

NEWTEK BUSINESS SERVICES INC

Form S-3/A

June 19, 2003

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As filed with the Securities and Exchange Commission on June 19, 2003

Registration No. 333-81610

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**SECURITIES AND EXCHANGE COMMISSION**

WASHINGTON, D.C. 20549

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**FORM S-3**

**REGISTRATION STATEMENT**

UNDER

THE SECURITIES ACT OF 1933

**Amendment No. 2**

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**NEWTEK BUSINESS SERVICES, INC.**

(Exact name of registrant as specified in its charter)

New York  
(State or other jurisdiction of  
incorporation or organization)

11-3504638  
(I.R.S. Employer  
Identification No.)

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100 Quentin Roosevelt Blvd.

Suite 408

Garden City, New York 11530

(516) 390-2260

(Address, including zip code, and telephone number, including area code, of Registrant's principal executive offices)

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BARRY SLOANE

Chairman of the Board and Chief Executive Officer

Newtek Business Services, Inc.

462 Seventh Avenue, 14th Floor

New York, New York 10018

(212) 356-9500

(Name, address, including zip code, and telephone number, including area code, of agent for service of process)

*Copies To:*

MATTHEW G. ASH, ESQ.

COZEN O'CONNOR

1667 K Street, NW

Washington, DC 20006

(202) 912-4800 (Phone)

(202) 912-4830 (Fax)

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**Approximate date of commencement of proposed sale of securities to the public:** As soon as practicable after the effective date of this Registration Statement.

If the only securities being registered on this form are being offered pursuant to dividend or interest reinvestment plans, please check the following box. "

If any of the securities being registered on this form are to be offered on a delayed or continuous basis pursuant to Rule 415 under the Securities Act of 1933, other than securities offered only in connection with dividend or interest reinvestment plans, check the following box. "

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

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

If the delivery of the prospectus is expected to be made pursuant to Rule 434, please check the following box. "

The Registrant hereby amends this Registration Statement on such date or dates as maybe necessary to delay its effective date until the Registrant shall file a further amendment which specifically states that this Registration Statement shall there after become effective in accordance with Section 8(a) of the Securities Act of 1933 or until the Registration Statement shall become effective on such date as the Commission, acting pursuant to said Section 8(a), may determine.

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**1,511,817 Shares**

**Newtek Business Services, Inc.**

**Common Stock**

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This Prospectus relates to the offering of 1,511,817 shares of our common stock, par value \$0.02 per share. These shares may be sold from time to time by our current stockholders, who acquired these shares from us through private transactions.

The selling stockholders may sell the shares at prices determined by the prevailing market price for the shares or in negotiated transactions. We will not receive any proceeds from the sale of these shares.

Our common stock is traded on the American Stock Exchange under the symbol **NKC**. On June 10, 2003, the last reported sale price of our common stock was \$5.68 per share.

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**BEFORE BUYING ANY SHARES YOU SHOULD READ THE DISCUSSION OF MATERIAL RISKS OF INVESTING IN OUR COMMON STOCK IN RISK FACTORS BEGINNING ON PAGE 4.**

**NEITHER THE SECURITIES AND EXCHANGE COMMISSION NOR ANY STATE SECURITIES COMMISSION HAS APPROVED OR DISAPPROVED OF THESE SECURITIES, OR DETERMINED IF THIS PROSPECTUS IS TRUTHFUL OR COMPLETE. ANY REPRESENTATION TO THE CONTRARY IS A CRIMINAL OFFENSE.**

The date of this Prospectus is June , 2003.

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**PROSPECTUS SUMMARY**

*This summary highlights information contained elsewhere in this Prospectus. It is not complete and does not contain all of the information that you should consider before investing in the shares. You should read the entire Prospectus carefully and you should consider the information set forth under Risk Factors .*

**Newtek Business Services, Inc.**, which changed its name from that of Newtek Capital, Inc. in November 2002 in order to emphasize its current business objectives, is engaged in the business of

owning, operating or coordinating 8 businesses lines which serve small businesses and

organizing certified capital companies ( capcos ) and investing funds made available under the capco programs in small businesses including, those in which it holds an equity position.

During 2002, direct business operations of its businesses resulted in revenue of approximately \$4 Million or 12% of total revenue and the operation of the capcos resulted in non-cash revenues related to the capco tax credits of approximately \$30 Million, or 88% of total revenue. The chart on the following page depicts how these revenues are generated. During the same period, Newtek realized net income (exclusive of extraordinary gains) of approximately \$4.5 Million, substantially all of which is attributable to the non-cash income related to the capco programs.

**Business & Business Strategy.** Newtek s strategy is to operate the capcos and utilize resources available under the programs to develop businesses that emphasize serving other small businesses. During 2002 and 2003 Newtek has reduced the number of business lines that it is investing in and operating and currently Newtek is placing primary emphasis on 8 such lines.

