

BankUnited, Inc.
Form S-4/A
November 10, 2011

Use these links to rapidly review the document

[TABLE OF CONTENTS](#)
[FINANCIAL STATEMENTS OF BANKUNITED, INC. AND HERALD](#)

[Table of Contents](#)

As filed with the U.S. Securities and Exchange Commission on November 9, 2011

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

Amendment No. 2
to

Form S-4
REGISTRATION STATEMENT
UNDER
THE SECURITIES ACT OF 1933

BankUnited, Inc.

(Exact Name of Registrant as Specified in Its Charter)

Delaware
(State or Other Jurisdiction
of Incorporation or Organization)

6035
(Primary Standard Industrial
Classification Code Number)

27-0162450
(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.
Skadden, Arps, Slate, Meagher & Flom LLP
4 Times Square
New York, New York 10036
(212) 735-3000

Lawrence M.F. Spaccasi, Esq.
Marc P. Levy, Esq.
Luse Gorman Pomerenk & Schick, P.C.
5335 Wisconsin Avenue, NW
Suite 780
Washington, D.C. 20015
(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.

Edgar Filing: BankUnited, Inc. - Form S-4/A

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:

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:

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:

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 Accelerated filer Non-accelerated filer Smaller reporting company

(Do not check if a
smaller reporting company)

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

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

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

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.

Table of Contents

Information in this proxy statement/prospectus is subject to completion or amendment. A registration statement relating to these securities has been filed with the Securities and Exchange Commission. These securities may not be sold nor may offers to buy be accepted prior to the time the registration statement becomes effective. This proxy statement/prospectus shall not constitute an offer to sell or the solicitation of any offer to buy nor shall there be any sale of these securities in any jurisdiction in which such offer, solicitation or sale would be unlawful prior to registration or qualification under the securities laws of any such jurisdiction.

PRELIMINARY SUBJECT TO COMPLETION DATED NOVEMBER 9, 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 December 20, 2011 at 11:00 a.m. (Eastern) at 623 Fifth Avenue, 11th Floor, New York, New York 10022.

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 and amended as of October 28, 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. Based on [] shares of Herald common and preferred stock outstanding as of [], and the closing price of BankUnited, Inc. common stock on the NYSE on [], 2011, BankUnited, Inc. expects to issue in the merger approximately [] million shares of BankUnited, Inc. common stock to Herald's shareholders for the outstanding common and preferred shares of Herald.

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 per share 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.

Edgar Filing: BankUnited, Inc. - Form S-4/A

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 are a Herald shareholder and have any questions or need assistance voting your shares or making elections, please contact Phoenix Advisory Partners, a firm that is helping us solicit proxies, toll-free at (877) 478-5038 (banks and brokers can call collect at (212) 493-3910).

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 [].

Table of Contents

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

Date and time	December 20, 2011 at 11:00 a.m. (Eastern).
Location	623 Fifth Avenue, 11 th Floor, New York, New York 10022.
Items of business	<p>The purpose of the special meeting is for the shareholders of Herald to consider and vote on the following matters:</p> <p>A proposal to ratify and confirm the merger agreement, dated as of June 2, 2011, by and between Herald and BankUnited, Inc., as amended by Amendment No. 1 dated as of October 28, 2011 and as such agreement may be further amended from time to time, 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.</p> <p>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.</p> <p>A proposal to approve, by non-binding, advisory vote, certain compensation arrangements for Herald's named executive officers in connection with the merger.</p>
Record date	<p>We have fixed the close of business on October 27, 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.</p> <p>At the close of business on October 27, 2011, there were outstanding and entitled to vote approximately 16,902,796 shares of our capital stock (12,217,868 shares of our common stock and 4,684,928 shares of our preferred stock).</p>
Voting	<p>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.</p> <p>Instructions on how to vote are on the enclosed proxy card.</p> <p>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.</p>
Registered shareholders	<p>If you hold Herald stock in your name, you may vote: Online by accessing the Internet Web site printed on your proxy card.</p>

Edgar Filing: BankUnited, Inc. - Form S-4/A

Table of Contents

Via telephone by calling the toll-free number printed on your proxy card.
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 are a Herald shareholder and have any questions or need assistance voting your shares, please contact Phoenix Advisory Partners, a firm that is helping us solicit proxies, toll-free at (877) 478-5038 (banks and brokers can call collect at (212) 493-3910).

Additional information

The merger agreement is attached as Annex A, and Amendment No. 1 thereto is attached as Annex B, 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
[]

Table of Contents

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.
Attention: Douglas J. Pauls
14817 Oak Lane
Miami Lakes, FL 33016
(305) 569-2000

Herald National Bank
Attention: Gerard A. Perri
623 Fifth Avenue, 11th Floor
New York, New York 10022
(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 December 13, 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. 333-175530), 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.

