to May 21, 2009 were a $25.9 million decline in mortgage servicing rights arising from impairment charges, and a $18.5 million decline in accrued interest receivable attributable primarily to the decline in total loans outstanding and the increase in non-performing loans.

***Deposits***

The following table presents information about deposits for the periods indicated (*dollars in thousands*):

| | Period from October 1, 2008 to May 21, 2009 | | Fiscal Years Ended September 30, 2008 | |
|---|---|---|---|---|
| | Average Balance | Average Rate Paid | Average Balance | Average Rate Paid |
| Demand deposits: | | | | |
| Non-interest bearing | $ 282,215 | % | $ 441,570 | % |
| Interest bearing | 164,669 | 0.85% | 199,942 | 1.07% |
| Savings and money market accounts | 1,485,455 | 2.95% | 1,873,728 | 3.61% |
| Time deposits | 6,611,919 | 4.04% | 4,929,198 | 4.53% |

| | | | | |
|---|---|---|---|---|
| Total deposits | $ 8,544,258 | 3.66% | $ 7,444,438 | 3.93% |

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***Borrowed Funds***

The following table sets forth information regarding the short-term borrowings, consisting of securities sold under agreements to repurchase and federal funds purchased, as of the dates, and for the periods, indicated (*dollars in thousands*):

| | Ending Balance | Weighted-Average Rate | Maximum Amount At Month-End | Yearly Weighted Averages | |
|---|---|---|---|---|---|
| | | | | Balance | Rate |
| For the period from October 1, 2008 to May 21, 2009: | $ 1,310 | 0.00% | $ 48,114 | $ 22,732 | 0.40% |
| For the fiscal year ended September 30, 2008: | $ 56,930 | 0.99% | $ 227,218 | $ 124,564 | 3.00% |

***Critical Accounting Policies and Estimates***

Our consolidated financial statements are prepared in accordance with U.S. generally accepted accounting principles and follow general practices within the industry in which we operate. Application of these principles requires management to make complex and subjective estimates and judgments that affect the amounts reported in the consolidated financial statements and accompanying notes. We base our estimates on historical experience and on various other assumptions that we believe to be reasonable under current circumstances. These assumptions form the basis for our judgments about the carrying values of assets and liabilities that are not readily available from independent, objective sources. We evaluate our estimates on an ongoing basis. Use of alternative assumptions may have resulted in significantly different estimates. Actual results may differ from these estimates.

Accounting policies are an integral part of our financial statements. A thorough understanding of these accounting policies is essential when reviewing our reported results of operations and our financial position. We believe that the critical accounting policies and estimates discussed below involve additional management judgment due to the complexity and sensitivity of the methods and assumptions used.

*Allowance for Loan Losses*

The allowance for loan losses represents management's estimate of probable loan losses inherent in the Company's loan portfolio. Determining the amount of the allowance for loan losses is considered a critical accounting estimate because it requires significant judgment and the use of estimates related to the amount and timing of expected future cash flows on impaired loans, estimated losses based on risk characteristics of loans, and consideration of other qualitative factors, all of which may be susceptible to significant change. "Note 1 Summary of Significant Accounting Policies" of the notes to our audited consolidated financial statements for the year ended December 31, 2010 on Page F-[ ] describes the methodology used to determine the allowance for loan losses.

*Accounting for Covered Loans*

A significant portion of the Company's loans acquired on May 21, 2009 and covered by Loss Sharing Agreements demonstrated evidence of deterioration of credit quality since origination. The accounting for these loans and the related FDIC indemnification asset requires the Company to estimate the timing and amount of cash flow to be collected from these loans and to continually update estimates of the cash flows expected to be collected over the life of the loans. These estimates are considered to be critical accounting estimates because they involve significant judgment and assumptions as to the amount and timing of cash flows to be collected.

Covered 1-4 single family residential loans were placed into homogenous pools at Acquisition and the ongoing credit quality and performance of these loans is monitored on a pool basis. We performed

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a detailed analysis of the acquired loan portfolio to determine the key loan characteristics influencing performance. We determined key characteristics to include delinquency status, product type, in particular, amortizing as opposed to option ARM products, current indexed LTV ratio and original FICO score. At Acquisition, the fair value of the pools was measured based on the expected cash flows to be derived from each pool. Initial cash flow expectations incorporated significant assumptions regarding prepayment rates, frequency of default and loss severity. For ACI pools, the difference between total contractual payments due and the cash flows expected to be received at Acquisition was recognized as non-accretable difference. The excess of expected cash flows over the recorded fair value of each ACI pool at Acquisition is referred to as the accretable yield and is being recognized as interest income over the life of each pool.