***Newtek Small Business Finance** small business loans available under programs of the United States Small Business Administration*

***Newtek Merchant Solutions** small business electronic payment processing*

***Newtek Financial Information Services** small business financial and management reporting and planning*

***Newtek Business Exchange** small business brokerage and M & A services*

***Newtek Tax Services** small business tax preparation services (currently being organized)*

Secondary emphasis has been placed on the following:

***Newtek IT Services** software development and systems integration for small business*

***Newtek Securities** small business capital formation assistance of a broker-dealer*

*Newtek Strategies small business strategic marketing planning and advise*

Capco programs are enacted by states wishing to stimulate investment in small and new businesses in the state. Typically, a state will provide a 100 percent tax credit in exchange for a debt or equity investment by an insurance company into a capco. The capco is then obligated to invest the funds pursuant to the statutory requirements (i.e., size of business, location, number of employees, certain businesses are to be avoided, etc.) The states typically provide that the tax credits are, for a period of 3-5 years, subject to cancellation or recapture if the capco fails to meet the minimum investments required, typically 50 percent within 5 years. Thereafter, the investment obligations remain, but the tax credits are beyond loss to the investors. The Company now owns and manages ten capcos (aggregate funds raised totaling approximately \$165 million) and, to the extent consistent with the specific state statutory requirements, is able to use the funds for debt and/or equity investments in small businesses which fit its investment criteria. The Company has structured the capco obligations to the insurance company investors so as to provide interest payments largely through use of the tax credits by the insurance companies and arranged for principal repayment by a triple-A rated insurance company.

## **RESALE REGISTRATION**

The Company is registering these securities for resale by the selling Stockholders and will receive no proceeds from their disposition. A substantial portion of the registered securities are subject to contractual restrictions on transfer for up to three years. See Selling Stockholders.

## **HOW TO CONTACT US**

Our principal executive offices are located at 100 Quentin Roosevelt Boulevard, Garden City, New York and our telephone number is (516) 794-0100. We were incorporated in 1999 in New York.

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**RISK FACTORS**

In addition to the other information in this Prospectus, you should carefully consider the following factors in evaluating an investment in the shares of our common stock.

**Risks Relating to Us:**

**This section describes risks relating to us and our business operations. Other material risks relating to investments and our major investments, or partner companies, are more fully described below under Risks Relating to our Partner Companies .**

**The Company's business focuses on the acquisition and development of, and investment in, small businesses which have a high rate of failure and may take some time to become profitable, if at all.**

The Company has a major focus on the acquisition of and investment in small businesses with the objective of developing a network of successful and profitable businesses, most of which will serve the small business market generally. Such small businesses have an historically higher rate of failure than larger businesses and many, if not failing, will have only limited profitability. Moreover, profit generated by any of our investments could be offset by losses generated by others. The profitability of the Company resulting from the operations of its investments in small businesses may be delayed for the foreseeable future. For example, the Company's consolidated subsidiaries experienced aggregate net losses of approximately \$900,000 during the year ended December 31, 2001, and the Company recorded net losses from equity method investees of approximately \$2.3 million and \$163,000 in the years ended December 31, 2001 and 2000, respectively. In addition, during 2001 the Company wrote off \$476,645 of investments in small businesses, accounted for under the cost method, representing management's best estimate as to the amount of the other than temporary decline in the value of the investments.

**The value of our common stock would likely be adversely impacted by the negative performance of our partner companies and other acquisitions, aspects of which may be outside our control.**

Each of our major investments and partner companies may be impacted by a variety of adverse economic, governmental, industrial and internal company factors unique to that business and outside our control. If our investments and partner companies do not succeed in overcoming these adverse factors, the value of our assets and the price of our stock would fall.

**Because our capcos are subject to various state law requirements, a failure of any of them to meet these requirements could subject the capco and our stockholders to serious financial consequences.**

Involuntary decertification of all or substantially all of our capcos would result in material loss to the Company and its stockholders. In general, capcos issue debt and equity instruments, generally warrants, to insurance company investors and the capcos then acquire interests in companies in accordance with applicable state statutes. In return, the states issue tax credits to the capcos, which are available to and used by the insurance company investors to reduce their state tax liabilities. In order to maintain its status as a capco and to avoid the recapture of the tax credits granted, each capco must meet a number of state requirements. A key requirement in order to continue capco certification is that a capco must comply with minimum investment schedules that benchmark both the timing and type of required investments. A final involuntary loss of capco status, that is, decertification as a capco, will result in loss of the tax credits for us and our insurance investors and have a serious negative impact on our business strategy. Since beginning capco operations in 1998, the Company's capcos have met all applicable investment schedules in advance of the statutory deadlines.

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**The capco programs and the tax credits they provide are created by state legislation; such laws are subject to possible action to repeal or retroactively revise the programs for political, economic or other reasons. Such an attempted repeal would create substantial difficulty for the capco programs and could, if ultimately successful, cause material financial harm to the Company.**

The tax credits associated with the capco programs and provided to the Company's capco investors are to be utilized by the investors over eight or ten years. Much can change during such a period and it is possible that one or more states may attempt to revise or eliminate the tax credits for one reason or another. The Company views such an action as unlikely and probably unconstitutional in the jurisdictions in which it operates capcos, although there was a brief and abortive effort to enact such legislation in one state during 2002. Nonetheless, if such a repeal is successful, the repeal could have a material adverse economic on the Company, either directly or as a result of the actions of the capco's insurer's actions.