Table of Contents**TABLE OF CONTENTS**

	Page
<u>QUESTIONS AND ANSWERS ABOUT THE MERGER AND SPECIAL MEETING</u>	<u>iv</u>
<u>SUMMARY</u>	<u>1</u>
<u>RECENT DEVELOPMENTS</u>	<u>12</u>
<u>UNAUDITED COMPARATIVE PER COMMON SHARE DATA</u>	<u>14</u>
<u>SELECTED CONSOLIDATED HISTORICAL FINANCIAL DATA OF BANKUNITED, INC.</u>	<u>15</u>
<u>SELECTED HISTORICAL FINANCIAL DATA OF HERALD</u>	<u>17</u>
<u>RISK FACTORS</u>	<u>18</u>
<u>Risks Associated with the Merger</u>	<u>18</u>
<u>Risks Associated with BankUnited, Inc.'s Business</u>	<u>22</u>
<u>Risks Relating to the Regulation of BankUnited, Inc.'s Industry</u>	<u>29</u>
<u>CAUTIONARY STATEMENT REGARDING FORWARD-LOOKING STATEMENTS</u>	<u>33</u>
<u>HERALD SPECIAL MEETING</u>	<u>35</u>
<u>Matters to Be Considered</u>	<u>35</u>
<u>Recommendation of Herald's Board of Directors</u>	<u>35</u>
<u>Record Date</u>	<u>35</u>
<u>Quorum</u>	<u>36</u>
<u>Required Vote</u>	<u>36</u>
<u>Stock Ownership of Directors and Officers</u>	<u>36</u>
<u>Proxies</u>	<u>36</u>
<u>Revocation of Proxies</u>	<u>37</u>
<u>Solicitation of Proxies</u>	<u>37</u>
<u>THE MERGER (PROPOSAL 1)</u>	<u>38</u>
<u>Terms of the Merger</u>	<u>38</u>
<u>Background of the Merger</u>	<u>39</u>
<u>Herald's Reasons for the Merger; Recommendation of Herald's Board of Directors</u>	<u>45</u>
<u>Opinion of Herald's Financial Advisor</u>	<u>48</u>
<u>Financial Projections</u>	<u>62</u>
<u>BankUnited, Inc.'s Reasons for the Merger</u>	<u>62</u>
<u>Board of Directors and Management of BankUnited, Inc. Following Completion of the Merger</u>	<u>63</u>
<u>Public Trading Markets</u>	<u>63</u>
<u>Herald Shareholders' Dissenters' and Appraisal Rights in the Merger</u>	<u>63</u>
<u>Regulatory Approvals Required for the Merger</u>	<u>64</u>
<u>Dividends</u>	<u>65</u>
<u>Interests of Herald's Directors and Executive Officers in the Merger</u>	<u>65</u>
<u>No "Golden Parachute Compensation" for BankUnited Inc.'s Named Executive Officers</u>	<u>70</u>
<u>Litigation Relating to the Merger</u>	<u>70</u>
<u>THE MERGER AGREEMENT</u>	<u>71</u>
<u>Structure of the Merger</u>	<u>71</u>
<u>Merger Consideration</u>	<u>71</u>
<u>Adjustment</u>	<u>72</u>
<u>Closing</u>	<u>76</u>
<u>Effective Time of the Merger</u>	<u>76</u>
<u>Merger of BankUnited and Herald</u>	<u>76</u>
<u>Treatment of Herald Options and Other Equity Based Awards</u>	<u>77</u>
<u>Treatment of Herald Warrants</u>	<u>77</u>
<u>Conversion of Shares; Exchange of Certificates; Elections as to Form of Consideration</u>	<u>77</u>
<u>Representations and Warranties</u>	<u>79</u>
<u>Covenants and Agreements</u>	<u>82</u>

