

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

FORM S-8

**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)

27-0162450

(I.R.S. Employer Identification No.)

**14817 Oak Lane
Miami Lakes, FL**

(Address of Principal Executive Offices)

33016

(Zip Code)

**Heritage Bank, N.A. 2008 Stock Incentive Plan
(Full Title of the Plan)****John A. Kanas****Chairman, President and Chief Executive Officer****BankUnited, Inc.****14817 Oak Lane****Miami Lakes, FL 33016**

(Name and address of agent for service)

(305) 569-2000

(Telephone number, including area code, of agent for service)

Copy to:**William S. Rubenstein, Esq.****Skadden, Arps, Slate, Meagher & Flom LLP****4 Times Square****New York, New York 10036****(212) 735-3000**

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.

Large accelerated filer Accelerated filer

Non-accelerated filer Smaller reporting company

CALCULATION OF REGISTRATION FEE

Title of Securities To Be Registered	Amount To Be Registered (1)	Proposed Maximum Offering Price Per Share	Proposed Maximum Aggregate Offering Price	Amount Of Registration Fee
Common Stock, par value \$0.01 per share, to be issued under the Heritage Bank, N.A. 2008 Stock Incentive Plan	256,028 shares	\$ 31.3216 (2)	\$ 8,019,198.85	\$ 919.00

(1) This registration statement shall also cover any additional shares of common stock which may become issuable under the plan being registered pursuant to this registration statement by reason of any stock dividend, stock split, recapitalization or any other similar transaction effected without the receipt of consideration which results in an increase in the number of the registrant's outstanding shares of common stock.

(2) Computed in accordance with Rule 457(h) under the Securities Act of 1933; such computation is based on the weighted average exercise price for outstanding options under this plan as of February 29, 2012.

On June 2, 2011, BankUnited, Inc., a Delaware corporation (herein referred to as the “Registrant”), and Herald National Bank, a national banking association (“Herald”), entered into a Merger Agreement (as subsequently amended, the “Merger Agreement”). Pursuant to the Merger Agreement, a national banking association subsidiary of the Registrant merged with and into Herald (the “Merger”) on February 29, 2012, with Herald surviving the Merger as a wholly-owned subsidiary of the Registrant. Upon the consummation of the Merger (the “Effective Time”), each outstanding share of Herald common and preferred stock (each, a “Herald Share”) was converted into the right to receive \$3.6587 in cash or 0.1569 shares of the Registrant’s common stock, in each case based upon election and proration procedures contained in the Merger Agreement.

In addition, at the Effective Time each outstanding and unexercised employee and director option to purchase a share of Herald common stock vested in full and was then converted into an option to acquire the number of shares of common stock, par value \$0.01 per share, of the Registrant 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 Effective Time by 0.1569, rounded down to the nearest whole share, with a per share exercise price equal to the quotient obtained by dividing (1) the per share exercise price of the option in effect immediately prior to the Effective Time by (2) 0.1569, rounded up to the nearest whole cent. Each such option shall otherwise continue to be governed by the same terms and conditions as were applicable under such option immediately prior to the Effective Time.

PART I

INFORMATION REQUIRED IN THE SECTION 10(a) PROSPECTUS

Item 1. Plan Information*

Item 2. Registrant Information and Employee Plan Annual Information*

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- * The documents containing the information specified in Part I will be sent or given to employees, officers, directors or others as specified by Rule 428(b) (1) under the Securities Act of 1933 (the “Securities Act”). In accordance with the rules and regulations of the Securities and Exchange Commission (the “SEC”) and the instructions to Form S-8, such documents are not being filed with the SEC either as part of this registration statement or as prospectuses or prospectus supplements pursuant to Rule 424 under the Securities Act. These documents and the documents incorporated by reference in this registration statement pursuant to Item 3 of Part II of this registration statement, taken together, constitute a prospectus that meets the requirements of Section 10(a) of the Securities Act.

PART II

INFORMATION REQUIRED IN THE REGISTRATION STATEMENT

Item 3. Incorporation of Documents by Reference

The following documents previously filed with the SEC are incorporated by reference in this registration statement:

- (a) The Registrant’s Annual Report on Form 10-K for the fiscal year ended December 31, 2011, filed with the SEC on February 28, 2012, that contains audited consolidated financial statements of BankUnited, Inc. and its subsidiaries for the fiscal year ended December 31, 2011;
- (b) All other reports filed pursuant to Section 13(a) or 15(d) of the Securities Exchange Act of 1934, as amended (the “Exchange Act”), since the end of the fiscal year covered by the Registrant’s Form 10-K referred to in (a) above (other than information contained in Current Reports on Form 8-K that is furnished, but not filed); and
- (c) The description of the Registrant’s common stock contained in the registration statement on Form 8-A (File No. 001-35039) filed with the SEC on January 18, 2011 to register such securities under the Exchange Act, including any amendment or report filed for the purpose of updating such description.

In addition, any and all documents subsequently filed by the Registrant with the SEC pursuant to Sections 13(a), 13(c), 14 or 15(d) of the Exchange Act, prior to the filing of a post-effective amendment to this registration statement which indicates that all securities offered hereby have been sold or which deregisters all such securities then remaining unsold, shall be deemed to be incorporated by reference in this registration statement and to be part hereof from the date of filing of such documents.

Any statement contained in a document incorporated or deemed to be incorporated by reference herein shall be deemed to be modified, superseded or replaced by a statement or information contained in any other subsequently filed document incorporated herein by reference. Any such statement so modified, superseded or replaced shall not be deemed, except as so modified, superseded or replaced, to constitute a part of this registration statement.

Under no circumstances will any information furnished under Items 2.02 or 7.01 of Current Report on Form 8-K be deemed incorporated herein by reference unless such Form 8-K expressly provides to the contrary.

Item 4. Description of Securities

Not applicable.

Item 5. Interests of Named Experts and Counsel

Not applicable.

Item 6. Indemnification of Directors and Officers

The Delaware General Corporation Law (“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. The Registrant’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. The Registrant’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, 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, the Registrant 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 the Registrant’s Board.

In addition, the Registrant’s amended and restated certificate of incorporation provides that the Registrant must indemnify its directors and officers to the fullest extent authorized by law. The Registrant is also required to advance certain expenses to its directors and officers and carry directors’ and officers’ insurance providing indemnification for the Registrant’s directors and officers for some liabilities. The Registrant believes that these indemnification provisions and the directors’ and officers’ insurance are useful to attract and retain qualified directors and executive officers.

Article VIII of the Registrant’s amended and restated by-laws provide persons who are or were officers and directors of the Registrant with certain other indemnification rights consistent with Delaware law.

The Registrant 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 the Registrant’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 the Registrant’s approval and counsel fees and disbursements, (ii) any liability pursuant to a loan guarantee, or otherwise, for any of the Registrant’s indebtedness, and (iii) any liabilities incurred as a result of acting behalf of the Registrant (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 the Registrant if it is found that such indemnitee is not entitled to such indemnification under applicable law and the Registrant’s amended and restated certificate of incorporation and by-laws.

The Registrant maintains director and officer liability insurance coverage for its directors and officers and those of its subsidiaries. This coverage insures such persons against certain losses that may be incurred by them in their respective capacities as directors and officers.

Insofar as indemnification for liabilities arising under the Securities Act may be permitted to directors, officers or persons controlling us pursuant to the foregoing provisions, in the opinion of the SEC, such indemnification is against public policy as expressed in the Securities Act and is therefore unenforceable.

Item 7. Exemption From Registration Claimed

Not applicable.

Item 8. Exhibits

The following exhibits are filed as part of this registration statement or, where so indicated, have been previously filed and are incorporated herein by reference.

Exhibit No.	Description
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- 3.1 BankUnited, Inc.'s Amended and Restated Certificate of Incorporation (incorporated herein by reference to Exhibit 3.1 of BankUnited, Inc.'s Annual Report on Form 10-K filed March 31, 2011).
- 3.2 BankUnited, Inc.'s Amended and Restated By-Laws (incorporated herein by reference to Exhibit 3.2 of BankUnited, Inc.'s Annual Report on Form 10-K filed March 31, 2011).
- 3.3 Certificate of Designation, Preferences and Rights of Series A Nonvoting Preferred Stock of BankUnited, Inc., dated February 29, 2012.
- 5.1 Opinion of Skadden, Arps, Slate, Meagher & Flom LLP.
- 10.1 Heritage Bank, N.A. 2008 Stock Incentive Plan.
- 23.1 Consent of KPMG LLP.
- 23.2 Consent of PricewaterhouseCoopers LLP.

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- 23.3 Consent of Skadden, Arps, Slate, Meagher & Flom LLP (included in Exhibit 5.1).
- 24.1 Power of Attorney (included on signature page).

Item 9. Undertakings

- (a) The undersigned registrant hereby undertakes:
- (1) To file, during any period in which offers or sales are being made, a post-effective amendment to this registration statement:
- (i) To include any prospectus required by section 10(a)(3) of the Securities Act of 1933.
- (ii) To reflect in the prospectus any facts or events arising after the effective date of the registration statement (or the most recent post-effective amendment thereof) which, individually or in the aggregate, represent a fundamental change in the information set forth in the registration statement. Notwithstanding the foregoing, any increase or decrease in volume of securities offered (if the total dollar value of securities offered would not exceed that which was registered) and any deviation from the low or high end of the estimated maximum offering range may be reflected in the form of prospectus filed with the Commission pursuant to Rule 424(b) if, in the aggregate, the changes in volume and price represent no more than a 20% change in the maximum aggregate offering price set forth in the "Calculation of Registration Fee" table in the effective registration statement.
- (iii) To include any material information with respect to the plan of distribution not previously disclosed in the registration statement or any material change to such information in the registration statement.