**Losses by the capcos due to investments in riskier early-stage, start up and potentially high growth businesses could make it significantly more difficult for the capcos to meet minimum state statutory investment benchmarks and thus subject the capcos to decertification as a capco and further financial loss.**

In accordance with our investment objectives, the Company and the capcos will acquire interests in early-stage companies which are riskier than some other investments. If significant losses occur due to these investments, one or more of the capcos could find that it has diminished resources with which to meet applicable minimum investment benchmarks. If we fail to meet minimum investment benchmarks it is likely that the capco's certified status would be withdrawn and our stockholders would experience significant losses. Decertification could require that the capco make compensatory payments to its investors or suffer the assumption of control of the capco by the capco's financial insurer.

**In the event of a threat of decertification by a state, the capco financial insurer is authorized (absent appropriate corrective action by the capco) to assume up to complete control of a capco which would likely result in financial loss to the capco and possibly us and our stockholders.**

Under the terms of insurance policies purchased by all but one of the capcos for the benefit of the investors, the capco insurer is authorized, in the event of a threat of decertification by a state, and absent appropriate corrective action by the capco, to assume up to complete control of a capco so as to avoid final decertification and compensatory interest payments. While avoiding final decertification, control by the insurer would result in significant disruption of the capco's business and likely result in financial loss to the capco and possibly us and our stockholders.

**In the absence of funds from sources other than the capcos, our ability to make investments in partner companies will be limited to those permissible to the capcos.**

Absent other funding sources, our ability to invest in or acquire partner companies is limited to investments permissible to the various capcos. This limitation may require us to forego attractive or desirable investments, which could adversely affect or prevent implementation of our business strategy. In the programs under which the capcos operate, investments by a capco may only be made in the state in which the particular

capco operates and the target company must meet certain requirements as to size, employment of state residents and possible relocation.

**In the absence of the adoption of new capco programs, we will be unable to derive any new income from tax credits, which to date represents substantially all of our income.**

Virtually all of our income for each of the years since inception in 1998 was derived from the recognition of income related to tax credits available under current certified capital company

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programs. We will recognize additional income related to tax credits from the current capco programs over the next four to ten years. Thereafter, unless additional capco programs are adopted and we are able to participate in them, we will derive no income from additional capco programs.

**Our method of recognition of income derived from the capco tax credits causes most or all such income to be received in the first five (5) years of the programs. In the absence of income from the Company's investments and other sources, the Company would sustain material losses in later years.**

In all capco programs we recognize the majority of our income from the tax credits in the early years of the programs because income recognition is tied to the schedule by which the tax credits become irrevocable and beyond recapture (approximately 5 Years) For example, we recognize the majority of our income from ten year capco programs in the first 5 years. In the absence of income from other sources, such as our investments in small businesses and partner companies, we would likely sustain material losses. Although we will not be recognizing significant tax credit income in the latter part of the program, we will continue to incur costs for the administration of the capcos. Currently five of the Company's capcos have been operation for three or four years, four have been in operation for one or two years, and two more are expected to begin operations later this year.

**Because our business strategy requires partner companies to share relevant information which may be confidential, we and competing partner companies may be unable to benefit from the sharing of relevant information, and our business strategy may be negatively affected.**

Our business strategy depends in part on our ability to share relevant information within our network of partner companies, while at the same time maintaining appropriate confidentiality. There could arise a situation where we compete with some of our partner companies or some of our partner companies compete with each other. If competition develops among our partner companies, we and our partners may be unable to benefit fully from the sharing of information. If we cannot convince partner companies of the value of this business model, our ability to attract new companies may be adversely affected, and our strategy of building a collaborative network may not succeed.

**Because we depend on our ability and the ability of our partner companies to attract and retain key personnel, any loss of, or inability to attract these personnel could adversely affect us. This is particularly true for small businesses such as our partner companies and other investments.**

Our success depends upon the ability of our partner companies and other investments to attract and retain qualified personnel and our ability to supplement those capabilities with our senior management personnel. Competition for qualified employees is intense. If we or our partner companies lose the services of key personnel or officers, or are unable to attract additional qualified personnel, the business, financial condition, results of operations and cash flows of us or one or more of our partner companies, could be materially adversely affected. It can take a significant period of time to identify and hire personnel with the combination of skills and attributes required in carrying out our strategy. We have employment agreements only with Messrs. Sloane, Wasserman and Rubin, and we do not currently maintain key-man life insurance policies on any of these individuals.

**Because expenses are expected to increase as we build an infrastructure and implement our business strategy, we may incur additional losses in the future.**

Because our expenses are expected to increase as we build an infrastructure and implement our business strategy, we will likely incur significant additional losses in the near future. We expect the additional expenses to result primarily from our plans to:

expand existing systems;

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broaden partner company support capabilities;

continue to explore acquisition opportunities and alliances; and

facilitate business arrangements among partner companies.