Table of Contents

	Page
<u>Conditions to Complete the Merger</u>	88
<u>Termination of the Merger Agreement</u>	89
<u>Effect of Termination</u>	90
<u>Termination Fees</u>	90
<u>Fees and Expenses</u>	91
<u>Amendment, Waiver and Extension of the Merger Agreement</u>	92
<u>ADJOURNMENT OF THE SPECIAL MEETING (PROPOSAL 2)</u>	92
<u>MERGER-RELATED EXECUTIVE COMPENSATION ARRANGEMENTS (PROPOSAL 3)</u>	93
<u>ACCOUNTING TREATMENT</u>	93
<u>MATERIAL U.S. FEDERAL INCOME TAX CONSEQUENCES OF THE MERGER</u>	94
<u>In General</u>	94
<u>U.S. Federal Income Tax Consequences if the Merger and the Subsequent Merger are Treated as a Single Integrated Transaction</u>	95
<u>U.S. Federal Income Tax Consequences if the Subsequent Merger Fails to Occur</u>	98
<u>Certain Tax Reporting Rules</u>	98
<u>COMPARATIVE MARKET PRICES AND DIVIDENDS</u>	99
<u>DESCRIPTION OF BANKUNITED, INC. CAPITAL STOCK</u>	102
<u>General</u>	102
<u>Common Stock</u>	102
<u>Preferred Stock</u>	102
<u>Registration Rights</u>	103
<u>Corporate Opportunity</u>	104
<u>COMPARISON OF BANKUNITED, INC. COMMON STOCKHOLDER RIGHTS TO HERALD COMMON AND PREFERRED SHAREHOLDER RIGHTS</u>	104
<u>Authorized Capital Stock</u>	104
<u>Size of Board of Directors</u>	104
<u>Classes of Directors</u>	105
<u>Removal of Directors</u>	105
<u>Filling Vacancies on the Board of Directors</u>	105
<u>Nomination of Director Candidates by Stockholders</u>	106
<u>Calling Special Meetings of Stockholders</u>	107
<u>Stockholder Proposals</u>	108
<u>Notice of Stockholder Meetings</u>	109
<u>Anti-Takeover Provisions and Other Stockholder Protections</u>	109
<u>Indemnification of Directors and Officers</u>	110
<u>Amendments to Certificate of Incorporation/Articles of Association and By-laws</u>	112
<u>Additional Rights of Herald Preferred Shareholders</u>	112
<u>LEGAL MATTERS</u>	113
<u>EXPERTS</u>	113
<u>STOCKHOLDER PROPOSALS FOR NEXT YEAR</u>	114
<u>BankUnited, Inc.</u>	114
<u>Herald</u>	114
<u>OTHER MATTERS</u>	114
<u>SHAREHOLDERS SHARING AN ADDRESS</u>	114
<u>INFORMATION ABOUT BANKUNITED, INC.</u>	115
<u>Information About BankUnited, Inc.'s Business</u>	115
<u>Description of BankUnited, Inc.'s Properties</u>	135
<u>BankUnited, Inc.'s Legal Proceedings</u>	135
<u>Market Price of and Dividends on BankUnited, Inc.'s Common Equity and Related Stockholder Matters</u>	136

Edgar Filing: BankUnited, Inc. - Form S-4/A

Table of Contents

	Page
<u>Management's Discussion and Analysis of Financial Condition and Results of Operations June 30, 2011</u>	<u>138</u>
<u>Management's Discussion and Analysis of Financial Condition and Results of Operations December 31, 2010</u>	<u>167</u>
<u>Quantitative and Qualitative Disclosures About Market Risk</u>	<u>225</u>
<u>Changes in and Disagreements with Accountants on Accounting and Financial Disclosure</u>	<u>225</u>
<u>Equity Compensation</u>	<u>225</u>
<u>Security Ownership and Certain Beneficial Ownership</u>	<u>225</u>
<u>Executive Officers and Directors</u>	<u>228</u>
<u>Executive Compensation</u>	<u>233</u>
<u>Related Transactions</u>	<u>254</u>
<u>INFORMATION ABOUT MERGER SUB</u>	<u>258</u>
<u>INFORMATION ABOUT HERALD</u>	<u>258</u>
<u>Information About Herald's Business</u>	<u>258</u>
<u>Description of Herald's Properties</u>	<u>273</u>
<u>Herald's Legal Proceedings</u>	<u>273</u>
<u>Market Price of and Dividends on Herald's Common Equity and Related Shareholder Matters</u>	<u>274</u>
<u>Management's Discussion and Analysis of Financial Condition and Results of Operations June 30, 2011</u>	<u>276</u>
<u>Management's Discussion and Analysis of Financial Condition and Results of Operations December 31, 2010</u>	<u>289</u>
<u>Changes in and Disagreements with Accountants on Accounting and Financial Disclosure</u>	<u>307</u>
<u>Equity Compensation</u>	<u>308</u>
<u>Security Ownership and Certain Beneficial Ownership</u>	<u>309</u>
<u>WHERE YOU CAN FIND MORE INFORMATION</u>	<u>311</u>
<u>FINANCIAL STATEMENTS OF BANKUNITED, INC. AND HERALD</u>	<u>F-1</u>

ANNEX A Merger Agreement, dated as of June 2, 2011, by and between BankUnited, Inc. and Herald National Bank

ANNEX B Amendment No. 1 to the Merger Agreement, dated as of October 28, 2011, by and between BankUnited, Inc. and Herald National Bank

ANNEX C Section 215a of Title 12 of the United States Code

ANNEX D Opinion of Sandler O'Neill & Partners, L.P.

Table of Contents

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, and amended as of October 28, 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 October 27, 2011 will be entitled to vote at the special meeting.

Table of Contents

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

A: The special meeting will be held at 623 Fifth Avenue, 11th Floor, New York, New York 10022 at 11:00 a.m. (Eastern) on December 20, 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 December 19, 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. Separate forms of election will be received, and should be completed, with respect to shares of Herald preferred stock and shares of Herald common stock. 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 December 19, 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:

Registrar and Transfer Company
Attn. Reorg/Exchange Dept.
P.O. Box 645
Cranford, New Jersey 07106-0645

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

Table of Contents

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.

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 43.10% 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.

Table of Contents

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 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 December 19, 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,