

NEWTEK BUSINESS SERVICES, INC.
Form DEF 14A
May 28, 2013

UNITED STATES
SECURITIES AND EXCHANGE COMMISSION

Washington, D.C. 20549

SCHEDULE 14A INFORMATION

Proxy Statement Pursuant to Section 14(a) of the

Securities Exchange Act of 1934

(Amendment No.)

Filed by the Registrant

Filed by a Party other than the Registrant

Check the appropriate box:

Preliminary Proxy Statement

Confidential, for Use of the Commission Only (as permitted by Rule 14a-6(e)(2))

Definitive Proxy Statement

Definitive Additional Materials

Soliciting Material under § 240.14a-12

NEWTEK BUSINESS SERVICES, INC.

(Name of Registrant as Specified In Its Charter)

(Name of Person(s) Filing Proxy Statement, if other than the Registrant)

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(3) Per unit price or other underlying value of transaction computed pursuant to Exchange Act Rule 0-11 (set forth the amount on which the filing fee is calculated and state how it was determined):

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(1) Amount Previously Paid:

(2) Form, Schedule or Registration Statement No.:

(3) Filing Party:

(4) Date Filed:

NEWTEK BUSINESS SERVICES, INC.

212 West 35th Street

2nd floor

New York, New York 10001

May 28, 2013

Dear Shareholder:

We invite you to attend the Annual Meeting of Shareholders (the "Annual Meeting") of Newtek Business Services, Inc. (the "Company") to be held at the offices of the Company at 212 West 35th Street, 2nd floor, New York, NY 10001 on Tuesday, June 18, 2013 at 9:00 a.m., local time.

The attached Notice of Annual Meeting and Proxy Statement describe the formal business to be transacted at the Annual Meeting. Also enclosed is a Proxy Card and the Company's Annual Report on Form 10-K for the year ended December 31, 2012.

As an integral part of the Annual Meeting, we will report on the operations of the Company. Directors and Officers of the Company and a representative of each of the Company's prior and current independent accountants will be present to respond to any questions that our shareholders may have. Detailed information concerning our activities and operating performance is contained in our enclosed Annual Report.

YOUR VOTE IS IMPORTANT, REGARDLESS OF THE NUMBER OF SHARES YOU OWN. On behalf of the Board of Directors, we urge you to please sign, date and return the enclosed proxy card in the enclosed postage-prepaid envelope or vote by telephone or Internet as soon as possible even if you currently plan to attend the Annual Meeting. This will not prevent you from voting in person, but will assure that your vote is counted if you are unable to attend the Annual Meeting.

Sincerely yours,

Barry Sloane
Chairman, President and Chief Executive Officer

NEWTEK BUSINESS SERVICES, INC.

212 West 35th Street

2nd floor

New York, New York 10001

(212) 356-9500

NOTICE OF ANNUAL MEETING OF SHAREHOLDERS

To Be Held on June 18, 2013

NOTICE IS HEREBY GIVEN that the Annual Meeting of Shareholders (the "Annual Meeting") of Newtek Business Services, Inc. (the "Company") will be held at the offices of the Company at 212 West 35th Street, 2nd floor, New York, NY 10001 on Tuesday, June 18, 2013 at 9:00 a.m., local time.

The Annual Meeting is for the following purposes, which are more completely described in the accompanying Proxy Statement:

1. To elect four directors of the Company, each to serve on the Board of Directors until the Company's Annual Meeting of Shareholders in 2014 and until his successor is duly elected and qualified;
2. To ratify the appointment of the Company's independent registered accounting firm (independent auditors) for the year ended December 31, 2013; and
3. To transact such other business as may properly come before the Annual Meeting or any adjournment thereof.

The Board of Directors is not aware of any other business to come before the Annual Meeting.

Any action may be taken on any one of the foregoing proposals at the Annual Meeting or any adjournments thereof. Shareholders of record at the close of business on May 15, 2013 are entitled to vote at the Annual Meeting and any adjournment thereof.

We ask that you fill in and sign the enclosed proxy card which is solicited by the Board of Directors and to mail it promptly in the enclosed envelope. You may also cast your vote by telephone or Internet as shown on the Proxy Card. The proxy will not be used if you attend and vote at the Annual Meeting in person.