**If we are deemed to be an investment company under the Investment Company Act of 1940, we will not be able to execute successfully our business strategy.**

There is a risk that the Securities and Exchange Commission or a court might conclude that we fall within the definition of investment company, and unless an exclusion were available, we would be required to register under the Investment Company Act of 1940. Compliance with the Investment Company Act, as a registered investment company, would cause us to alter significantly our business strategy, impair our ability to operate as planned and seriously harm our business. If we fail to comply with the requirements of this Act, we would be prohibited from engaging in business or selling securities, and could be subject to civil and criminal actions for doing so. In addition, our contracts would be voidable and a court could appoint a receiver to take control of and liquidate our business. However, registration under the Investment Company Act would make us subject to the significant operations which are inconsistent with our strategy of participating in the management and development of partner companies.

The SEC has adopted Rule 3a-1 that provides an exclusion from registration as an investment company if a company meets both an asset and an income test and is not otherwise primarily engaged in an investment company business by, among other things, holding itself out to the public as such or by taking controlling interests in companies with a view to realizing profits through subsequent sales of these interests. A company satisfies the asset test of Rule 3a-1 if it has no more than 45% of the value of its total assets (adjusted to exclude U.S. Government securities and cash) in the form of securities other than interests in majority-owned subsidiaries and companies which it primarily and actively controls. A company satisfies the income test of Rule 3a-1 if it has derived no more than 45% of its net income for its last four fiscal quarters combined from securities other than interests in majority owned subsidiaries and primarily and actively controlled companies.

**If to avoid registration under the Investment Company Act we are forced to sell, buy or retain certain assets that we would not otherwise sell, buy or retain, the successful execution of our business strategy may be delayed or prevented and the strength of our collaborative network could be adversely affected.**

To avoid registration under the Investment Company Act, we may need to sell assets which we would otherwise want to retain and may be unable to sell assets which we would otherwise want to sell. If we were forced to sell assets, we may not receive maximum value for our interest. If we were forced to acquire additional, or to retain existing, income-generating or loss-generating assets which we would not otherwise have acquired or retained, we may need to forego opportunities to acquire interests in attractive companies that would benefit our business. If we were forced to sell, buy or retain assets in this manner, we may be prevented from successfully executing our current business strategy and the strength of our collaborative network could be adversely affected.

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Our ability to sell partner company interests to generate income or to avoid regulation under the Investment Company Act may be limited especially where there is no public market for a partner company's stock. Market, regulatory, contractual and other conditions largely beyond our control will affect:

our ability to sell our interests in partner companies;

the timing of these sales; and

the amount of proceeds from these sales.

If we divest all or part of our interest in a partner company, we may not receive maximum value for that interest, and we may sell the interest for less than the amount we paid to acquire it or at less than its maximum value. Even if a partner company has publicly-traded stock, we may be unable



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to sell our interest in that company at then-quoted market prices. In addition, we may be required to buy assets in order to avoid excessive income from non-controlled businesses, or we may be required to ensure that we retain a more than 25% ownership interest in a partner company after an equity offering.

**The Company is the sole sponsor and operator of capcos that is a public company and where the capco program constitutes a material part of its business. As such, there are no other companies against which investors may compare the Company's capco business, operations, results of operations and financial and accounting structures.**

In the absence of any meaningful peer group comparisons for the Company's capco business, individual investors as well as institutional investors may have a harder time understanding and judging the strength of the Company's business and this, in turn, may have a depressing effect on the value of the Company's stock.

## **Risks Relating to our Partner Companies**

**If the Company and its partner companies are unable to obtain the resources required by the partner companies for their growth and development, the partner companies will be highly susceptible to failure, which would directly affect our profitability and value.**

If the Company and its partner companies are unable to obtain the resources the partner companies require for their growth and development, the partner companies will be highly susceptible to failure, which would directly affect our profitability and value. Early-stage businesses often fail due to their limited material and human resources. The success of our business model is dependent upon the ability of the partner companies, with assistance from us, to arrange for the managerial, capital and other resources which they usually require in order to become and remain profitable.

**We may require additional capital beyond the capco programs, which may not be available on satisfactory terms, or at all.**

To the extent permissible under applicable state laws, we intend to utilize the capco programs to fund the growth and operations of our partner companies. If these funds are not available or are available but not sufficient, the Company or its partner companies will have to access the private or public capital markets from which they may be excluded. In recent months, the capital markets generally have weakened and may remain so for an extended period of time. If access to these markets is not available or is available but on unacceptable terms, the Company and its partner companies may lack the funds necessary to expand their operations, become profitable or execute their business strategy. The inability to raise funds in the capital markets may result in a material loss to us and our partner companies.

**To the extent that our partner companies grow rapidly, and as we acquire more and larger interests in partner companies, the resources we allocate to assist our partner companies may become strained.**

We have made a number of strategic acquisitions, and we intend to continue to make acquisitions in furtherance of our business plan. We may not, however, be able to identify or complete acquisitions that we believe will achieve these goals at prices that we deem acceptable. Additionally, each acquisition involves a number of risks. These risks include:

the diversion of our management's attention to the assimilation and ongoing assistance with the operations and personnel of the acquired business, which could strain the management resources we have available;

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the potential for our partner companies to grow rapidly and adversely effect our ability to assist our partner companies as intended;

possible adverse effects on our results of operations; and

possible inability by us to achieve the intended objective of the acquisition.