Provided, however, that paragraphs (a)(1)(i) and (a)(1)(ii) do not apply if the registration statement is on Form S-8, and the information required to be included in a post-effective amendment by those paragraphs is contained in periodic reports filed with or furnished to the Commission by the registrant pursuant to Section 13 or Section 15(d) of the Securities Exchange Act of 1934 that are incorporated by reference herein.

- (2) That for the purpose of determining any liability under the Securities Act of 1933, each such post-effective amendment shall be deemed to be a new registration statement relating to the securities offered therein, and the offering of such securities at that time shall be deemed to be the initial bona fide offering thereof.
- (3) To remove from registration by means of a post-effective amendment any of the securities being registered which remain unsold at the termination of the offering.

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- (b) The undersigned registrant hereby undertakes that, for purposes of determining any liability under the Securities Act of 1933, each filing of the registrant's annual report pursuant to section 13(a) or section 15(d) of the Securities Exchange Act of 1934 (and, where applicable, each filing of an employee benefit plan's annual report pursuant to section 15(d) of the Securities Exchange Act of 1934) that is incorporated by reference in the registration statement shall be deemed to be a new registration statement relating to the securities offered therein, and the offering of such securities at that time shall be deemed to be the initial bona fide offering thereof.
- (c) Insofar as indemnification for liabilities arising under the Securities Act of 1933 may be permitted to directors, officers and controlling persons of the registrant pursuant to the foregoing provisions, or otherwise, the registrant has been advised that in the opinion of the Securities and Exchange Commission such indemnification is against public policy as expressed in the Act and is, therefore, unenforceable. In the event that a claim for indemnification against such liabilities (other than the payment by the registrant of expenses incurred or paid by a director, officer or controlling person of the registrant in the successful defense of any action, suit or proceeding) is asserted by such director, officer or controlling person in connection with the securities being registered, the registrant will, unless in the opinion of its counsel the matter has been settled by controlling precedent, submit to a court of appropriate jurisdiction the question whether such indemnification by it is against public policy as expressed in the Act and will be governed by the final adjudication of such issue.

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SIGNATURES

Pursuant to the requirements of the Securities Act of 1933, as amended, the registrant certifies that it has reasonable grounds to believe that it meets all of the requirements for filing on Form S-8 and has duly caused this registration statement to be signed on its behalf by the undersigned, thereunto duly authorized in the City of Miami Lakes, State of Florida, on this 29th day of February, 2012.

BANKUNITED, INC.

By: /s/ Douglas J. Pauls

Name: Douglas J. Pauls

Title: CFO

POWER OF ATTORNEY

Each of the undersigned officers and directors of BankUnited, Inc. hereby constitutes and appoints each of John A. Kanas, Douglas J. Pauls and Rajinder P. Singh as his or her true and lawful attorney-in-fact and agent, with full power of substitution and resubstitution, in his or her name, place and stead and on his or her behalf, and in any and all capacities, to sign any and all amendments (including post-effective amendments) and exhibits to this Registration Statement, and to file the same, with all exhibits thereto and other documents in connection therewith, with the Securities and Exchange Commission, granting unto said attorney-in-fact and agent full power and authority to do and perform each and every act and thing which said attorney-in-fact and agent may deem necessary or advisable to be done or performed in connection with any or all of the above-described matters, as fully as each of the undersigned could do if personally present and acting, hereby ratifying and confirming all that said attorney-in-fact and agent, or his substitute or substitutes, may lawfully do or cause to be done by virtue hereof.

Pursuant to the requirements of the Securities Act of 1933, as amended, this registration statement has been signed by the following persons in the capacities indicated and on the dates indicated.

Signature	Title	Date
<u>/s/ John A. Kanas</u> John A. Kanas	Chairman, President and Chief Executive Officer (Principal Executive Officer) and Director	February 29, 2012
<u>/s/ Douglas J. Pauls</u> Douglas J. Pauls	Chief Financial Officer (Principal Financial and Accounting Officer)	February 29, 2012
<u>/s/ John Bohlsein</u> John Bohlsein	Vice Chairman, Chief Lending Officer and Director	February 29, 2012
<u>/s/ Chinh E. Chu</u> Chinh E. Chu	Director	February 29, 2012
<u>/s/ Sue M. Cobb</u> Ambassador Sue M. Cobb	Director	February 29, 2012

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<u>/s/ Eugene F. DeMark</u> Eugene F. DeMark	Director	February 29, 2012
<u>/s/ Richard S. LeFrak</u> Richard S. LeFrak	Director	February 29, 2012
<u>/s/ Wilbur L. Ross</u> Wilbur L. Ross, Jr.	Director	February 29, 2012
<u>/s/ Pierre Olivier Sarkozy</u> Pierre Olivier Sarkozy	Director	February 29, 2012
<u>/s/ Lance N. West</u> Lance N. West	Director	February 29, 2012

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EXHIBIT INDEX

Exhibit
No.

Description

- 3.2 BankUnited, Inc.'s Amended and Restated By-Laws (incorporated herein by reference to Exhibit 3.2 of BankUnited, Inc.'s Annual Report on Form 10-K filed March 31, 2011).
- 3.3 Certificate of Designation, Preferences and Rights of Series A Nonvoting Preferred Stock of BankUnited, Inc., dated February 29, 2012.
- 5.1 Opinion of Skadden, Arps, Slate, Meagher & Flom LLP.
- 10.1 Heritage Bank, N.A. 2008 Stock Incentive Plan.
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- 23.3 Consent of Skadden, Arps, Slate, Meagher & Flom LLP (included in Exhibit 5.1).
- 24.1 Power of Attorney (included on signature page).

**CERTIFICATE OF DESIGNATION, PREFERENCES AND RIGHTS
OF
SERIES A NONVOTING CONVERTIBLE PREFERRED STOCK
OF
BANKUNITED, INC.**

Pursuant to Section 151 of the General Corporation Law
of the State of Delaware

BankUnited, Inc., a corporation organized and existing under the General Corporation Law of the State of Delaware (the "Corporation"), in accordance with the provisions of Section 103 thereof, DOES HEREBY CERTIFY:

That pursuant to the authority conferred upon the Board of Directors by the Amended and Restated Certificate of Incorporation of the Corporation, the Board of Directors on February 21, 2012 adopted the following resolution creating a series of 5,416,000 shares of preferred stock designated as "Series A Nonvoting Convertible Preferred Stock," par value of one cent (\$0.01) per share:

RESOLVED, that pursuant to the authority conferred upon the Board of Directors in accordance with the provisions of the Certificate of Incorporation, a series of preferred stock, par value of one cent (\$0.01) per share, of the Corporation be and hereby is created, and that the designation and number of shares thereof and the voting and other powers, preferences and relative, participating, optional or other rights of the shares of such series and the qualifications, limitations and restrictions thereof are as follows:

1. Definitions. As used herein, the following terms have the following meanings:

- (a) "Affiliate" has the meaning set forth in 12 C.F.R. §225.2(a) or any successor provision.
 - (b) "Board of Directors" means the board of directors of the Corporation.
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(c) A "business day" means any day other than a Saturday or a Sunday or a day on which banks in the State of Florida or New York are authorized or required by law, executive order or regulation to close.

- (d) "By-Laws" means the Amended and Restated By-Laws of the Corporation, as amended and in effect from time to time.
- (e) "Certificate" means a certificate representing one or more shares of Series A Preferred Stock.
- (f) "Certificate of Designation" means this Certificate of Designation, Preferences and Rights of Series A Preferred Stock.
- (g) "Certificate of Incorporation" means the Amended and Restated Certificate of Incorporation of the Corporation, as amended and in effect from time to time.
- (h) "Common Stock" means the common stock of the Corporation, par value of one cent (\$0.01) per share.
- (i) "Corporation" means BankUnited, Inc., a corporation organized and existing under the General Corporation Law of the State of Delaware, and any successor Person.
- (j) "Dividends" has the meaning set forth in Section 3.
- (k) "Mandatory Conversion" has the meaning set forth in Section 5(b)(ii).
- (l) "Mandatory Conversion Date" has the meaning set forth in Section 5(b)(ii).
- (m) "Notice of Conversion" has the meaning set forth in Section 5(b)(iii).
- (n) "Permissible Transfer" means a transfer by the holder of Series A Preferred Stock (i) to an Affiliate of such holder or to the Corporation, (ii) in a widespread public distribution of Common Stock or Series A Preferred Stock, (iii) in which no transferee (or group of associated transferees) would receive 2% or more of any class of voting securities of the Corporation (including pursuant to a related series of such transfers), or (iv) to a transferee that would control more than a majority of the voting securities of the Corporation (not including voting securities such Person is acquiring from the transferor).

(o) "Person" means an individual, corporation, partnership, limited liability company, trust, business trust, association, joint stock company, joint venture, sole proprietorship, unincorporated organization, or any other form of entity not specifically listed herein.