BY ORDER OF THE BOARD OF DIRECTORS

BARRY SLOANE
CHAIRMAN, PRESIDENT AND CHIEF EXECUTIVE
OFFICER

New York, New York

May 28, 2013

IMPORTANT: THE PROMPT RETURN OF PROXIES WILL SAVE YOUR COMPANY THE EXPENSE OF A FURTHER REQUEST FOR PROXIES IN ORDER TO INSURE A QUORUM. A SELF-ADDRESSED ENVELOPE IS ENCLOSED FOR YOUR CONVENIENCE. NO POSTAGE IS REQUIRED IF MAILED WITHIN THE UNITED STATES.

PROXY STATEMENT

NEWTEK BUSINESS SERVICES, INC.

212 West 35th Street

2nd floor

New York, New York 10001

(212) 356-9500

ANNUAL MEETING OF SHAREHOLDERS

June 18, 2013

INTRODUCTION

This Proxy Statement is furnished in connection with the solicitation of proxies by the Board of Directors of Newtek Business Services, Inc. (the Company) for the Annual Meeting of Shareholders (the Annual Meeting) to be held at the offices of the Company at 212 West 35th Street, 2nd floor, New York, NY 10001 on Tuesday, June 18, 2013 at 9:00 a.m., local time. The accompanying Notice of Annual Meeting and this Proxy Statement, together with the enclosed Proxy Card, are first being mailed to shareholders on or about May 28, 2013.

VOTING AND REVOCATION OF PROXIES

Proxies solicited by the Board of Directors of the Company will be voted in accordance with the direction given therein. If any other matters are properly brought before the Annual Meeting as to which proxies confer discretionary authority, the persons named in the proxy will vote the shares represented thereby on such matters as determined by a majority of the Board of Directors. The proxies solicited by the Board of Directors confer discretionary authority on the persons named therein to vote with respect to the election of any person as a director where the nominee is unable to serve or for good cause will not serve, with respect to matters incident to the conduct of the Annual Meeting and with respect to any other matter presented at the Annual Meeting if notice of such matter has not been delivered to the Company within a reasonable time before the date of this Proxy Statement. Proxies marked as abstentions will not be counted as votes cast. In addition, shares held in street name that have been designated by brokers on proxy cards as not voted (broker non-votes) will not be counted as votes cast except with respect to the proposal relating to the ratification of the Company's independent registered accounting firm. Proxies marked as abstentions or as broker non votes, however, will be treated as shares present for purposes of determining whether a quorum is present.

How Do You Exercise Your Rights to Vote on the Proposals and Elect Directors?

You may vote using any of the following methods:

By Mail Shareholders of record may submit proxies by completing, signing and dating each proxy card received and returning it in the prepaid envelope. Sign your name exactly as it appears on the proxy. If you return your signed proxy but do not indicate your voting preferences, your shares will be voted on your behalf FOR the election of the nominees for director and FOR the ratification

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of the independent registered public accounting firm for 2013. Shareholders who hold shares beneficially in street name may provide voting instructions by mail by completing, signing and dating the voting instruction forms provided by their brokers, banks or other nominees.

By Telephone Shareholders of record may submit proxies by following the telephone voting instructions on each proxy card. Most shareholders who hold shares beneficially in street name may provide voting instructions by telephone by calling the number specified on the voting instruction form provided by their brokers, banks or nominees. Please check the voting instruction form for telephone voting availability. Please be aware that if you submit voting instructions by telephone, you may incur costs such as telephone access charges for which you will be responsible. The telephone voting facilities will close at 11:59 p.m., Eastern Daylight Time, the day before the meeting date.

By Internet Shareholders of record with internet access may submit proxies by following the internet voting instructions on their proxy cards. Most shareholders who hold shares beneficially in street name may

provide voting instructions by accessing the website specified on the voting instruction form provided by their brokers, banks or nominees. Please check the voting instruction form for internet voting availability. Please be aware that if you vote over the internet, you may incur costs such as internet access charges for which you will be responsible. The internet voting facilities will close at 11:59 p.m., Eastern Daylight Time, the day before the meeting date.