Any strain on our ability to assist our partner companies as intended or to successfully acquire and integrate businesses under our business plan would likely have a negative impact on our operations.

**WHERE YOU CAN FIND MORE INFORMATION;**

**INCORPORATION BY REFERENCE**

We file annual, quarterly and current reports, proxy statements and other information with the Securities and Exchange Commission. Our file number under the Securities Exchange Act is 1-16123. You may read and copy, upon payment of a fee set by the SEC, any document that we file with the SEC at its public reference rooms in Washington, D.C. (450 Fifth Street, N.W., 20549) and Chicago, Illinois (Citicorp Center, 500 West Madison Street, 14th Floor, Suite 1400, 60661). You may also call the SEC at 1-800-432-0330 for more information on the public reference rooms. Our filings are also available to the public on the Internet, through the SEC's EDGAR database. You may access the EDGAR database at the SEC's web site at <http://www.sec.gov>.

The SEC allows us to incorporate by reference into this Prospectus the information we file with them. This means that we can disclose important business, financial and other information in our SEC filings by referring you to the documents containing this information. All information incorporated by reference is part of this Prospectus, unless that information is updated and superseded by the information contained in this Prospectus or by any information filed subsequently that is incorporated by reference or by any prospectus supplement. Any prospectus supplement or any information that we subsequently file with the SEC that is incorporated by reference will automatically supersede any prior information that is part of this Prospectus or any prior prospectus supplement. We incorporate by reference the documents listed below and any future filings made with the SEC under Sections 13(a), 13(c), 14 or 15(d) of the Securities Exchange Act of 1934 until the termination of this offering:

Current Report on Form 8-K filed on January 15, 2003 and amended on March 17, 2003.

Annual Report on Form 10-KSB for the year ended December 31, 2002, filed March 31, 2003.

Proxy Statement filed April 30, 2003.

Quarterly Report on Form 10-QSB for the three months ended March 31, 2003.

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the description of our Common Stock contained in our Registration Statement on Form 8-A, filed September 18, 2000, which registered our common stock under Section 12(b) of the Securities Exchange Act of 1934.

This Prospectus is part of a Registration Statement on Form S-3 we have filed with the SEC relating to our common stock registered under the Securities Act of 1933. As permitted by SEC rules, this Prospectus does not contain all of the information contained in the Registration Statement and accompanying exhibits and schedules we file with the SEC. You may refer to the registration statement, the exhibits and schedules for more information about us and our common stock. The registration statement, exhibits and schedules are also available at the SEC's public reference rooms or through its EDGAR database on the internet.

You may obtain a copy of these filings at no cost by writing to us at Newtek Business Services, Inc., 100 Quentin Roosevelt Boulevard, Suite 408, Garden City, New York, Attention: Ellen Merryman, or by telephoning us at (516) 794-0100. In order to obtain timely delivery, you must

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request the information no later than five business days prior to the date you decide to invest in our common stock.

You should rely only on the information incorporated by reference or provided in this Prospectus or any prospectus supplement. We have not authorized anyone to provide you with different information. We are not making an offer of these securities in any state where the offer is not permitted. You should not assume that the information in this Prospectus or any prospectus supplement is accurate as of any date other than the date on the front of this Prospectus.

**SPECIAL NOTE OF CAUTION REGARDING**

**FORWARD-LOOKING STATEMENTS**

Certain statements contained in (i) this Prospectus, (ii) any applicable prospectus supplement and (iii) the documents incorporated by reference into this Prospectus, may constitute forward-looking statements within the meaning of the federal securities laws. Forward-looking statements are based on our management's beliefs, assumptions and expectations of our future economic performance, taking into account the information currently available to them. These statements are not statements of historical fact. Forward-looking statements involve risks and uncertainties that may cause our actual results, performance or financial condition to be materially different from the expectations of future results, performance or financial condition we express or imply in any forward-looking statements. Some of the important factors that could cause our actual results, performance or financial condition to differ materially from our expectations are:

The performance of our partner companies, aspects of which are outside our control.

Losses by the capcos due to investments in riskier early-stage and start up businesses could make it significantly more difficult for the capcos to meet minimum state statutory investment benchmarks and thus subject the capcos to decertification and further financial loss.

The degree and nature of our competition and that of our partner companies.

The lack of widespread acceptance of the commercial use of the Internet, which may be material to one or more of our partner companies.

Our ability, and that of our partner companies, to attract and retain key managerial and technical personnel.

Changes in government regulation of our business and those of our partner companies.

When used in our documents or oral presentations, the words anticipate, estimate, expect, objective, projection, forecast, goal, or similar are intended to identify forward-looking statements. We qualify any such forward-looking statements entirely by these cautionary factors.