We monitor the pools quarterly by updating our expected cash flows to determine whether any material changes have occurred in expected cash flows that would be indicative of impairment or necessitate reclassification between non-accretable difference and accretable yield. The analysis of expected cash flows for residential ACI pools incorporates updated pool level expected prepayment rates, default rates, and delinquency levels, and loan level loss severity given default assumptions. Prepayment, delinquency and default curves used for this purpose are derived from roll rates generated from the historical performance of the ACI residential loan portfolio observed over the immediately preceding four quarters. Generally, improvements in expected cash flows less than 1% of the expected cash flows from a pool are not recorded. This threshold may be revised as we gain greater experience. Generally, commercial and commercial real estate loans are monitored individually due to their size and other unique characteristics. The expected cash flows are estimated based on factors which include loan grades established in the Bank's ongoing credit review program, likelihood of default based on observations of specific loans during the credit review process as well as applicable industry data, loss severity based on updated evaluation of cash flow from available collateral, and the contractual terms of the underlying loan agreement.

*Other Real Estate Owned*

Assets acquired through, or in lieu of, loan foreclosure are held for sale and are initially recorded at the fair value of the collateral at the date of foreclosure based on estimates, including some obtained from third parties, less estimated costs to sell, establishing a new cost basis. Subsequent to foreclosure, valuations are periodically performed by management, and the assets are carried at the lower of cost or fair value, less estimated costs to sell. Significant property improvements that enhance the salability of the property are capitalized to the extent that the carrying value does not exceed estimated realizable value. Legal fees, maintenance and other direct costs of foreclosed properties are expensed as incurred. Given the large number of properties included in OREO, and the judgment involved in estimating fair value of the properties, accounting for OREO is regarded as a critical accounting policy.

*Profits Interest Units*

The LLC has issued equity awards in the form of PIUs to certain members of management. Compensation expense related to PIU awards is based on the fair value of the underlying units on the date of the consolidated financial statements. Fair value of PIUs are estimated using a Black-Scholes option pricing model, which requires assumptions as to expected volatility, dividends, terms, and risk free rates. Determining the fair value of the PIUs is considered a critical accounting estimate because it requires significant judgments and the determination of fair value may be material to our consolidated financial statements. See "Note 1 Summary of Significant Accounting Policies" on Page F-[ ] and "Note 14 Equity Based Compensation and Other Benefit Plans" of the notes to our audited consolidated financial statements for the year ended December 31, 2010 on Page F-[ ] for a description of PIUs.

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*Deferred Tax Asset*

Deferred income tax assets and liabilities result from temporary differences between assets and liabilities measured for financial reporting purposes and for income tax return purposes. Realization of tax benefits for deductible temporary differences depends on having sufficient taxable income of an appropriate character within the carryforward periods. Management must evaluate the probability of realizing the deferred tax asset and determine the need for a valuation reserve as of the date of the consolidated financial statements. Given the judgment involved and the amount of the Company's deferred tax asset, this is considered a critical accounting estimate. See "Note 12 Income Taxes" in the notes to our audited consolidated financial statements for the year ended December 31, 2010 on Page F-[ ] for a discussion of the Company's deferred taxes.

***Recent Accounting Pronouncements***

In January 2010, the Financial Accounting Standards Board, or the "FASB," issued new guidance to improve disclosures about fair value measurements. Disclosure requirements were enhanced to require additional information regarding transfers to and from Levels 1 and 2 of the fair value hierarchy and the reasons for the transfers, and a gross presentation of activity within the rollforward of Level 3 fair value measurements. The guidance clarifies existing disclosure requirements as to the level of disaggregation of classes of assets and liabilities. In addition, enhanced disclosure is required concerning inputs and valuation techniques used to determine Level 2 and Level 3 fair value measurements. This guidance was generally effective for interim and annual reporting periods beginning after December 15, 2009; however, requirements to disclose separately purchases, sales, issuances, and settlements in the Level 3 rollforward are effective for interim and annual reporting periods beginning after December 15, 2010. The adoption of this guidance did not have a material impact on the Company's consolidated financial position, results of operations, or cash flows.

In March 2010, the FASB issued new guidance clarifying that a modification of a loan that is part of a pool of loans acquired with deteriorated credit quality should not result in the removal of the loan from the pool. This guidance was effective for any modifications of loans accounted for within a pool in the first interim or annual reporting period ending after July 15, 2010. The adoption of this guidance did not have a material impact on the Company's consolidated financial position, results of operations, or cash flows.