In Person at the Annual Meeting Shares held in your name as the shareholder of record may be voted at the Annual Meeting. Shares held beneficially in street name may be voted in person only if you obtain a legal proxy from the broker, bank or nominee that holds your shares giving you the right to vote the shares. *Even if you plan to attend the Annual Meeting, we recommend that you also submit your proxy or voting instructions or vote by telephone or the internet so that your vote will be counted if you later decide not to attend the meeting.*

Shareholders who execute the enclosed proxy card retain the right to revoke such proxies at any time prior to voting. Unless so revoked, the shares represented by properly executed proxies will be voted at the Annual Meeting and all adjournments thereof. Proxies may be revoked at any time prior to exercise by written notice to the Secretary of the Company or by the filing of a properly executed, later-dated proxy. A proxy will not be voted if a shareholder attends the Annual Meeting and votes in person. The presence of a shareholder at the Annual Meeting alone will not revoke such shareholder's proxy.

VOTING SECURITIES

The securities which can be voted at the Annual Meeting consist of the Company's common shares, \$0.02 par value per share (Common Shares). Shareholders of record as of the close of business on May 15, 2013 (the Record Date) are entitled to one vote for each Common Share then held on all matters. As of the Record Date, 36,966,672 Common Shares were issued and outstanding (excluding treasury shares which do not vote). The presence, in person or by proxy, of at least a majority of the total number of Common Shares outstanding and entitled to vote will be necessary to constitute a quorum at the Annual Meeting.

Persons and groups owning in excess of 5% of Company's Common Shares are required to file certain reports regarding such ownership with the Securities and Exchange Commission (SEC) pursuant to the Securities Exchange Act of 1934, as amended (the Exchange Act).

SECURITY OWNERSHIP OF CERTAIN BENEFICIAL OWNERS AND MANAGEMENT

The table below shows the number of our Common Shares beneficially owned as of the Record Date by:

each person or group known by us to beneficially own more than 5% of our outstanding Common Shares;

each director and nominee for director;

each executive officer named in the Summary Compensation Table set forth in the Executive Compensation section; and

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all of our current directors and executive officers of the Company as a group.

The number of shares beneficially owned by each 5% holder, director or executive officer is determined by the rules of the SEC, and the information does not necessarily indicate beneficial ownership for any other purpose. Under such rules, beneficial ownership includes any shares over which the person or entity has sole or shared voting power or investment power and also any shares that the person or entity can acquire within 60 days of the Record Date through the exercise of any stock option or any other rights. For purposes of computing the percentage of outstanding Common Shares held by each person or entity, any shares that the person or entity has the right to acquire within 60 days after the Record Date are deemed to be outstanding with respect to such person or entity but are not deemed to be outstanding for the purpose of computing the percentage of ownership of any other person or entity. Unless otherwise indicated, each person or entity has sole investment and voting power (or shares such power with his or her spouse) over the shares set forth in the following table. The inclusion in the table below of any shares deemed beneficially owned does not constitute an admission of beneficial ownership of those shares. As of the Record Date there were 36,966,672 Common Shares issued and outstanding (excluding treasury shares which do not vote).

| Name and Address of Beneficial Owner (1) | Shares Owned | Right to Acquire (2) | Total Beneficial Ownership | Percent of Class |
|---|--------------|----------------------|----------------------------|------------------|
| David C. Beck | 188,154 | 39,685 | 227,839 | * |
| Craig J. Brunet | 83,384 | 200,000 | 283,384 | * |
| Jennifer Eddelson | 13,370 | 30,000 | 43,370 | * |
| Sam Kirschner | 69,303 | | 69,303 | * |
| Salvatore F. Mulia | 60,695 | 27,780 | 88,475 | * |
| Barry Sloane | 4,700,266 | | 4,700,266 | 12.71% |
| All current directors and executive Officers as a group (6 persons) | | | 5,412,637 | 14.64% |
| Jeffrey G. Rubin ⁽³⁾ | 4,291,505 | | 4,291,505 | 11.61% |

* Less than 1% of total Common Shares outstanding as of the Record Date.

- (1) Unless otherwise stated, the address of each person listed is c/o Newtek Business Services, Inc., 212 West 35th Street, 2nd floor, New York, New York 10001.
- (2) Includes number of shares (i) underlying stock options which are exercisable as of the Record Date or which become exercisable 60 days thereafter and (ii) number of shares subject to future vesting under restricted stock awards within 60 days of the Record Date.
- (3) Resigned as President March 7, 2008.

REQUIRED VOTE

Under Proposal I Election of Directors, each director is required to be elected by a plurality of the votes cast at the annual meeting. Abstentions and shares not represented at the annual meeting will have no effect on the election of directors. Brokers are not entitled to vote on director elections, and thus broker non-votes are not treated as votes cast and will have no effect on the election of directors.