**PLAN OF DISTRIBUTION**

We are registering all 1,511,817 shares on behalf of the selling stockholders. The selling stockholders named in the table below or pledgees, donees, transferees or other successors-in-interest selling shares received from the named selling stockholders as a gift or other non-sale-related transfer after the date of this Prospectus may sell the shares from time to time. The selling stockholders may also decide not to sell all the shares they are allowed to sell under this Prospectus. The selling stockholders will act independently of us in making decisions with respect to the timing, manner and size of each sale. The sales may be made on one or more exchanges or in the over-the-counter market or otherwise, at prices and at terms then prevailing or at prices related to the then current market price, or in negotiated transactions. The selling stockholders may effect such

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transactions by selling the shares to or through broker-dealers. Our common stock may be sold by the selling stockholders in one or more of, or a combination of, the following transactions:

a block trade in which the broker-dealer so engaged will attempt to sell our common stock as agent but may position and resell a portion of the block as principal to facilitate the transaction,

purchases by a broker-dealer as principal and resale by such broker-dealer for its account pursuant to this Prospectus,

an exchange distribution in accordance with the rules of such exchange,

ordinary brokerage transactions and transactions in which the broker solicits purchasers, and

in privately negotiated transactions.

To the extent required, this Prospectus may be amended or supplemented from time to time to describe a specific plan of distribution. In effecting sales, broker-dealers engaged by the selling stockholders may arrange for other broker-dealers to participate in the resales.

The selling stockholders may enter into hedging transactions with broker-dealers in connection with distributions of our common stock or otherwise. In such transactions, broker-dealers may engage in short sales of the shares in the course of hedging the positions they assume with the selling stockholders. The selling stockholders also may sell shares short and redeliver our common stock to close out such short positions. The selling stockholders may enter into option or other transactions with broker-dealers which require the delivery to the broker-dealer of our common stock. The broker-dealer may then resell or otherwise transfer such shares pursuant to this Prospectus. The selling stockholders also may loan or pledge the shares to a broker-dealer. The broker-dealer may sell our common stock so loaned, or upon a default the broker-dealer may sell the pledged shares pursuant to this Prospectus.

Broker-dealers or agents may receive compensation in the form of commissions, discounts or concessions from the selling stockholders. Broker-dealers or agents may also receive compensation from the purchasers of our common stock for whom they act as agents or to whom they sell as principals, or both. Compensation as to a particular broker-dealer might be in excess of customary commissions and will be in amounts to be negotiated in connection with our common stock. Broker-dealers or agents and any other participating broker-dealers or the selling stockholders may be deemed to be an underwriter within the meaning of Section 2(11) of the Securities Act of 1933 in connection with sales of the shares. Accordingly, any such commission, discount or concession received by it and any profit on the resale of our common stock purchased by it may be deemed to be underwriting discounts or commissions under the Securities Act of 1933. Because a selling stockholder may be deemed to be an underwriter within the meaning of Section 2(11) of the Securities Act of 1933, the selling stockholders will be subject to the prospectus delivery requirements of the Securities Act of 1933. In addition, any securities covered by this Prospectus which qualify for sale pursuant to Rule 144 promulgated under the Securities Act of 1933 may be sold under Rule 144 rather than pursuant to this Prospectus. The selling stockholders have advised us that they have not entered into any agreements, understandings or arrangements with any underwriters or broker-dealers regarding the sale of their securities. There is no underwriter or coordinating broker acting in connection with the proposed sale of shares by the selling stockholders.

Our common stock will be sold only through registered or licensed brokers or dealers if required under applicable state securities laws. In addition, in certain states our common stock may not be sold unless they have been registered or qualified for sale in the applicable state or an exemption from the registration or qualification requirement is available and is complied with.

Under applicable rules and regulations under the Securities Exchange Act of 1934, any person engaged in the distribution of our common stock may not simultaneously engage in market



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making activities with respect to our common stock for a period of two business days prior to the commencement of such distribution. In addition, the selling stockholders will be subject to applicable provisions of the Securities Exchange Act of 1934 and the associated rules and regulations under the Securities Exchange Act of 1934, including Regulation M, which provisions may limit the timing of purchases and sales of shares of our common stock by the selling stockholders. We will make copies of this Prospectus available to the selling stockholders and have informed them of the need for delivery of copies of this Prospectus to purchasers at or prior to the time of any sale of our common stock.

We will file a supplement to this Prospectus, if required, pursuant to Rule 424(b) under the Securities Act of 1933 upon being notified by the selling stockholders that any material arrangement has been entered into with a broker-dealer for the sale of shares through a block trade, special offering, exchange distribution or secondary distribution or a purchase by a broker or dealer. Such supplement will disclose:

the name of such selling stockholder(s) and of the participating broker-dealer(s),

the number of shares involved,

the price at which such shares were sold,

the commissions paid or discounts or concessions allowed to such broker-dealer(s), if any,

that such broker-dealer(s) did not conduct any investigation to verify the information set out or incorporated by reference in this Prospectus, and

other facts material to the transaction.

We will bear all costs, expenses and fees in connection with the registration of our common stock. The selling stockholders will bear all commissions and discounts, if any, attributable to the sales of the shares. The selling stockholders may agree to indemnify any broker-dealer or agent that participates in transactions involving sales of the shares against certain liabilities, including liabilities arising under the Securities Act of 1933.