(p) "Reorganization Event" means (i) any consolidation, merger or other similar business combination of the Corporation with or into another Person, in each case pursuant to which the Common Stock will be converted into cash, securities or other property of the Corporation or another

Person; (ii) any sale, transfer, lease or conveyance to another Person of all or substantially all of the property or assets of the Corporation, in each case pursuant to which the Common Stock will be converted into cash, securities or other property of the Corporation or another Person; or (iii) any change, including by capital reorganization, reclassification or otherwise (other than a transaction resulting in an adjustment pursuant to Section 3(b) below), of the Common Stock into securities including securities other than Common Stock.

- (q) “Series A Liquidation Preference” has the meaning set forth in Section 4(b).
- (r) “Series A Preferred Stock” has the meaning set forth in Section 2.
- (s) “Voluntary Conversion” has the meaning set forth in Section 5(b)(i).
- (t) “Voluntary Conversion Date” has the meaning set forth in Section 5(b)(i).
- (u) “Voting Security” has the meaning set forth in 12 C.F.R. §225.2(q) or any successor provision.

2. **Designation and Amount.** There shall be a series of preferred stock of the Corporation, par value of one cent (\$0.01) per share, which shall be designated “Series A Nonvoting Convertible Preferred Stock” (the “Series A Preferred Stock”), and the number of shares constituting that series shall be 5,416,000. Such number of shares may be increased or decreased by resolution of the Board of Directors and by the filing of a certificate in accordance with the provisions of the General Corporation Law of the State of Delaware stating that such increase or reduction has been so authorized; *provided, however,* that no decrease shall reduce the number of shares of Series A Preferred Stock to a number that is less than the number of shares of Series A Preferred Stock then outstanding plus the number of shares of Series A Preferred Stock issuable upon exercise of then outstanding rights, options or warrants or upon conversion of outstanding securities issued by the Corporation. Shares of Series A Preferred Stock that are redeemed, purchased or otherwise acquired by the Corporation shall be cancelled

and shall revert to authorized and unissued shares of preferred stock, undesignated as to series and available for future issuance.

3. Dividends and Distributions; Adjustments for Combinations and Divisions of Common Stock.

(a) Holders of Series A Preferred Stock will be entitled to receive, when, as and if declared by the Board of Directors or a duly authorized committee of the Board of Directors, out of funds legally available therefor, non-cumulative Dividends (as defined below) in the amounts determined as set forth in this Section 3, and no more. The Series A Preferred Stock will rank subordinate and junior to all other shares of preferred stock other than those which, by their respective terms, rank *pari passu* with or junior to the Series A Preferred Stock and shall rank *pari passu* with the Common Stock with respect to the payment of dividends or distributions, whether payable in cash, securities, options or other property, and with respect to the issuance of any rights to purchase stock, warrants, securities or other property (collectively, the “Dividends”). The holders of record of Series A Preferred Stock will be entitled to receive as, when, and if declared by the Board of Directors, Dividends in the same per share amount as the Dividends paid on a share of Common Stock, and no Dividends will be payable on the Common Stock or any other class or series of capital stock ranking with respect to Dividends *pari passu* with the Common Stock unless an identical Dividend is payable at the same time on the Series A Preferred Stock; *provided, however,* that if a stock Dividend is declared on Common Stock, the holders of Series A Preferred Stock will be entitled to a stock Dividend payable solely in shares of Series A Preferred Stock. Dividends that are payable on Series A Preferred Stock will be payable to the holders of record of Series A Preferred Stock as they appear on the stock register of the Corporation on the applicable record date, as determined by the Board of Directors, which record date will be the same as the record date for the equivalent Dividend of the Common Stock. In the event that the Board of Directors does not declare or pay any Dividends with respect to shares of Common Stock, then the holders of Series A Preferred Stock will have no right to receive any Dividends.

(b) Subject to Section 6 below, in the event that the Corporation at any time or from time to time will effect a division of the Common Stock into a greater number of shares (by stock split, reclassification or otherwise than by payment of a Dividend in Common Stock or in any right to acquire the Common Stock), or in the event the outstanding Common Stock will be combined or consolidated, by reclassification, reverse stock split or otherwise, into a lesser number of shares of the Common Stock, then the Series A Preferred Stock will, concurrently with the effectiveness of such event, be proportionately split, reclassified, combined, consolidated, reverse-split or otherwise, as appropriate, such that the number of shares of Common Stock and Series A Preferred Stock outstanding immediately following such event shall bear the same relationship to each other as did the number of shares of Common Stock and Series A Preferred Stock outstanding immediately prior to such event.

4. Liquidation, Dissolution or Winding Up.

(a) **Rank.** The Series A Preferred Stock will, with respect to rights upon liquidation, winding up and dissolution, rank subordinate and junior in right of payment to all other shares of preferred stock other than those which, by their respective terms, rank *pari passu* with or junior to the Series A Preferred Stock and shall rank senior to the Common Stock in respect of the Series A Liquidation Preference as set forth below.

(b) **Liquidation Preference.** Upon any voluntary liquidation, dissolution or winding up of the Corporation, subject to the rights of any holders of securities to which the rights of the holders of the Series A Preferred Stock are subordinate or on parity, the holders of Series A Preferred Stock shall be entitled to receive, and no distribution shall be made to the holders of shares of Common Stock or any other shares of capital stock of the Corporation ranking junior upon liquidation, dissolution or winding up to the Series A Preferred Stock, unless, prior thereto, the holders of Series A Preferred Stock shall have received an amount (the “Series A Liquidation Preference”) equal to the greater of (i) one cent (\$0.01) per share and (ii) the amount the holder of such share of Series A Preferred Stock would receive in respect of such share if such share had been converted into Common Stock at the time of such liquidation, dissolution or winding up (assuming the conversion of all shares of Series A Preferred Stock at such time, without regard to any limitations on conversion of the Series A Preferred Stock).

(c) **Merger, Consolidation and Sale of Assets Not Liquidation.** For purposes of this Section 4, the merger or consolidation of the Corporation with or into any other corporation or other entity, including a merger or consolidation in which the holders of Series A Preferred Stock receive

cash, securities or other property for their shares, or the sale, lease or exchange (for cash, securities or property) of all or substantially all of the assets of the Corporation, will not constitute a liquidation, dissolution or winding up of the Corporation.

5. Transfer; Conversion.

(a) Transfer. Neither the initial holder of any share of Series A Preferred Stock nor any of its Affiliates shall be permitted to sell, transfer or otherwise dispose of such Series A Preferred Stock other than in a Permissible Transfer.

(b) Conversion.

(i) A holder of Series A Preferred Stock shall be permitted to convert, or upon the written request of the Corporation shall convert, shares of Series A Preferred Stock into shares of Common Stock (a “Voluntary Conversion”); *provided* that upon such conversion the holder, together with all Affiliates of the holder, will not own or control in the aggregate more than 9.99% of the Common Stock (or of any class of Voting Securities issued by the Corporation), excluding for the purpose of this calculation any reduction in ownership resulting from transfers by such holder and its Affiliates of Voting Securities of the Corporation (which, for the avoidance of doubt, does not include Series A Preferred Stock). In any such conversion,

each share of Series A Preferred Stock will convert into one share of Common Stock. To effect the Voluntary Conversion, the holder shall surrender (the date of such surrender, the “Voluntary Conversion Date”) the certificate or certificates evidencing such shares of Series A Preferred Stock, duly endorsed, at the registered office of the Corporation, and provide written instructions to the Corporation as to the number of whole shares for which such conversion shall be effected, together with any appropriate documentation that may be reasonably required by the Corporation. Upon the surrender of such certificate(s), the Corporation will issue and deliver to such holder a certificate or certificates for the number of shares of Common Stock into which the Series A Preferred Stock has been converted and, in the event that such conversion is with respect to some, but not all, of the holder’s shares of Series A Preferred Stock, a certificate or certificate(s) representing the number of shares of Series A Preferred Stock that were not converted to Common Stock.

(ii) On the date (the “Mandatory Conversion Date”) a holder of Series A Preferred Stock transfers any shares of Series A Preferred Stock to a non-Affiliate of the holder in a Permissible Transfer, each such transferred share of Series A Preferred Stock will automatically convert, immediately following such transfer and without any further action on the part of any holder, into one share of Common Stock (a “Mandatory Conversion”).

(iii) As promptly as practicable following any Mandatory Conversion, the holder of the converted shares shall provide the Corporation a written notice of such conversion (a “Notice of Conversion”). In addition to any information required by applicable law or regulation, the Notice of Conversion shall state (x) the number of shares of Common Stock to be issued in respect of such conversion, (y) the name in which shares of Common Stock to be issued upon such conversion should be registered, and (z) the manner in which certificates of Series A Preferred Stock held by such holder are to be surrendered for issuance of certificates representing shares of Common Stock. No later than three (3) business days following delivery of the Notice of Conversion, with respect to any shares of Series A Preferred Stock as to which a Mandatory Conversion shall have occurred, the Corporation shall issue and deliver certificates representing shares of Common Stock to the holder thereof or such holder’s designee upon presentation and surrender of the certificate evidencing such Series A Preferred Stock to the Corporation and, if required, furnishing appropriate endorsements and transfer documents and the payment of all transfer and similar taxes, and, in the event that such conversion is with respect to some, but not all, of the shares of Series A Preferred Stock represented by the certificate surrendered, the Corporation shall issue and deliver a certificate or certificate(s) representing the number of shares of Series A Preferred Stock that were not converted to Common Stock.