The matter described in Proposal II Ratification of Appointment of Independent Auditors is required to be approved by the affirmative vote of the majority of shares voted in person or by proxy at the annual meeting. Abstentions will have no effect on this proposal. Brokers may vote in their discretion on this proposal on behalf of clients who have not furnished voting instructions.

PROPOSAL I ELECTION OF DIRECTORS

The full Board of Directors currently consists of four directors all of whom serve for one year terms.

The nominees for election to the Board of Directors are the following four current directors:

David C. Beck

Sam Kirschner

Salvatore F. Mulia

Barry Sloane

The election of all four directors will take place at the Annual Meeting, each of whom will serve until the Company's Annual Meeting in 2014 and until his successor is duly elected and qualified.

The Board of Directors recommends a vote FOR the nominees named below as directors of the Company.

Nominees for Election at the 2013 Annual Meeting:

The following is a brief summary of the background of each of our directors, which includes specific information about each director's experience, qualifications, attributes or skills that led the board to the conclusion that the individual is qualified to serve on our board, in light of our business and structure.

David C. Beck Age: 70 Director since: 2002

Mr. Beck has been Managing Director of Copia Capital, LLC (Copia), a private equity investment firm, since September 1998. Prior to founding Copia, Mr. Beck was CEO of Universal Savings Bank, Milwaukee, WI and First Interstate Corporation of Wisconsin, a publicly traded company. Mr. Beck also served as Chairman of Universal Savings Bank's holding company, Universal Saving Banc Holdings, Inc., from November 2002 until September 2009. He is a certified public accountant. Mr. Beck's more than 45 years' experience in the financial services industry qualifies him to serve on our board of directors. His experience and insight gained as a managing director of a private equity firm also provide a significant addition to the board of directors.

Sam Kirschner Age 64 Director since: 2010

Mr. Kirschner has, since he co-founded MayerCap, LLC in 2003, been a Managing Member of the company. MayerCap, LLC manages investments in hedge funds, as a fund-of-funds, and is headquartered in New York City. MayerCap, LLC places particular emphasis on investing in newer and smaller hedge funds. Mr. Kirschner has also been since 1986 president of Nexus Family Business Consulting where he has specialized in advising owners, boards and senior executive of major family-owned businesses and large domestic and foreign banks on matters of succession planning, estate planning and strategic mergers and acquisitions. He has also consulted on the identification and recruitment of senior executives. Mr. Kirschner holds a Ph.D. in clinical psychology and has taught at both New York University School of Continuing & Professional Studies and the Wharton School of Business at the University of Pennsylvania. Mr. Kirschner has many years of experience in working with small to medium sized firms and addressing the many issues which they face in growing their businesses. He is also very well versed in the latest developments in the social media area and has been very helpful in advising the Company on its product development and social media initiatives and this experience provides a significant addition to the board of directors.

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Salvatore F. Mulia **Age: 65** **Director since: 2005**

Mr. Mulia has been a financial advisor at RTM Financial Services, Westport, CT, with an emphasis on leasing and lending advisory services since February 2003. From February 2001 to February 2003 Mr. Mulia was Executive Vice President of Pitney Bowes Capital Corp, Shelton, CT which was engaged in providing financial services to business customers. Prior to that, Mr. Mulia held senior management positions within General Electric's Financial Services Division, GE Capital Corporation (GECC), and from 1980 through 1993 he was responsible for developing new products and business initiatives in financial services. During his tenure at GECC Mr. Mulia was a principal in GEVEST, GECC's investment banking unit, where he headed syndication and led acquisition teams

which acquired leasing companies with combined assets of \$3 billion including: TransAmerica Leasing, Chase Manhattan's leasing subsidiary and LeaseAmerica. Mr. Mulia has many years of experience with major financial companies working with smaller to mid-sized companies needing capital and debt. His understanding of the dynamics of these businesses has been particularly helpful in addressing similar issues of the Company and this experience provides a significant addition to the board of directors.