**SELLING STOCKHOLDERS**

The following table sets forth the name of the selling stockholders, the number of shares owned by the selling stockholders as of June 10, 2003, and the number of shares of our common stock expected to be owned by selling stockholders after this offering is completed. The number of shares in the column **Number of Shares Being Offered** represents all of the shares the selling stockholders may offer under this Prospectus. We do not know how many shares or how long the selling stockholders may continue to offer under this Prospectus. We do not know how long the selling stockholders will hold the shares before selling them, and we currently have no agreements, arrangements or understandings with the selling stockholders regarding the sale of any of the shares, except as indicated below. The shares being offered by this Prospectus may be offered from time to time by the selling stockholders named below.

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Name of Stockholders	Shares		Shares		
	Beneficially		Beneficially		
	Owned		Owned		
	Prior to Offering		Number of	After Offering**	
	Number	Percent	Shares Being Offered	Number	Percent
National Union Fire Ins. Co. of Pittsburgh, Pa.	621,333	2.4	597,333**	24,000	0
American Int. Speciality Lines Ins. Co.	378,000	1.5	378,000**	0	0
First SunAmerica Life Insurance Co.	34,000	*	34,000**	0	0

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Name of Stockholders	Shares		Shares		
	Beneficially		Beneficially		
	Owned		Owned		
	Prior to Offering		Number of	After Offering**	
	Number	Percent	Shares Being Offered	Number	Percent
Northwestern Mutual Life Insurance Co.	53,959	*	53,959**	0	0
American Family Mutual Insurance Co.	53,723	*	53,723**	0	0
Massachusetts Mutual Insurance Co.	212,449	*	192,449**	20,000	0
Pacific Life Ins. Co.	52,444	*	52,444**	0	0
Principal Life Ins. Co.	149,909	*	149,909**	0	0

\* Less than 1 percent.

\*\* A substantial portion of these shares (1,160,484 shares, or 76.8 percent) are subject to contractual restrictions on transfer, one third for each of one, two or three years.

**USE OF PROCEEDS**

Newtek Business Services, Inc. will not receive any of the proceeds from the sale of the shares by the selling stockholders.

**BUSINESS**

Newtek's business originated in 1998 and initially focused exclusively on developing income opportunities related to the capco programs. Through the end of 2002, it has established and/or manages 10 capcos or capco funds and provided the initial required capitalization for them of approximately \$3.8 Million. Conceived as venture capital funds, it has become very apparent both to Newtek and state governments, that additional funds through the capco programs are only one element of successful business strategies for new and growing small businesses. After its first year of operations, Newtek determined that it would take a hands-on approach to its investments and provide the other elements necessary for the businesses to survive and succeed. Through 2001 and 2002, this trend to greater participation in the businesses in which it has invested has led Newtek to the determination to focus on the types of businesses in which it will primarily (but not exclusively) invest, as described above, and to take a very active role in the management of these businesses.

Newtek continues to distinguish between its partner companies (those where it takes a greater role in ownership and management) and the other investments (those where it has a lesser role, or lesser equity or only a loan to the business). Marketing strategies have been developed during 2002 to enable the partner companies, operating in different markets and with overlapping but not identical ownership and management, to benefit from the unified market presence as a NEWTEK-branded business service or financial product.

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Also during 2002 Newtek completed the acquisition of a company that manages an operating capco in New York and organized and arranged the funding for the ninth and tenth capcos under new legislation in Colorado and Louisiana.\* The New York entity owns and manages a minority interest in the operating capco and operates out of offices in Albany and Syracuse, New York. The net current asset value of Exponential is small but Newtek believes that the increased presence in the up-state New York region will be beneficial to its overall business.

Subsequent to a capco investment made in September 2002, in December Newtek added its own resources to those of its partner company and facilitated the acquisition of Commercial Capital Corporation, one of only 14 licensees of the US Small Business Administration permitted to originate SBA guaranteed loans nationwide. This company had made approximately \$370 Million in such loans since its inception in 1994, and held a current loan servicing portfolio of approximately \$196 Million including loans serviced for others of \$141 Million. Newtek has licensed the use of the Newtek brand name at no cost and the acquired company now operates as Newtek Small Business Finance.

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\* In Louisiana, due to the structure of the capco legislation, Newtek has one capco which operates three separate funds. Because the funds are organized and funded separately, Newtek considers them and here refers to them as three separate capcos.

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In conjunction with Newtek's participation in the acquisition, and its corporate guaranty, the principal warehouse lender for Commercial Capital, a Deutsche Bank affiliate, agreed to renew its \$75 Million revolving credit facility and agreed to exchange \$1.5 million of borrowings for \$1.5 Million in Commercial Capital's preferred stock in the lender. In addition, in January 2003, Newtek was instrumental in arranging for the strategic investment in Newtek Small Business Finance by an affiliate of Credit Suisse First Boston Corporation of an additional \$2 Million. This addition to the business of Newtek will greatly supplement the services which Newtek can provide to the small business market.

## **Certified Capital Companies - capcos**

**Overview.** A capco is either a corporation or a limited liability company, established in and chartered by one of the six states currently with authorizing legislation (Florida, Louisiana, Missouri, Colorado, New York and Wisconsin). Aside from seed capital provided by an organizer such as Newtek, usually \$500,000 per capco, a capco will issue debt and equity instruments exclusively to insurance companies, and the capcos then are authorized under the respective state statutes to make targeted acquisitions of interests in companies which may be majority-owned or primarily controlled by the capcos after the acquisition is consummated, and which may or may not be in conjunction with loans to such companies. In most cases, the tax credits provided by the states are equal to the amount of investment by the insurance companies in the securities of the capcos, which can be utilized by them over no less than ten years, or approximately 10% per year. These credits are unaffected by the returns or lack of returns on investments made by the capcos.