(iv) Shares of Series A Preferred Stock converted in accordance with this Section 5 will resume the status of authorized and unissued preferred stock, undesignated as to series and available for future issuance.

(v) Prior to the close of business on the Voluntary Conversion Date or Mandatory Conversion Date with respect to any share of Series A Preferred Stock, shares of

Common Stock issuable upon conversion thereof, or other securities issuable upon conversion of such shares of Series A Preferred Stock, shall not be deemed outstanding for any purpose, and the holder thereof shall have no rights with respect to the Common Stock (including voting rights) by virtue of holding such share of Series A Preferred Stock.

(vi) All shares of Common Stock delivered upon conversion of the Series A Preferred Stock shall be duly authorized, validly issued, fully paid and non-assessable, free and clear of all liens, claims, security interests, charges and other encumbrances.

(c) No Impairment. The Corporation will not, by amendment of its Certificate of Incorporation or the By-Laws or through any reorganization, transfer of assets, consolidation, merger, dissolution, issue or sale of securities or any other voluntary action, avoid or seek to avoid the observance or performance of any of the terms to be observed or performed hereunder by the Corporation, but will at all times in good faith assist in the carrying out of all the provisions hereof, including Section 3(b) and this Section 5 and in the taking of all such actions as may be necessary or appropriate in order to protect the adjustment and conversion rights of the holders of the Series A Preferred Stock against impairment. Nothing in this Section 5(c) shall be deemed to grant approval or voting rights to the holders of Series A Preferred Stock that are in addition to those set forth in Section 9 hereof.

(d) Reservation of Shares Issuable upon Conversion. The Corporation will at all times reserve and keep available out of its authorized but unissued Common Stock solely for the purpose of effecting the conversion of the Series A Preferred Stock such number of shares of Common Stock as will from time to time be sufficient to effect the conversion of all outstanding Series A Preferred Stock; *provided* that if at any time the number of authorized but unissued Common Stock will not be sufficient to effect the conversion of all then outstanding Series A Preferred Stock, the Corporation will take such action as may, in the opinion of its counsel, be necessary to increase its authorized but unissued Common Stock to such number of shares as will be sufficient for such purpose.

6. Reorganization Events.

(a) So long as any shares of Series A Preferred Stock are outstanding, if there occurs a Reorganization Event, then a holder of shares of Series A Preferred Stock shall, effective as of the consummation of such Reorganization Event, automatically receive for such Series A Preferred Stock the type and amount of securities, cash and other property receivable in such Reorganization Event by a holder of the number of shares of Common Stock into which the number of shares of Series A Preferred Stock held by such holder would then be convertible, *provided* that if upon receipt of such securities, cash and other property, such holder, together with all Affiliates of the holder, would own or control in the aggregate more than 9.99% of any class of Voting Securities of the Person surviving such Reorganization Event or the parent company of such Person, then, in lieu of the foregoing, each share of Series A Preferred Stock shall remain outstanding or shall be converted into a substantially identical preference security

(with the same limitations on voting rights and conversion as the Series A Preferred Stock as contained in Sections 5 and 8 of this Certificate of Designation) of the Person surviving such Reorganization Event or the parent company of such Person, but in each case each such share of Series A Preferred Stock or such preference security shall not be convertible into Common Stock, but rather shall be convertible into the type and amount of securities, cash and other property to which a holder of one share of Common Stock would have been entitled to receive upon such Reorganization Event.

(b) In the event that holders of shares of Common Stock have the opportunity to elect the form of consideration to be received in such transaction, the holders of Series A Preferred Stock shall be entitled to participate in such elections as if they had converted all of their Series A Preferred Stock into Common Stock immediately prior to the election deadline.

(c) For the avoidance of doubt, nothing set forth herein shall prohibit the Corporation from entering into or consummating a transaction constituting a Reorganization Event provided that the Series A Preferred Stock is treated as set forth in this Section 6.

7. **Maturity; Redemption.** The Series A Preferred Stock shall be perpetual unless converted in accordance with this Certificate of Designation. The Series A Preferred Stock will not be redeemable at the option of the Corporation or any holder of Series A Preferred Stock at any time. Notwithstanding the foregoing, nothing contained herein shall prohibit the Corporation from repurchasing or otherwise acquiring shares of Series A Preferred Stock in voluntary transactions with the holders thereof. Any shares of Series A Preferred Stock repurchased or otherwise acquired may be cancelled by the Corporation and thereafter be reissued as shares of any series of preferred stock of the Corporation.

8. **Voting Rights.** The holders of Series A Preferred Stock will not have any voting rights, except as provided in Section 9 below or as otherwise from time to time required by law.

9. **Protective Provisions.**

(a) So long as any shares of Series A Preferred Stock are outstanding, the vote or consent of the holders of a majority of the shares of Series A Preferred Stock at the time outstanding, voting as a single class, given in person or by proxy, either in writing without a meeting or by vote at any meeting called for the purpose, will be necessary for effecting or validating any of the following actions, whether or not such approval is required by Delaware law:

(i) any amendment, alteration or repeal (including by means of a merger, consolidation or otherwise) of any provision of the Certificate of Incorporation (including this Certificate of Designation) or the By-Laws that would adversely affect the rights

or preferences of the Series A Preferred Stock (which shall not include, for the avoidance of doubt, any Reorganization Event in connection with which the Series A Preferred Stock is treated as provided in Section 6 above or any increase or decrease in the authorized amount of capital stock of the Corporation); or

(ii) the consummation of a Reorganization Event in connection with which the Series A Preferred Stock is not converted or otherwise treated as provided in Section 6.

Notwithstanding anything to the contrary herein, any increase in the amount of the authorized preferred stock or any securities convertible into preferred stock or the creation and issuance, or an increase in the authorized or issued amount, of any series of preferred stock or any securities convertible into preferred stock, in any case ranking equally with, junior to and/or senior to the Series A Preferred Stock with respect to the payment of dividends (whether such dividends are cumulative or non-cumulative) and/or the distribution of assets upon the Corporation's liquidation, dissolution or winding up will not, in and of itself, be deemed to adversely affect rights, preferences or privileges of the Series A Preferred Stock and, notwithstanding any provision of Delaware law, holders of Series A Preferred Stock will have no right to vote solely by reason of such an increase, creation or issuance.

(b) Notwithstanding the foregoing, holders of Series A Preferred Stock shall not have any voting rights if, at or prior to the effective time of the act with respect to which such vote would otherwise be required, all outstanding shares of Series A Preferred Stock shall have been converted into shares of Common Stock.

(c) In the event that the Corporation makes (i) an offer to repurchase shares of Common Stock from all of the holders thereof, or (ii) a tender offer for any shares of Common Stock, the Corporation shall also offer to repurchase or make a tender offer for, as applicable, shares of Series A Preferred Stock pro rata based upon the number of shares of Common Stock such holders would be entitled to receive if such shares were converted into shares of Common Stock immediately prior to such repurchase and otherwise on terms which would provide the holders of the Series A Preferred Stock consideration and other terms equivalent to the terms offered to the holders of Common Stock assuming the Series A Preferred Stock were so converted.

10. **Notices.** Any notice required by the provisions hereof to be given to the holders of Series A Preferred Stock will be deemed given upon the earlier of (i) actual receipt and (ii) three (3) business days after being sent by certified or registered mail, postage prepaid, return receipt requested, and addressed to each holder of record at such holder's address as it appears on the books of the Corporation.

11. Record Holders. To the fullest extent permitted by law, the Corporation will be entitled to recognize the record holder of any share of Series A Preferred Stock as the true and

lawful owner thereof for all purposes and will not be bound to recognize any equitable or other claim to or interest in such share or shares on the part of any other Person, whether or not it will have express or other notice thereof.

12. No Preemptive Rights. The holders of Series A Preferred Stock are not entitled to any preemptive or preferential right to purchase or subscribe for any capital stock, obligations, warrants or other securities or rights of the Corporation.

13. Replacement Certificates. In the event that any Certificate will have been lost, stolen or destroyed, upon the making of an affidavit of that fact by the Person claiming such Certificate to be lost, stolen or destroyed and, if required by the Corporation, the posting by such Person of a bond in such amount as the Corporation may determine is necessary as indemnity against any claim that may be made against it with respect to such Certificate, the Corporation or the Corporation's transfer agent, as applicable, will deliver in exchange for such lost, stolen or destroyed Certificate a replacement Certificate.

14. Other Rights. The shares of Series A Preferred Stock have no rights, preferences, privileges or voting powers or relative, participating, optional or other special rights, or qualifications, limitations or restrictions thereof, other than as set forth herein or as provided by applicable law.

IN WITNESS WHEREOF, the Corporation has caused this Certificate of Designation to be duly executed by the undersigned officer this 29th day of February, 2012.

BANKUNITED, INC.

By: /s/ Douglas J. Pauls

Name: Douglas J. Pauls

Title: CFO

SKADDEN, ARPS, SLATE, MEAGHER & FLOM LLP
 FOUR TIMES SQUARE
 NEW YORK 10036-6522

TEL: (212) 735-3000
 FAX: (212) 735-2000
www.skadden.com

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 VIENNA

BankUnited, Inc.
 14817 Oak Lane
 Miami Lakes, FL 33016

Re: BankUnited, Inc.
Registration Statement on Form S-8

Ladies and Gentlemen:

We have acted as special counsel to BankUnited, Inc., a Delaware corporation (the "Company"), and are delivering this opinion in connection with the preparation of a registration statement on Form S-8 of the Company (the "Registration Statement") to be filed with the Securities and Exchange Commission (the "Commission"), relating to the registration by the Company of 256,028 shares (the "Shares") of the Company's common stock, par value \$0.01 per share (the "Common Stock"), authorized for issuance pursuant to the Heritage Bank, N.A. 2008 Stock Incentive Plan (the "Plan").