In July 2010, the FASB issued new guidance requiring expanded disclosures about the credit quality of financing receivables and the allowance for loan losses. Disclosures must be disaggregated by portfolio segment and class and include, among other things, a rollforward of the allowance for loan losses, credit quality indicators, expanded information about past due and impaired loans and the related allowance, an aging of past due loans, and information about troubled debt restructurings. The required disclosures of information as of the end of a reporting period were effective for the Company in its annual financial statements for the year ending December 31, 2010. Required disclosures about activity that occurs during a reporting period were effective for the Company for the quarter ending March 31, 2011. In January, 2011, the FASB deferred the effective date of the guidance related to disclosures about troubled debt restructurings.

In December 2010, the FASB issued guidance requiring that Step 2 of the goodwill impairment test be performed for reporting units with zero or negative carrying amounts if it is more likely than not that a goodwill impairment exists. In determining whether it is more likely than not that a goodwill impairment exists, an entity should consider whether there are any adverse qualitative factors indicating that an impairment may exist. This guidance is effective for interim and annual reporting periods beginning after December 15, 2010. The adoption of this guidance is not expected to have a significant impact on the Company's consolidated financial condition, results of operations or cash flows.

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In April 2011, the FASB issued Accounting Standards Update 2011-02, "*A Creditor's Determination of Whether a Restructuring is a Troubled Debt Restructuring*." This update clarifies existing guidance on a creditor's evaluation of whether a restructuring constitutes a troubled debt restructuring, including clarification of a creditor's evaluation of whether it has granted a concession and of whether a debtor is experiencing financial difficulties. The Company is required to adopt this update for the quarter ending September 30, 2011, retrospectively to the beginning of the annual period of adoption, or January 1, 2011. Management does not anticipate that adoption will have a material impact on the Company's financial position, results of operations, or cash flows.

In April 2011, the FASB issued Accounting Standards Update 2011-03, "*Reconsideration of Effective Control for Repurchase Agreements.*" This update removes from the assessment of effective control: (I) the criterion requiring the transferor to have the ability to repurchase or redeem the financial assets on substantially the agreed terms, even in the event of default by the transferee and (2) the collateral maintenance implementation guidance related to that criterion. The update is required to be adopted prospectively by the Company for the quarter ending March 31, 2012. Management does not anticipate that adoption will have a material impact on the Company's financial position, results of operations, or cash flows.

In May 2011, the FASB issued Accounting Standards Update 2011-04, "*Amendments to Achieve Common Fair Value Measurement and Disclosure Requirements in u.s. GAAP and IFRSs.*" The amendments in this update result in common fair value measurement and disclosure requirements in U.S. GAAP and International Financial Reporting Standards, or "IFRS." The amendments change the wording used to describe many of the requirements in U.S. GAAP for measuring fair value and for disclosing information about fair value measurements. Some of the amendments clarify the FASB's intent about the application offair value measurement requirements and others change principles or requirements for measuring fair value or disclosing information about fair value measurements. The Company is required to adopt this update prospectively for the quarter ending March 31, 2012. This update will result in expanded disclosures in the Company's financial statements; however, management does not anticipate that adoption will have a material impact on the Company's financial position, results of operations, or cash flows.

In June 2011, the FASB issued Accounting Standards Update 2011-05, "*Presentation of Comprehensive Income.*" This update provides entities with an option of presenting the total of comprehensive income, the components of net income, and the components of other comprehensive income either in a single continuous statement of comprehensive income or in two separate but consecutive statements. This update eliminates the option to present the components of other comprehensive income as part of the statement of changes in stockholders' equity. The Company is required to adopt this update retrospectively for the quarter ending March 31, 2012. Adoption of this update will affect the manner of presentation of the components of comprehensive income in the Company's financial statements, but will not have an impact on the Company's financial position, results of operations, or cash flows.