**The Role of Capcos in Newtek's Business Strategy.** Management of Newtek has determined that the features of the capco programs facilitate the use of the capco funds in the support of its development as a holding company for a network of small business service providers. The authorizing statutes in each of the states in which Newtek's capcos operate explicitly allow and encourage the capcos to take equity interests, which in some cases may include majority or controlling interests, in companies. Consequently, Newtek may, consistent with its business objectives, acquire interests in companies through its capcos and provide management and other services to these companies. The states' objectives of job creation and economic development are unquestionably met, and since participation in these programs does not require or encourage short-term profitability, Newtek is able to use these funds in a patient manner. All of Newtek's current majority-owned companies are less than three years old, some are less than one year old, and all but one have produced a loss for 2002. Because of the nature of the capco program, Newtek may accept a normal level of start up loss, as it has the ability to devote the time, attention and resources to these companies which they require to become successful.

These capco programs are, in the view of Newtek's management, a complement to Newtek's long-term strategy of acquiring, developing and operating companies that provide business products and financial services to small businesses. Based upon the experience of its management, Newtek determined early in the operations of the capcos that the targeted new and small businesses required much more than just the funds available in the capcos. These businesses also require administrative, managerial, technical, legal and financial management assistance that Newtek provided in structuring and building the businesses. This hands-on management approach facilitates the general objectives of the capco programs of economic development, while at the same time permitting Newtek to develop its long-term investments.

Management of Newtek believes that it has built upon the resources of the capco programs to enhance the development of small businesses by significantly more than investing or loaning capco funds to an entrepreneur. Passive investment may have worked often enough in the business climate of the 1990's, but businesses today, particularly small businesses, require much more than funds to succeed. In order to make the capco investments successful, and thus to fulfill the public policy objectives of the capco programs, Newtek has attempted to take the next step with the active addition of management resources, technical and professional expertise and non-capco funds. This has included during 2002 the development of the zero-cost NEWTEK branding for the partner companies, as well as the material and significant assistance that Newtek provided to its partner



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company, Newtek Small Business Finance, in the negotiation of an extension of a \$75 Million credit line, which included an \$3 Million debt forgiveness and conversion of \$1.5 Million into preferred stock of the partner company. This was followed by the subsequent sale in January 2003 by the partner company of \$2 Million in preferred stock to a unit of Credit Suisse First Boston Corporation in conjunction with a referral agreement for lending business. These are good examples of the other types of possible benefits available to the partner companies by association with a larger business such as Newtek.

**The Capco Programs; Tax Credits.** The recognition of revenue by the capcos organized by Newtek at present represents the largest single source of revenue to the company, or approximately 88% of gross revenue in 2002. Such revenue has been the principal contribution to Newtek's net income in 2002 and 2001.

In return for the capcos making investments in the targeted companies, the states provide tax credits that are available for use by insurance companies that provide the funds to the capcos. In order to maintain its status as a capco, and to avoid recapture or forfeiture of the tax credits, each capco must meet a number of specific investment requirements, including a minimum investment schedule. A final loss of capco status, that is decertification as a capco, could result in loss or possible recapture of the tax credit. Newtek's capcos have agreed with their funding insurance companies to provide, in the event of decertification, payments by the capco or, as described below, by the capco insurer to the insurance companies in the nature of compensatory payments, to replace the lost tax credits.

**Investment Requirements.** Each of the state capco programs has a requirement that a capco, in order to maintain its certified status, must meet certain investment requirements, both qualitative and quantitative benchmarks.

*Quantitative Requirements:* For example in the state of New York, a capco must invest at least 25% of its certified capital (the amount of the original funding of the capco by the insurance companies) by 24 months from the initial investment date, 40% by 36 months and 50% by 48 months. The minimum investment requirements and time periods, along with the related tax credit recapture requirements are set out in detail below. See, also, Management's Discussion and Analysis -Income from Tax Credits and Note 1 of Notes to Consolidated Financial Statements Revenue Recognition.

*Qualitative Requirements:* These include limitations on the initial size of the recipients of the capco funds, including the number of their employees, the location within the respective state of the recipients and the recipients' commitment to remain therein for a specified period of time, the types of business conducted by the recipients, and the terms of the investments in the recipients. Most significant for Newtek's business is the fact that the capco programs generally do not pose any obstacle to investments in qualified businesses which result in significant, majority or, in some cases, controlling ownership positions. This enables Newtek to achieve both public policy objectives of the capco programs, of increasing the number of small businesses and job opportunities in the state, as well as its own objectives of developing a number of small business service companies which may become profitable and return a meaningful return both to Newtek's stockholders and to the local participants in the businesses. In addition, because the businesses that Newtek is building themselves provide needed, and in management's judgment cost effective, goods and services to other small businesses, the growth of this important segment of a state's econom