Barry Sloane Age: 53 Director since: 1999

Mr. Sloane is the Chairman of the Board of Directors, Chief Executive Officer and President of the Company and has been an executive officer of each of the Company-sponsored certified capital companies for more than five years. From September 1993 through July 1995, Mr. Sloane was a Managing Director of Smith Barney, Inc. While there, he directed the Commercial and Residential Real Estate Securitization Unit, and he was national sales manager for institutional mortgage and asset backed securities sales. From April 1991 through September 1993, Mr. Sloane was founder and President of Aegis Capital Markets, a consumer loan origination and securitization business which was eventually taken public with the name of Aegis Consumer Funding. From October 1988 through March 1991, Mr. Sloane was Senior Vice President of Donaldson, Lufkin and Jenrette, where he was responsible for directing sales of mortgage-backed securities. From August 1982 to September 1988 Mr. Sloane was a senior mortgage security salesman and trader for Bear Stearns, L.F. Rothschild, E.F. Hutton and Paine Webber. Mr. Sloane's broad business and financial experience and his knowledge of the Company's businesses has been of great value to the other members of the board.

The Board and Board Meetings

Newtek's Board of Directors and management are committed to responsible corporate governance to ensure that the Company is managed for the long-term benefit of its shareholders. To that end, the Board of Directors and management periodically review and update, as appropriate, the Company's corporate governance policies and practices. In doing so, the Board and management review published guidelines and recommendations of institutional shareholder organizations and current best practices of similarly situated public companies. The Board of Directors and management also regularly evaluate and, when appropriate, revise the Company's corporate governance policies and practices in accordance with the requirements of the Sarbanes-Oxley Act of 2002 and the rules and listing standards issued by the SEC and The NASDAQ[®] Stock Market, Inc. (NASDAQ) where the Company's Common Shares are listed and traded.

During the fiscal year ended December 31, 2012, the Board of Directors held a total of 6 meetings. Each director attended at least 75% of the total number of meetings of the Board of Directors and at least 75% of the meetings of all committees on which he served.

Corporate Governance Guidelines

The Company has adopted corporate governance guidelines titled "Governance Guidelines" which are available at the Investor Relations page of www.thesba.com. The Governance Guidelines are also available in print to any shareholder who requests them. These principles were adopted by the Board of Directors to best ensure that the Board is independent from management, that the Board adequately performs its function as the overseer of management and to help ensure that the interests of the Board and management align with the interests of the shareholders.

On an annual basis, each director and executive officer is obligated to complete a Directors' and Officers' Questionnaire which requires disclosure of any transactions with the Company in which the Director or executive officer, or any member of his or her immediate family, have a direct or indirect material interest.

Committees of the Board of Directors

The Board of Directors currently has two standing committees: the Audit Committee and the Compensation, Corporate Governance and Nominating Committee. Each member of these committees is independent as defined by applicable NASDAQ and SEC rules. Each of the committees has a written charter approved by the Board of Directors, which is available on the Investor Relations page on our website at www.thesba.com.

The Board of Directors' Audit Committee consists of Messrs. Beck as Chair, Mulia and Kirschner and operates pursuant to its written charter. The Audit Committee held 8 meetings during the year ended December 31, 2012. The Audit Committee is authorized to examine and approve the audit report prepared by the independent auditors of the Company, to review and select the independent auditors to be engaged by the Company, to review the internal audit function and internal accounting controls and to review and approve conflict of interest or related party transactions and audit policies.

Director Beck, Chair of the Audit Committee, has been determined by the Board of Directors to be a financial expert and independent under applicable rules of the SEC and NASDAQ. In addition, the Board of Directors has determined that all members of the audit committee are financially literate as that term is defined by applicable NASDAQ and SEC rules.

The Company's Compensation, Corporate Governance and Nominating Committee consists of Messrs. Mulia, as Chair, Beck and Kirschner, all of whom are non-employee directors within the meaning of the SEC rules. The Compensation, Corporate Governance and Nominating Committee evaluates the compensation and benefits of the directors, officers and employees, recommends changes, and monitors and evaluates employee performance. The Compensation, Corporate Governance and Nominating Committee met 6 times during the year ended December 31, 2012. The Compensation, Corporate Governance and Nominating Committee is generally responsible for identifying corporate governance issues, creating corporate governance policies, identifying and recommending potential candidates for election to the Board and reviewing executive and director compensation and performance.

Director Independence

The Board of Directors is required by the Governance Guidelines to have a majority of members who meet the applicable independence requirements of the NASDAQ and any applicable rule or law. Each of the following non-employee directors is independent and has no relationship to the Company, except as a director and shareholder.