In 2010, the FASB published the following proposed accounting standards updates that, if adopted in their proposed form, could potentially have a significant impact on the Company's financial position, results of operations or cash flows:

*Accounting for Financial Instruments and Revisions to the Accounting for Derivative Instruments and Hedging Activities:* Under this proposal, most financial instruments would be measured at fair value. Changes in fair value of financial instruments for which the entity's strategy is to hold for collection or payment of contractual cash flows would generally be recognized in other comprehensive income. Changes in fair value of financial instruments for which an entity's strategy is trading, equity securities, and financial instruments that can be contractually prepaid in such a way that the holder would not recover substantially all of its investment would be reflected in earnings. Many financial liabilities of financial institutions would also be measured at fair value. The guidance would require presentation of information about both fair value and amortized cost for many financial instruments. The proposed guidance would also remove the "probable" threshold for recognition of impairments on loans and provide a common approach to providing for credit losses on loans and debt instruments. Highly complex, quantitative hedging requirements would be replaced with more qualitative based assessments that would make it easier to qualify for hedge accounting. An effective date has not been stipulated for the proposed guidance, but the date is anticipated to be no earlier than January 1, 2013.

*Leases:* Under this proposed guidance, lessors and lessees would apply a right-of-use model in accounting for most leases. A lessee would recognize an asset representing its right to use the underlying asset for the lease term and a liability to make lease payments. A lessor would recognize an asset representing its right to receive lease payments and, depending on its exposure to risks or benefits associated with the underlying asset, would either recognize a lease liability representing a performance obligation or derecognize its rights in the underlying asset and continue to recognize a residual asset representing its right to the leased asset at the end of the lease term. An effective date has not been stipulated for this proposed guidance.

The Company has not completed its assessment of the impact of these proposed standards on its consolidated financial position, results of operations or cash flows.

***Liquidity and Capital Resources***

To date, stockholder's equity has been influenced primarily by earnings, and to a lesser extent, changes in the unrealized gains, net of taxes, on investment securities available for sale, changes in unrealized losses, net of taxes on cash flow hedges and the payment of dividends. Stockholder's equity increased $149.3 million, or 15.8%, from $945.0 million at inception, to $1.1 billion at December 31, 2009, due to the retention of earnings and increase in unrealized gains on available for sale investment securities. Stockholder's equity increased $159.2 million, or 14.6%, to $1.3 billion at December 31, 2010, primarily due to the retention of earnings.

BankUnited must get approval by the OTS to pay dividends to its parent. Applications were filed with the OTS in August 2010 and November 2010 requesting approval to pay a quarterly dividend from BankUnited to BankUnited, Inc. Approval of the OTS was obtained via letters dated August 31, 2010 and December 3, 2010. A dividend was paid in October 2010 with another declared in December 2010.

Pursuant to FDICIA, the OTS and FDIC have adopted regulations setting forth a five-tier system for measuring the capital adequacy of the financial institutions they supervise. At December 31, 2010 and December 31, 2009, BankUnited had capital levels that exceeded the well-capitalized guidelines. In addition, a condition of approval of BankUnited's application for Federal Deposit Insurance requires BankUnited to maintain a tier 1 leverage ratio at no less than eight percent throughout the first three years of operation. To date, BankUnited has exceeded that requirement.

Liquidity involves the Company's ability to raise funds to support asset growth or reduce assets to meet deposit withdrawals and other borrowing needs, to maintain reserve requirements and to otherwise operate the Company on an ongoing basis. The Company's liquidity needs are primarily met by growth in core deposits, its cash position and cash flow from its amortizing investment and loan portfolios and reimbursements under the Shared Loss Agreements. If necessary, the Bank has the ability to raise liquidity through collateralized borrowings, FHLB advances, or the sale of its available for sale investment portfolio. The Company's ALCO policy has established several measures of liquidity, including liquid assets (defined as cash and cash equivalents, and pledgeable securities) to total assets. The Company's liquidity is considered acceptable if liquid assets divided by total assets exceeds 2.5%. At December 31, 2010, the Company's liquid assets divided by total assets was 14.7%.

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As a holding company, BankUnited, Inc. is a corporation separate and apart from our subsidiary BankUnited, and therefore, provides for its own liquidity. BankUnited, Inc.'s main sources of funding include management fees and dividends paid by its subsidiaries, and access to capital markets. There are regulatory limitations that affect the ability of BankUnited to pay dividends to BankUnited, Inc. Management believes that such limitations will not impact our ability to meet our on-going short-term cash obligations.

We expect that our cash and liquidity requirements will continue to be generated by operations, including reimbursements under the Loss Sharing Agreements, and we intend to satisfy our capital requirements over the next 12 months through these sources of liquidity.