This opinion is being furnished in accordance with the requirements of Item 601(b)(5) of Regulation S-K under the Securities Act of 1933, as amended (the "Securities Act").

In rendering the opinion set forth herein, we have examined originals or copies, certified or otherwise identified to our satisfaction, of the following: (i) the Plan; (ii) the Registration Statement in the form to be filed with the Commission on the date hereof; (iii) the Amended and Restated Certificate of Incorporation of the Company, as amended to the date hereof and currently in effect, certified by the Secretary of State of the State of Delaware; (iv) the Amended and Restated By-Laws of the Company, as amended to the date hereof and currently in effect, certified by Douglas J. Pauls, Chief Financial Officer of the Company; (v) the Merger

Agreement by and between the Company and Herald National Bank, dated as of June 2, 2011, as amended by Amendment No. 1 to the Merger Agreement, dated as of October 28, 2011, and by the Joinder Agreement by and among the Company, Herald National Bank, and Interim Herald National Bank, dated as of February 27, 2012; (vi) certain resolutions of the Board of Directors of the Company relating to the issuance of the Shares and related matters; and (vii) a specimen certificate representing the Common Stock. We also have examined originals or copies, certified or otherwise identified to our satisfaction, of such records of the Company and such agreements, certificates and receipts of public officials, certificates of officers or other representatives of the Company and others, and such other documents as we have deemed necessary or appropriate as a basis for the opinion set forth below.

In our examination, we have assumed the legal capacity of all natural persons, the genuineness of all signatures, the authenticity of all documents submitted to us as originals, the conformity to original documents of all documents submitted to us as facsimile, electronic, certified or photostatic copies, and the authenticity of the originals of such copies. In making our examination of executed documents, we have assumed that the parties thereto, other than the Company, had the power, corporate or other, to enter into and perform all obligations thereunder and have also assumed the due authorization by all requisite action, corporate or other, and the execution and delivery by such parties of such documents and the validity and binding effect thereof on such parties. As to any facts material to the opinion expressed herein that we did not independently establish or verify, we have relied upon statements and representations of officers and other representatives of the Company and others and of public officials.

Members of our firm are admitted to the bar in the State of New York and we do not express any opinion as to the laws of any jurisdiction other than the corporate laws of the State of Delaware, and we do not express any opinion as to the effect of any other laws on the opinion stated herein.

Based on and subject to the foregoing, we are of the opinion that the Shares have been duly authorized by the Company and, when the Shares are issued and paid for by the participants in the Plan as contemplated by the Plan and in accordance with the terms and conditions of the Plan and the applicable award agreements, the Shares will be validly issued, fully paid and non-assessable.

We hereby consent to the filing of this opinion with the Commission as an exhibit to the Registration Statement. In giving this consent, we do not thereby admit that we are included in the category of persons whose consent is required

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under Section 7 of the Securities Act or the rules and regulations of the Commission promulgated thereunder.

Very truly yours,

/s/ Skadden, Arps, Slate, Meagher & Flom LLP

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**HERITAGE BANK, N.A.
2008 STOCK INCENTIVE PLAN**

1. PURPOSE

The 2008 Stock Incentive Plan (“Plan”) is intended to promote shareholder value by (a) enabling Heritage Bank, N.A. (“Bank”) and its affiliates to attract and retain the best available individuals for positions of substantial responsibility; (b) providing additional incentive to such persons by affording them an equity participation in the Bank; (c) rewarding those directors, executive officers and employees for their contributions to the Bank; and (d) promoting the success of the Bank’s business by aligning the financial interests of directors, executive officers and employees providing personal services to the Bank or its affiliates with long-term shareholder value.

2. DEFINITIONS

- (A) “Act” means the Securities Exchange Act of 1934, as amended, or any successor provisions.
- (B) “Affiliate” means (i) any entity that, directly or indirectly, is controlled by the Bank, (ii) an entity in which the Bank has a significant equity interest, (iii) an affiliate of the Bank, as defined in Rule 12b-2 promulgated under the Act, (iv) any Subsidiary and (v) any entity in which the Bank has at least twenty percent (20%) of the combined voting power of the entity’s outstanding voting securities, in each case as designated by the Board of Directors as being a participant employer in the Plan.
- (C) “Bank” means Heritage Bank, N.A., a national banking association, and except as otherwise specified in this Plan in a particular context, any successor thereto, whether by merger, consolidation, purchase of all or substantially all of its assets or otherwise.
- (D) “Board of Directors” means the board of directors of the Bank.
- (E) “Brokered Assisted Exercise” means a special sale and remittance procedure pursuant to which the Participant shall concurrently provide irrevocable written instructions to (a) an administrator-designated brokerage firm to effect the immediate sale of Stock owned by the Participant for at least six months and remit to the Bank, out of the sale proceeds available on the settlement date, sufficient funds to cover the aggregate exercise price plus all applicable federal, state and local income and employment taxes required to be withheld by the Bank, and (b) the Bank to deliver the certificates for the Stock issued upon exercise of the Options directly to the Participant or such brokerage firm in order to complete the sale.
- (F) “Change of Control” means:
 - (i) the acquisition by any individual, entity or “group,” within the meaning of section 13(d)(3) or section 14(d)(2) of the Act (other than the current members of the Board of Directors or any of their descendants, the Bank, or any savings, pension or other benefit plan for the benefit of the employees of the Bank or subsidiaries thereof)(a “Person”), of beneficial ownership (within the meaning of Rule 13d-3 promulgated under the Act) of voting securities of the Bank where such acquisition causes any such Person to own fifty percent (50%) or more of the combined voting power of the Bank’s then outstanding capital stock then entitled to vote generally in the election of directors;
 - (ii) within any twelve-month period, the persons who were directors of the Bank immediately before the beginning of the twelve-month period (the “Incumbent Directors”) shall cease to
 - constitute at least a majority of the Board of Directors; provided that any individual becoming a director subsequent to the beginning of such twelve-month whose election, or nomination for election by the Bank’s shareholders, was approved by at least two-thirds of the directors then comprising the Incumbent Directors shall be considered as though such individual were an Incumbent Director unless such individual’s initial assumption of office occurs as a result of either an actual or threatened election contest (as such terms are used in Rule 14a-11 of Regulation 14A promulgated under the Act);
 - (iii) a reorganization, merger, consolidation or other corporate transaction involving the Bank with respect to which the shareholders of the Bank immediately prior to such transaction do not, immediately after the transaction, own more than fifty percent (50%) of the combined voting power of the reorganized, merged or consolidated company’s then outstanding voting securities;
 - (iv) the sale, transfer or assignment of all or substantially all of the assets of the Bank to any third party;
 - (v) a dissolution or liquidation of the Bank; or
 - (vi) any other transactions or series of related transactions occurring which have substantially the same effect as the transactions specified in clauses (i) — (v), as determined by the Board of Directors.
- (G) “Code” means the Internal Revenue Code of 1986, as amended, or any successor provisions.
- (H) “Controlling Participant” means any person who, immediately before an Option is granted to that particular person, directly or indirectly (within the meaning of section 424 of the Code and the regulations promulgated thereunder) possesses more than ten percent (10%) of the total combined voting power of all classes of stock of the Bank or any Subsidiary. The determination of whether a person is a Controlling Participant shall be made in accordance with sections 422 and 424 of the Code, or any successor provisions, and the regulations promulgated thereunder.
- (I) “Committee” means the committee appointed by the Board of Directors to administer the Plan pursuant to Section 4(A). If the Committee has not been appointed, the Board of Directors in its entirety shall constitute the Committee. The Board of Directors shall consider the advisability of whether the members of the Committee shall consist solely of two or more members of the Board of Directors who are each “outside directors” as defined in Treas. Reg. section 1.162 -27(e)(3) as promulgated by the Internal Revenue Service and “non-employee directors” as defined in Rule 16b-3(b)(3) as promulgated under the Act.

(J) "Exercise Price" means the price at which a share of Stock may be purchased by a Participant pursuant to the exercise of an Option, as specified in the respective Stock Option Agreement.

(K) "Fair Market Value" on any date with respect to the Stock means:

(i) if the Stock is listed on a national securities exchange, the last reported sale price of a share of the Stock on such exchange or, if no sale occurs on that date, the average of the reported closing bid and asked prices on that date;

(ii) if the Stock is otherwise publicly traded, the last reported sale price of a share of the Stock under the quotation system under which the sale price is reported or, if no sale occurs on that

date, the average of the reported closing bid and asked prices on that date under the quotation system under which the bid and asked prices are reported,

(iii) if no such last sales price or average of the reported closing bid and asked prices are available on that date, the last reported sale price of a share of the Stock, or if no sale takes place, the average of the reported closing bid and asked prices as so reported for the immediately preceding business day (a) on the national securities exchange on which the Stock is listed or (b) if the Stock is otherwise publicly traded, under the quotation system under which such data are reported, or

(iv) if none of the prices described above is available, the value of a share of the Stock as reasonably determined in good faith by the Committee in a manner that it believes to be in accordance with the Code.