David C. Beck

Salvatore F. Mulia

Sam Kirschner

The Board of Directors has determined that each of its directors, with the exception of Mr. Sloane, qualifies as independent as defined by applicable NASDAQ and SEC rules. In making this determination, the Board has concluded that none of these members has a relationship which, in the opinion of the Board, would interfere with the exercise of independent judgment in carrying out the responsibilities of a director. It is the policy of the Board of Directors to hold executive sessions of the independent directors meeting without management at regular intervals and as requested by a director. David C. Beck presides over these meetings of the independent directors. All members of the Board of Directors are encouraged to attend the Annual Meeting of Shareholders. In 2012, Mr. Sloane attended the Annual Meeting of shareholders and, Mr. Kirschner, Mr. Beck and Mr. Mulia attended by telephone.

Leadership Structure

Mr. Sloane has served as Chairman and Chief Executive Officer since 1999 and as President since 2008. We continue to believe that our leadership structure is appropriate since Mr. Sloane has over 25 years of experience in our industry or related businesses, and under his leadership our management team has executed a strategy that has significantly improved our earnings growth, cash flow stability and competitiveness.

Board Risk Oversight

While management is responsible for identifying, assessing and managing risk, our Board is responsible for risk oversight with a focus on the most significant risks facing the company. The Board's risk oversight includes, but is not limited to, the following risks:

strategic;

operational;

compliance; and

reputational.

At the end of each year, management and the Board jointly develop a list of major risks that the company prioritizes in the following year. In 2012 the Board focused on the following areas of risk:

management compensation;

determining Newtek's long-term growth;

strategic and operational planning, including acquisitions and the evaluation of the Company's capital structure and long term debt financing; and

legal and regulatory compliance.

The Board has delegated responsibility for the oversight of specific risks to Board committees. The Audit committee oversees risks associated with:

the Company's financial statements and financial reporting;

mergers and acquisitions;

internal controls over financial reporting;

credit and liquidity;

information technology; and

security and litigation issues.

The Compensation, Governance and Nominating committee considers the risks associated with:

compensation policies and practices;

management resources, structure, succession planning and management development;

overall governance practices and the structure and leadership of the Board; and

related person transactions and the code of conduct for all employees, officers and directors.

The Board is kept informed of each committee's risk oversight and any other activities deemed to engender risk via periodic reports from management and the committee chairs. Our Board recognizes the importance of risk oversight, and its role is consistent with the Board's leadership structure, the CEO and the senior management of the Company. Our senior management is responsible for assessing and managing risk exposure and the Board and committees of the Board provide the oversight consistent with those efforts.

Director Nominations

In considering whether to recommend any particular candidate for inclusion in the Board of Directors' slate of recommended director nominees, the Compensation, Corporate Governance and Nominating Committee applies the criteria set forth in the Governance Guidelines. These criteria include the candidate's integrity, business acumen, knowledge of our business and industry, experience, diligence, absence of conflicts of interest and the ability to act in the interest of all shareholders. The committee does not assign specific weights to particular criteria, and no particular criterion is a prerequisite for each prospective nominee. We believe that the backgrounds and qualifications of our directors, considered as a group, should provide a composite mix of experience, knowledge and abilities that will best allow the Board to fulfill its responsibilities.

Shareholders may recommend individuals to the Compensation, Corporate Governance and Nominating Committee for consideration as potential director candidates by submitting their names, together with appropriate biographical information and background materials. The recommendation should be sent to the Compensation, Corporate Governance and Nominating Committee, c/o Matthew G. Ash, Secretary, Newtek Business Services, Inc., 212 West 35th Street, 2nd floor, New York, New York 10001. Assuming that appropriate biographical and background material has been provided on a timely basis, the committee will evaluate shareholder-recommended candidates by following substantially the same process, and applying substantially the same criteria, as it follows for candidates recommended by our Board or others. If the Board of Directors determines to nominate a shareholder-recommended candidate and recommends his or her election, then his or her name will be included in the proposal for election for the next annual meeting.

Shareholders also have the right under our Bylaws to nominate director candidates, without any action or recommendation on the part of the Compensation, Corporate Governance and Nominating Committee or the Board,

by following the procedures set forth under Shareholder Proposals in our proxy statement. Candidates nominated by shareholders in accordance with the procedures set forth in our Bylaws may be included in our proxy statement and solicitation for the next annual meeting.