***Interest Rate Sensitivity***

The principal component of the Company's risk of loss arising from adverse changes in the fair value of financial instruments, or market risk, is interest rate risk, including the risk that assets and liabilities with similar repricing characteristics may not reprice at the same time or to the same degree. The primary objective of the Company's asset/liability management activities is to maximize net interest income, while maintaining acceptable levels of interest rate risk. ALCO is responsible for establishing policies to limit exposure to interest rate risk, and to ensure procedures are established to monitor compliance with these policies. The guidelines established by ALCO are reviewed and approved by the Company's Board of Directors.

Management believes that the simulation of net interest income in different interest rate environments provides the most meaningful measure of the Company's interest rate risk. Income simulation analysis is designed to capture not only the potential of all assets and liabilities to mature or reprice, but also the probability that they will do so. Income simulation also attends to the relative interest rate sensitivities of these items, and projects their behavior over an extended period of time. Finally, income simulation permits management to assess the probable effects on the balance sheet not only of changes in interest rates, but also of proposed strategies for responding to them.

The Company's income simulation model analyzes interest rate sensitivity by projecting net interest income over the next twenty four months in a most likely rate scenario based on forward interest rate curves versus net interest income in alternative rate scenarios. Management continually reviews and refines its interest rate risk management process in response to the changing economic climate. Currently, the Company's model projects a plus 100, plus 200, and plus 300 basis point change (with rates increasing 25 basis points per month until the applicable limit is reached) as well as a modified flat scenario incorporating a flattened yield curve. We did not simulate a decrease in interest rates at December 31, 2010 due to the extremely low rate environment.

The Company's ALCO policy has established that interest income sensitivity will be considered acceptable if net interest income in the plus 200 basis point scenario is within 10% of forecasted net interest income in the most likely rate scenario over the next twelve months and within 12% in the second year. At December 31, 2010, the impact on projected net interest income in a plus 200 basis point scenario is 1.8% in the first twelve months and 9.0% in the second year.

These forecasts are within an acceptable level of interest rate risk per the policies established by ALCO. In the event the model indicates an unacceptable level of risk, the Company could undertake a number of actions that would reduce this risk, including the sale of a portion of its available for sale investment portfolio or the use of risk management strategies such as interest rate swaps and caps.

Many assumptions were used by the Company to calculate the impact of changes in interest rates, including the change in rates. Actual results may not be similar to the Company's projections due to several factors including the timing and frequency of rate changes, market conditions and the shape of

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the yield curve. Actual results may also differ due to the Company's actions, if any, in response to the changing rates.

***Off-Balance Sheet Arrangements***

*Commitments*

We routinely enter into commitments to extend credit to our customers, including commitments to fund loans or lines of credit and commercial and standby letters of credit. The credit risk associated with these commitments is essentially the same as that involved in extending loans to customers and they are subject to our normal credit policies and approval processes. While these commitments represent contractual cash requirements, a significant portion of commitments to extend credit may expire without being drawn upon. The following table details our outstanding commitments to extend credit as of December 31, 2010 (*dollars in thousands*):

| | Covered | Commitments Not Covered | Total |
|---|---|---|---|
| Commitments to fund loans | $ | $ 270,461 | $ 270,461 |
| Unfunded commitments under lines of credit | 170,380 | 149,361 | 319,741 |
| Commercial and standby letters of credit | 1,153 | 11,060 | 12,213 |
| Total | $ 171,533 | $ 430,882 | $ 602,415 |

*Derivative Financial Instruments*

Interest rate swaps are one of the tools we use to manage interest rate risk. These derivative instruments are used to mitigate exposure to changes in interest rates on FHLB advances and time deposits. These interest rate swaps are designated as cash flow hedging instruments. The fair value of these instruments is included in other assets or other liabilities in our consolidated balance sheets and changes in fair value are reported in accumulated other comprehensive income. At December 31, 2010, outstanding interest rate swaps designated as cash flow hedges had an aggregate notional amount of $630.0 million. The aggregate fair value of interest rate swaps designated as cash flow hedges included in other liabilities at December 31, 2010 was $42.5 million.

***Contractual Obligations***

The following table contains supplemental information regarding our outstanding contractual obligations as of December 31, 2010 (*dollars in thousands*):

| | Total | Less than 1 year | 1 3 years | 3 5 years | More than 5 years |
|---|---|---|---|---|---|
| Long-term debt obligations | $ 2,372,586 | $ 67,470 | $ 1,795,162 | $ 509,954 | $ |
| Operating lease obligations | 65,247 | 10,916 | 19,791 | 12,103 | 22,437 |
| Service contracts and purchase obligations | 5,100 | 5,100 | | | |
| Certific | | | | | |