In determining the Fair Market Value of a share of Stock in connection with the issuance of an ISO, the Fair Market Value shall be determined without regard to any restriction, other than a restriction that, by its terms, will never lapse.

(L) "ISO" means an Option (or portion thereof) intended to qualify as an "incentive stock option" within the meaning of section 422 of the Code, or any successor provision.

(M) "NQSO" means an Option (or portion thereof) that is not intended to, or does not, qualify as an "incentive stock option" within the meaning of section 422 of the Code, or any successor provision.

(N) "Option" means the right of a Participant to purchase shares of Stock in accordance with the terms of this Plan and the Stock Option Agreement between such Participant and the Bank.

(O) "Parent" means a parent corporation, if any, with respect to the Bank, as defined in section 424(e) of the Code and regulations promulgated or rulings issued thereunder.

(P) "Participant" means any person to whom an Option has been granted pursuant to this Plan and who is a party to a Stock Option Agreement.

(Q) "Stock" means the common stock of the Bank, par value \$1.00 per share.

(R) "Stock Option Agreement" means an agreement by and between a Participant and the Bank setting forth the additional terms and conditions regarding the Option. Such Stock Option Agreement shall be subject to the provisions of this Plan (which shall be incorporated by reference therein) and shall contain such provisions as the Board of Directors, in its sole discretion, may authorize.

(S) "Subsidiary" means a subsidiary corporation of the Bank, as defined in section 424(f) of the Code and regulations promulgated or rulings issued thereunder.

(T) "Termination Date" means the date on which the Participant ceased to be an employee of the Bank or any Affiliate; provided however, that with respect to an ISO, it means the date on which the Participant ceased to be an employee of the Bank or any Parent or Subsidiary.

3. SHARES AVAILABLE UNDER THE PLAN

(A) Shares Subject to the Plan. Subject to adjustment in accordance with the provisions of this Section 3, the total number of shares of Stock as to which Options may be granted shall be 1,632,000 shares, all of which may be awardable as ISOs. Stock issued under the Plan may be either authorized but

unissued shares or shares that have been reacquired by the Bank. Any shares issued by the Bank in connection with the assumption or substitution of outstanding grants from any acquired corporation shall not reduce the shares of Stock available for Options under the Plan.

(B) Forfeited Awards. In the event that any outstanding Option under the Plan for any reason expires unexercised, is forfeited or is terminated prior to the end of the period during which Options may be issued under the Plan, the shares of Stock allocable to the unexercised portion of such Option that has expired, been forfeited or been terminated shall become available for future issuance under the Plan.

(C) Shares Used to Pay Exercise Price and Taxes. Shares of Stock delivered to the Bank to pay the Exercise Price of any Option or to satisfy the Participant's income tax withholding obligation shall become available for future issuance under the Plan.

(D) Adjustments on Changes in Stock. In the event of any change in the outstanding shares of Stock by reason of any merger, reorganization, consolidation, recapitalization, stock dividend, stock split, reverse stock split, spinoff, combination or exchange of shares or other corporate change, the Committee, in its sole discretion, may make such substitution or adjustment, if any, as it deems to be equitable or appropriate, as to: (i) the maximum number

of shares of Stock that may be issued under the Plan as set forth in Section 3(A); (ii) the number or kind of shares subject to an Option; (iii) subject to the limitation contained in Section 6(P), the Exercise Price applicable to an Option; (iv) any measure of performance that relates to an Option in order to reflect such change in the Stock and/or (v) any other affected terms of any Option; provided however, that no adjustment shall occur with respect to an ISO unless: (y) the excess of the aggregate Fair Market Value of the shares of Stock subject to the ISO immediately after any such adjustment over the aggregate Exercise Price of such shares is not more than the excess of the aggregate Fair Market Value of all shares subject to the ISO immediately prior to such adjustment over the Exercise Price of all shares subject to the ISO; and (z) the new or adjusted ISO does not grant the Participant additional benefits that the Participant did not previously have.

4. ADMINISTRATION

(A) Procedure. The Plan shall be administered, construed and interpreted by the Committee, as such Committee is from time to time constituted, or any successor committee the Board of Directors may designate to administer the Plan. The Committee may delegate any of its powers and duties to appropriate officer(s) of the Bank in accordance with guidelines established by the Committee from time to time.

(B) Powers of the Committee. Subject to the other provisions of the Plan, the Committee shall have all powers vested in it by the terms of the Plan as set forth herein, such powers to include exclusive authority (except as may be delegated as permitted herein): (i) to select those persons to be granted Options under the Plan; (ii) to determine the type, size and terms of the Option to be granted to each individual selected; (iii) to modify the terms of any Option that has been granted; (iv) to determine the time when Options will be granted; (v) to establish performance objectives; (vi) to determine the Fair Market Value of the Stock under Section 2(K)(iv); (vii) to interpret the Plan and decide any questions and settle all controversies or disputes that may arise in connection with the Plan; (viii) to adopt, amend and rescind rules and regulations relating to the Plan; (ix) to prescribe the form or forms of instruments evidencing Options and any other instruments required under the Plan and to change such forms, in its sole and absolute discretion, from time to time; (x) to accelerate or defer (with the consent of the Participant) the vesting period or exercise date of any Option; (xi) to authorize any person to execute on behalf of the Bank any instrument required to effectuate the grant of an Option previously granted by the Committee; and (xii) to make all other determinations and perform all other acts necessary or advisable for the administration of the Plan. The Committee (or its delegate as permitted herein) may correct any

defect, supply any omission or reconcile any inconsistency in the Plan or in any Option in the manner and to the extent that it shall deem desirable to carry the Plan or any Option into effect.

(C) Effect of Decision of the Committee and Board of Directors. All decisions, determinations, actions and interpretations of the Committee (or its delegate as permitted herein) or the Board of Directors (or its delegate as permitted herein) in the administration of the Plan shall lie with the Committee and the Board of Directors, respectively, within its sole and absolute discretion and shall be final, conclusive and binding on all parties concerned; provided that the Committee or the Board of Directors, as applicable, may, in its sole and absolute discretion, overrule an action, decision, determination or interpretation of a person to whom it has delegated authority.

(D) Liability of Board of Directors or the Committee. No member of the Board of Directors or Committee or any officer of the Bank shall be liable for anything done or omitted to be done by him, by any other member of the Board of Directors or Committee or any officer of the Bank in connection with the performance of duties under the Plan, except for his own willful misconduct or as expressly provided by statute. The members of the Board of Directors and Committee and officers of the Bank shall be entitled to indemnification in connection with the performance of their respective duties under the Plan to the extent provided in the articles of association or bylaws of the Bank or otherwise by law.

5. ELIGIBILITY

Consistent with the purposes of the Plan, the Committee shall have the power (except as may be delegated as permitted herein) to select the employees and other individuals performing services for the Bank and its Affiliates who may participate in the Plan and be granted Options under the Plan. No person who is not an employee of the Bank or a Parent or a Subsidiary shall be eligible to receive an ISO award under the Plan. For purposes of this Plan, the term "employee" means an individual employed by the Bank or a Parent or Subsidiary whose income from those entities is subject to Federal Income Contributions Act ("FICA") withholding.

6. TERMS AND CONDITIONS APPLICABLE TO OPTIONS UNDER THE PLAN

Options granted pursuant to the Plan shall be evidenced by Stock Option Agreements in such form as the Board of Directors shall, from time to time, authorize. Except as otherwise set forth in the Stock Option Agreement, all Options issued under the Plan shall be deemed to include or incorporate, comply with and be subject to the following terms and conditions (except as necessary to conform to the requirements of law, including the laws of the jurisdiction where the Participant resides):

(A) Medium and Time of Payment. The Exercise Price shall be paid in full at the time the Option is exercised. The Exercise Price shall be payable either in (i) United States dollars in cash or by check, bank draft, money order or wire transfer of good funds payable to the Bank; (ii) upon conditions established by the Committee, by delivery of shares of Stock owned by the Participant for at least six (6) months prior to the date of exercise; or (iii) by a combination of (i) and (ii); provided, however, that clauses (ii) and (iii) shall not become operable until the third anniversary of the date that the Bank opens for business. A Broker Assisted Exercise shall be deemed to be an exercise for cash under clause (i) of the preceding sentence.

(B) Number of Shares. The total number of shares to which each Option pertains shall be designated in the Stock Option Agreement at the time of grant.

(C) Designation of Option. Each Option shall be designated in the Stock Option Agreement as either an ISO or a NQSO and, in the absence of such designation, shall be deemed to be a NQSO. In

the event that a person is granted concurrently an ISO and a NQSO, such Options shall be evidenced by separate Stock Option Agreements. However, notwithstanding such designations, to the extent that (i) the aggregate Fair Market Value (determined as of the time of grant) of the Stock with respect to which Options designated as ISOs are exercisable for the first time by any employee during any calendar year (under all plans of the Bank and any Subsidiary) exceeds \$100,000, or (ii) an ISO does not meet any other requirement to be an “incentive stock option” within the meaning of section 422 of the Code, such Options, or portions thereof, shall be treated as NQSOs. For purposes of this section, Options shall be taken into account in the order in which they were granted.