Compensation Committee Interlocks and Insider Participation

All members of the Compensation, Corporate Governance and Nominating Committee are independent directors, and none of them are present or past employees or paid officers of ours or any of our subsidiaries. No member of the Compensation, Corporate Governance and Nominating Committee has had any relationship with us requiring disclosure under Item 404 of Regulation S-K. None of our executive officers has served on the board or compensation committee (or other committee serving an equivalent function) of any other entity, one of whose executive officers has served on our Board or Compensation, Corporate Governance and Nominating Committee.

Our Code of Ethics

We have adopted a code of ethics, referred to as our Code of Conduct, which applies to all directors and employees, including the principal executive, financial and accounting officers. A copy of the Code of Conduct will be made available upon request directed to the executive offices of the Company and may be viewed on the Investor Relations page on our web site www.thesba.com. In addition, we post on our website all disclosures that are required by law or NASDAQ listing standards concerning any amendments to, or waivers from, any provision of the Code. We also post on our website any amendments to, or waivers from, our Code of Conduct and Ethics that apply to our principal executive officer and principal financial and accounting officer.

The Audit Committee or the Board of Directors reviews all potential related party transactions on an ongoing basis, and all such transactions must be approved by the Audit Committee or the Board of Directors. We have not adopted written procedures for review of, or standards for approval of, these transactions, but instead the Audit Committee or the Board of Directors intends to review such transactions on a case by case basis. In addition, the Compensation, Corporate Governance and Nominating Committee or the Board of Directors reviews and approves all compensation-related policies involving our directors and executive officers.

A major shareholder and former president of the Company, Jeffrey G. Rubin, directly and indirectly through entities and organizations in which he has a material interest, earns gross residual payments on merchant processing revenue he generates for the Company, a portion of which is then paid to his support staff for their efforts. During the years ended December 31, 2012, 2011 and 2010, the Company paid him and his related entities gross residuals of approximately \$3,155,000, \$1,649,000 and \$1,180,000, respectively. We anticipate that Mr. Rubin and his related entities will continue to earn gross residual profits on the merchant process revenue he generates for the Company in 2013.

Section 16(a) Beneficial Ownership Reporting Compliance

Section 16(a) of the Exchange Act requires our directors and executive officers and persons who own more than 10% of a registered class of our equity securities, to file with the SEC and the NASDAQ initial reports of ownership and reports of changes in ownership of Common Shares of the Company. Officers, directors and greater than 10% shareholders are required by SEC regulations to furnish us with copies of all Section 16(a) forms they file.

To the Company's knowledge, based solely on Forms 3 and 4, and amendments to such forms, provided to the Company by its directors and executive officers and greater than 10% shareholders during 2012, all such required reports were timely filed.

Director Compensation

The Board has adopted a plan for compensation of non-employee directors which gives effect to the time and effort required of each of them in the performance of their duties. During 2012 compensation was paid in cash and is set forth in the table below. Since November 10, 2010, Directors are paid the following annual fees:

for participation on the Board: \$50,000;

as chair of a Committee: \$20,000;

as committee member: \$5,000.

Director Summary Compensation Table ⁽¹⁾

| | Fees Earned or Paid in Cash (\$) | Stock Awards (\$) | Option Awards (\$) | Non-Equity Incentive Plan Compensation (\$) | Nonqualified Deferred Compensation Earnings (\$) | All Other Compensation (\$) | Total (\$) |
|--------------------|---|-------------------------|--------------------------|---|--|-----------------------------------|---------------|
| David C. Beck | 75,000 | | | | | | 75,000 |
| Salvatore F. Mulia | 75,000 | | | | | | 75,000 |
| Sam Kirschner | 60,000 | | | | | | 60,000 |

(1) Barry Sloane, the Company's Chairman, Chief Executive Officer and President, is not included in this table as he was an employee of the Company in 2012 and thus received no compensation for his services as a Director. The compensation received by Mr. Sloane as an employee of the Company is shown in the Summary Compensation Table below.