(D) Exercise Price. The Exercise Price per share of Stock under an Option shall be determined by the Committee in its sole discretion; provided however that the Exercise Price shall be not less than one hundred percent (100%) of the Fair Market Value on the date that such Option is granted and, in the case of an ISO granted to a Controlling Participant, the Exercise Price shall be not less than one hundred ten percent (110%) of the Fair Market Value on the date that such Option is granted.

(E) Option Term. The term of an Option shall be fixed by the Committee, in its sole discretion, in each Stock Option Agreement; provided however that for any Option to qualify as an ISO, the Option shall expire not more than ten years from the date the Option is granted and, in the case of a Controlling Participant, not more than five years from the date the Option is granted.

(F) Exercise of Options. Subject to the provisions of this Plan and the applicable Stock Option Agreement, the vested portion of an Option may be exercised in whole at any time, or in part from time to time, during its term. Except as otherwise expressly provided in writing by the Board of Directors, an Option may not be exercised for a fractional share of Stock. A Participant may not exercise the nonvested portion of any Option. An Option will cease to be exercisable with respect to a share of Stock when the Participant purchases the share.

(G) Stock Certificates. Promptly upon exercise of an Option, the Bank shall issue (or cause to be issued) certificates evidencing the shares of Stock acquired as a result of the exercise of the Option. In the event that the exercise of an Option is treated in part as the exercise of an ISO and in part as the exercise of a NQSO pursuant to Section 6(C) hereof, the Bank shall issue a certificate evidencing the shares of Stock treated as acquired upon the exercise of an ISO and a separate certificate evidencing the shares of Stock treated as acquired upon the exercise of a NQSO, and shall identify each such certificate accordingly in its stock transfer records.

All certificates for shares of Stock delivered under the Plan pursuant to any Option shall be subject to such stock transfer orders and other restrictions as the Committee may deem advisable under the rules, regulations and other requirements of the Securities and Exchange Commission (or the applicable bank regulatory agency), any stock exchange upon which the Stock is then listed, and any applicable federal or state securities laws or regulations, and the Committee may cause a legend or legends to be put on any such certificates to make appropriate reference to such restrictions.

(H) Vesting. The conditions, if any, for the vesting of Options issued under this Plan shall be determined by the Committee, in its sole discretion, and set forth in the applicable Stock Option Agreement; provided however, that any Options granted under the Plan during the first three years of the Bank’s existence must vest over a minimum of three years. In the case of an Option not immediately exercisable in full, the Committee may at any time accelerate the time at which all or any part of the Option may be exercised. In addition, Options may become vested as provided in Section 6(N) or Section 12 hereof or as otherwise expressly set forth in the applicable Stock Option Agreement.

(I) Termination of Service. The Committee may determine, at the time of grant, for each Option the extent to which the Participant (or his legal representative) shall have the right to exercise the Option following cessation of such Participant’s service to the Bank, any Subsidiary or any Affiliate. Such provisions may reflect distinctions based on the reasons for the termination of service and any other relevant factors that the Committee may determine. In the absence of such standards, any Option granted to an employee under the Plan that has not vested prior to the Termination Date shall expire immediately upon the Termination Date, and any Option granted to an employee pursuant to the Plan that has vested prior to the Termination Date shall expire three (3) months following the Termination Date; provided however that if the cessation of Participant’s service is due to his death or disability (as defined in section 22(e)(3) of the Code), such Option shall expire one year from the Termination Date.

(J) Transferability. Options shall be nontransferable other than by will or the laws of descent and distribution and shall be exercisable during the lifetime of the Participant only by the Participant (or in the event of his disability (as defined in section 22(e)(3) of the Code), by his guardian or legal representative) and after his death, only by the Participant’s legal representatives, heirs, legatees, or distributees.

(K) No Rights as a Participant. No person shall, with respect to any Option, be deemed to have become a Participant, or to have any rights with respect to such Option, unless and until such person shall have executed a Stock Option Agreement or other instrument evidencing the Option and delivered a copy thereof to the Bank, and otherwise complied with the then applicable terms and conditions.

(L) No Rights as a Shareholder. Notwithstanding the exercise of an Option, a Participant shall have no rights as a shareholder with respect to shares covered by an Option until the date the certificates evidencing the shares of Stock are issued (as evidenced by the appropriate entry on the books of the Bank or of a duly authorized transfer agent of the Bank). No adjustment will be made for dividends or other rights the record date for which is prior to the date of issuance. Upon issuance of the certificates evidencing the shares of Stock acquired upon exercise of an Option, such shares of Stock shall be deemed to be transferred for purposes of section 421 of the Code and the regulations promulgated thereunder.

(M) Tax Withholding. As a condition to the exercise of any Option, the Bank shall have the right to require that the Participant exercising the Option (or the recipient of any shares of Stock) remit to the Bank an amount calculated by the Bank to be sufficient to satisfy applicable federal, state, foreign or local withholding tax requirements (or make other arrangements satisfactory to the Bank with regard to such taxes) prior to the delivery of any certificate evidencing shares of Stock. If permitted by the Bank, either at the time of the grant of the Option or in connection with its exercise, the Participant may satisfy applicable withholding tax requirements by delivering a number of whole shares of Stock owned by the Participant for at least six (6) months prior to the date of exercise and having a Fair Market Value (determined on the date that the amount of tax to be withheld is to be fixed) at least equal to the aggregate amount required to be withheld.

In the case of an ISO, the Committee may require as a condition of exercise that the Participant exercising the Option agree to inform the Bank promptly of any disposition (within the meaning of section 424(c) of the Code and the regulations thereunder) of Stock received upon exercise.

(N) Change of Control. Unless the Committee shall determine otherwise in writing at the time of grant with respect to a particular Option, all Options outstanding as of the date of a Change of Control or an agreement to effect a Change of Control, and which are not then exercisable and vested, shall become fully exercisable and vested to the full extent of the original grant. The determination as to

whether a Change of Control or an agreement to effect a Change of Control has occurred shall be made by the Committee and shall be conclusive and binding.

(O) Additional Restrictions and Conditions. The Committee may impose such other restrictions and conditions (in addition to those required by the provisions of this Plan) on any Option granted hereunder and may waive any such additional restrictions and conditions, so long as (i) any such additional restrictions and conditions are consistent with the terms of this Plan and (ii) such waiver does not waive any restriction or condition required by the provisions of this Plan.

(P) Repricing. The Committee shall not, without the further approval of the Board of Directors, (i) authorize the amendment of any outstanding Option to reduce the Exercise Price of such Option or (ii) grant a replacement Option upon the surrender and cancellation of a previously granted Option for the purpose of reducing the Exercise Price of such Option. Nothing contained in this section shall affect the right of the Board of Directors or the Committee to make the adjustment permitted under Section 3(D).

(Q) Legend on Stock Certificates. Certificates evidencing the shares of Stock issued upon exercise of an Option, to the extent appropriate at the time, shall have noted conspicuously on the certificates a legend intended to give all persons full notice of the existence of the conditions, restrictions, rights and obligations set forth in the Stock Option Agreement and in the Plan.

(R) Amendment and Termination. An Option or Stock Option Agreement may be amended or terminated only by a written agreement executed by the Bank and the Participant. The amendment or termination of the Plan shall not operate to modify the terms and conditions of any Stock Option Agreement or Option evidenced by a Stock Option Agreement without the Participant's consent, and, notwithstanding the termination of the Plan, each Stock Option Agreement and Option shall be construed in accordance with the substantive provisions of the Plan as necessary to give effect to any Stock Option Agreement or Option still in existence.

7. AMENDMENT AND TERMINATION OF THE PLAN

The Committee may amend, alter, suspend, or terminate the Plan or any portion hereof at any time; provided that no such amendment, alteration, suspension or termination shall be made without the approval of the shareholders of the Bank if such approval is necessary to qualify for or comply with any tax or regulatory requirement for which or with which the Board of Directors deems it necessary or desirable to qualify or comply. No amendment, suspension or termination of the Plan shall adversely affect the right of any Participant with respect to any Option theretofore granted, as determined by the Committee, without such Participant's written consent.

Unless earlier terminated, the Plan shall remain in effect until all shares issuable under the Plan have been purchased or acquired in accordance with the Plan. In no event may any Options be granted under the Plan more than ten (10) years after the earlier of the date on which the Plan is adopted or the date on which the Plan is approved by the shareholders of the Bank. Such termination by lapse of time shall not effect the validity or terms of any Option then outstanding or the ability of the Committee to amend, alter, adjust, suspend, discontinue or terminate any such Option or to waive any conditions or rights under any such Option for so long as the Option is outstanding.

8. LEGALITY OF GRANT/SPECIAL LIMITATION ON EXERCISE

The granting of Options under this Plan and the issuance or transfer of Options and shares of Stock pursuant hereto are subject to all applicable federal and state laws, rules and regulations and to such

approvals by any regulatory or government agency (including, without limitation, no-action positions of the Securities and Exchange Commission) which may, in the opinion of counsel for the Bank, be necessary or advisable in connection therewith. Without limiting the generality of the foregoing, no Options may be granted under this Plan and no Options or shares shall be issued by the Bank unless and until in any such case all legal requirements applicable to the issuance or payment have, in the opinion of counsel for the Bank, been complied with. In connection with any Option or Stock issuance or transfer, the person acquiring the shares or the Option shall, if requested by the Bank, give assurance satisfactory to counsel to the Bank with respect to such matters as the Bank may deem desirable to assure compliance with all applicable legal requirements. No purported exercise of any Option shall be effective without the approval of the Committee, which shall be a condition to the exercise of each Option and may be withheld to the extent that the exercise, either individually or in the aggregate together with the exercise of other previously exercised stock options and/or offers and sales pursuant to any prior or contemplated offering of securities, would, in the sole and absolute judgment of the Committee, require the filing of a registration statement with the United States Securities and Exchange Commission, the securities commission of any state or any other regulatory agency having jurisdiction over the Bank. No Participant shall have any cause or right of action against the Bank, or its directors or officers, in the event that such Participant's ability to exercise his or her Options is limited in accordance with this Section.

9. NO EMPLOYMENT/SERVICE RIGHTS

Nothing in this Plan or any Stock Option Agreement shall confer upon any person the right to participate in the benefits of the Plan or to be granted an Option, and there shall be no obligation to provide uniformity of treatment in connection with the administration of this Plan. The terms and conditions of Options or Stock Option Agreements need not be the same with respect to each Participant.

Nothing in this Plan or any Stock Option Agreement shall be construed as constituting a commitment, guarantee, agreement or understanding of any kind or nature that the Bank or any Affiliate shall continue to employ, retain or engage any individual (whether or not a Participant). Neither this Plan nor any Stock Option Agreement executed in accordance with this Plan shall affect in any way the right of the Bank or any Affiliate to terminate the employment or

engagement of any individual (whether or not a Participant) at any time and for any reason whatsoever and to remove any individual (whether or not a Participant) from any position with the Bank or any Affiliate. No change of a Participant's duties with the Bank or any Affiliate shall result in a modification of any rights of such Participant under this Plan or any Stock Option Agreement executed by such Participant.

10. EFFECTIVE DATE

This Plan shall become effective upon its approval by the Board of Directors; provided however that no grant of an Option under this Plan shall qualify as an ISO unless, within one year of the date the Plan becomes effective, the Plan is approved by the affirmative vote of a majority of the shareholders of the Bank present, in person or by proxy, at a meeting of the shareholders of the Bank. The Committee may grant ISOs subject to the condition that this Plan shall have been approved by the shareholders of the Bank as provided herein.

11. RESERVATION OF SHARES

During the term of this Plan, the Bank shall at all times reserve and keep available such number of shares of Stock as shall be sufficient to satisfy the requirements of the Plan.

12. MINIMUM CAPITAL REQUIREMENTS

Notwithstanding any provision of this Plan or any Stock Option Agreement to the contrary, all Options granted under the Plan shall expire, to the extent not exercised, within 45 days following the receipt of notice from the Bank's primary federal regulator ("Regulator") that (i) the Bank has not maintained its minimum capital requirements (as determined by the Regulator) or the Regulator has determined that the existence of outstanding Options is impairing the Bank's ability to raise capital; and (ii) the Regulator is requiring termination or forfeiture of options. Upon receipt of such notice from the Regulator, the Bank shall promptly notify each Participant that all Options issued under this Plan have become fully exercisable and vested to the full extent of the grant and that the Participant must exercise the Option(s) granted to him prior to the end of the 45-day period or such earlier period as may be specified by the Regulator or forfeit such Option. In case of forfeiture, no Participant shall have a cause of action, of any kind or nature, with respect to the forfeiture against the Bank or any Affiliate. Neither the Bank nor any Affiliate shall be liable to any Participant due to the failure or inability of the Bank or any Affiliate to provide adequate notice to the Participant.

13. ADMINISTRATION OF PLAN

Notwithstanding any other provision herein to the contrary, this Plan shall be administered in accordance with the provisions of the Federal Deposit Insurance Corporation's Statement of Policy on Applications for Deposit Insurance as such policy relates to stock benefit plans.

14. GENERAL

(A) Burden and Benefit. The terms and provisions of this Plan and the Options issued hereunder shall be binding upon, and shall inure to the benefit of, the Bank and each Participant and any permitted successors and assigns.

(B) Interpretation. When a reference is made in this Plan to a Section, such reference will be to a Section of this Plan unless otherwise indicated. The words "hereof," "herein" and "hereunder" and words of similar import when used in this Plan will refer to this Plan as a whole and not to any particular provision in this Plan. In interpreting this Plan and any Stock Option Agreement issued under this Plan, the following rules of interpretation shall apply: (i) headings are for convenience of reference only and will not affect in any way the meaning or interpretation of the Plan or any Stock Option Agreement; (ii) whenever the words "include," "includes" or "including," they will be deemed to be followed by the words "without limitation"; (iii) each use of the masculine, neuter or feminine gender will be deemed to include the other genders; (iv) each use of the plural will include the singular and vice versa, in each case as the context requires or as is otherwise appropriate; (v) the word "or" is used in the inclusive sense; (vi) any agreement, instrument or statute defined or referenced means such agreement, instrument or statute as from time to time amended, modified or supplemented, including (in the case of agreements or instruments) by waiver or consent and (in the case of statutes) by succession of comparable successor statutes and references to all attachments thereto and instruments incorporated therein; (vii) references to a person are also to its permitted successors or assigns. No provision of this Plan or any Stock Option Agreement is to be construed to require, directly or indirectly, any person to take any action, or omit to take any action, which action or omission would violate applicable law (whether statutory or common law), rule or regulation.

(C) Costs and Expenses. All costs and expenses with respect to the adoption, implementation and administration of this Plan shall be borne by the Bank; provided however that, except as otherwise specifically provided in this Plan or the applicable Stock Option Agreement between the Bank and a Participant, the Bank shall not be obligated to pay any costs or expenses (including legal fees) incurred by

any Participant in connection with any Stock Option Agreement, this Plan or any Option or Stock held by any Participant.

(D) Unfunded Status of Plan. The Plan is intended to constitute an "unfunded" plan for long-term incentive compensation. Neither the Plan nor any Option shall create or be construed to create a trust or separate fund of any kind or a fiduciary relationship between the Bank or any Affiliate and a Participant or any other person. Nothing contained herein shall be construed to give any Participant any rights with respect to any Option, unexercised or exercised, or any other matters under this Plan that are greater than those of a general unsecured creditor of the Bank.

(E) Governing Law. The validity, construction and effect of the Plan, any rules and regulations relating to the Plan and any Option granted hereunder shall be determined in accordance with the laws of the United States applicable to national banks and, to the extent not inconsistent therewith, to the laws of the State of New York, without reference to the laws that might otherwise govern under applicable principles of conflicts of law.

(F) Severability. If any term or other provision of this Plan or any Stock Option Agreement is held to be illegal, invalid or unenforceable by any rule of law or public policy, such term or provision shall be fully severable and this Plan or the Stock Option Agreement shall be construed and enforced as if

such illegal, invalid or unenforceable provision were not a part hereof, and all other conditions and provisions shall remain in full force and effect. Upon such determination that any term or other provision is invalid, illegal or unenforceable, there shall be added automatically as a part of this Plan or the Stock Option Agreement a provision as similar in terms to such illegal, invalid or unenforceable provision as may be possible and still be legal, valid and enforceable. If any provision of this Plan or any Stock Option Agreement is so broad as to be unenforceable, the provision shall be interpreted to be only as broad as is enforceable.

(G) Certain Conflicts. In the event of an irreconcilable conflict between the terms of the Plan and any Stock Option Agreement, the terms of the Plan shall prevail.

(H) Notices. Any notice or other communication required or permitted to be made hereunder or by reason of the provisions of this Plan or any Stock Option Agreement shall be in writing, duly signed by the party giving such notice or communication and shall be deemed to have been properly delivered if delivered personally or by a recognized overnight courier service, or sent by first-class certified or registered mail, postage prepaid, as follows (or at such other address for a party as shall be specified by like notice): (i) if given to the Bank, at its principal place of business, and (ii) if to a Participant, as provided in his Stock Option Agreement. Any notice properly given hereunder shall be effective on the date on which it is actually received by the party to whom it was addressed.

IN WITNESS WHEREOF, the Bank, acting by and through its duly authorized officer, has executed this Plan on this the 24th day of November, 2008.

HERITAGE BANK, N.A.

By: /s/ David S. Bagatelle
David S. Bagatelle
Chief Executive Officer & President

Consent of Independent Registered Public Accounting Firm

The Board of Directors
BankUnited, Inc.:

In connection with the Form S-8 registration statement to be filed by BankUnited, Inc., we consent to the use of our reports dated February 28, 2012, with respect to the consolidated balance sheets of BankUnited, Inc. and subsidiaries as of December 31, 2011 and 2010, and the related consolidated statements of income, stockholders' equity and comprehensive income, and cash flows for the years then ended and for the period from April 28, 2009 (date of inception) through December 31, 2009, and the effectiveness of internal control over financial reporting as of December 31, 2011, incorporated herein by reference.

/s/KPMG LLP

February 29, 2012

Miami, Florida

Certified Public Accountants

CONSENT OF INDEPENDENT REGISTERED CERTIFIED PUBLIC ACCOUNTING FIRM

We hereby consent to the incorporation by reference in this Registration Statement on Form S-8 of BankUnited, Inc. of our report dated October 27, 2010 relating to the consolidated financial statements of BankUnited FSB and its subsidiaries, which appears in BankUnited, Inc.'s Annual Report on Form 10-K for the year ended December 31, 2011.

/s/ PricewaterhouseCoopers LLP

Fort Lauderdale, Florida
February 29, 2012