EXECUTIVE COMPENSATION COMPENSATION DISCUSSION AND ANALYSIS**Executive Officers Of The Registrant**

The executive officers of Newtek, and their ages, as of May 28, 2012, are as follows:

| Name | Age | Position |
|-------------------|-----|---|
| Barry Sloane | 53 | Chairman, Chief Executive Officer, and Secretary |
| Craig J. Brunet | 64 | Executive Vice President, Chief Information Officer |
| Jennifer Eddelson | 40 | Executive Vice President, Chief Accounting Officer |

Barry Sloane is the Chairman of the Board, Chief Executive Officer, and Secretary of the Company and has been an executive officer of each of the Company-sponsored certified capital companies for more than five years. Previously, from September 1993 through July 1995, Mr. Sloane was a Managing Director of Smith Barney, Inc. While there, he directed the Commercial and Residential Real Estate Securitization Unit and, prior to that time, he was national sales manager for institutional mortgage and asset backed securities sales. From April 1991 through September 1993, he was founder and President of Aegis Capital Markets, a consumer loan origination and securitization business which was eventually taken public with the name of Aegis Consumer Funding. From October 1988 through March 1991, Mr. Sloane was Senior Vice President of Donaldson, Lufkin and Jenrette, where he was responsible for directing sales of mortgage-backed securities. From August 1982 to September 1988 Mr. Sloane was a senior mortgage security salesman and trader for Bear Stearns, L.F. Rothschild, E.F. Hutton and Paine Webber.

Craig J. Brunet has served as Executive Vice President and Chief Information Officer since January 1, 2012. Mr. Brunet previously served as Executive Vice President Strategic Planning and Marketing since July, 2006 and as Chairman and Chief Executive Officer of the Company's Harvest Strategies subsidiary since June, 2001. From 1984-1989, Mr. Brunet served as Director of Strategic Planning for AT&T, where he managed all special development and modifications to standard AT&T products to include non-standard pricing, terms and conditions, hardware and software strategic initiatives, FCC Tariffs, as well as joint venture and/or integration requirements for the top 50 AT&T accounts. In 1989, Mr. Brunet joined Entergy Corporation as Executive Vice President responsible for managing and directing the overall Entergy System retail and wholesale marketing effort including strategy development, policy preparation and administration, market development and market analysis and research. During his tenure with Entergy, he served as Chairman of the Strategic Planning Committee of the Electric Power Research Institute (EPRI) and served on the Board of Directors of Entergy Enterprises guiding decisions on unregulated activities including strategic acquisition and investments in generation, distribution and new technology assets domestically and internationally. From 1993-1996, Mr. Brunet served as Chairman, CEO and President of First Pacific Networks, a leader in the initial development and deployment of broadband technologies in the United States and Europe. During this period, he was also Chairman of the Board of Credit Depot Corporation, a publicly traded multi-state mortgage company and served as Chairman of both the audit committee and compensation committee.

Jennifer Eddelson is a certified public accountant licensed in the state of New York and has served as Executive Vice President and Chief Accounting Officer of Newtek Business Services, Inc. since July 1, 2011. Previously Jennifer was employed by the Company since 2004 as Corporate Controller, Vice President of Financial Reporting since 2006, and in these and her current capacities has had a principal responsibility for the development and implementation of the Company's accounting policies and practices. Previously, Ms. Eddelson practiced as a certified public accountant for eight years with Janover, LLC, a public accounting firm located in New York, primarily in the audit and tax area. Ms. Eddelson is a member of the NYS Society of CPAs and a member of the AICPA.

The individuals who served as the Company's Chief Executive Officer, Chief Information Officer and Chief Accounting Officer during 2012, as well as the other individuals included in the Summary Compensation Table below, are referred to below as the named executive officers.

Compensation Philosophy and Objectives

All of our compensation programs are designed to attract and retain key employees and to motivate them to achieve, and reward them for achieving, superior performance. Different programs are geared to shorter- and longer-term performance, with the goal of increasing shareholder value over the long-term. Executive compensation programs impact all employees by setting general levels of compensation and helping to create an environment of goals, rewards and expectations. Because we believe the performance of every employee is important to our success, we are mindful of the effect of executive compensation and incentive programs on all of our employees.

We believe that the compensation of our executives should reflect their success as a management team, rather than just as individuals, in attaining key operating objectives, such as growth of sales, growth of operating earnings and earnings per share and growth or maintenance of market share and long-term competitive advantage, and ultimately, in attaining an increased market price for our stock. We believe that the performance of our executives in managing our Company, considered in light of general economic and specific company, industry and competitive conditions, should be the basis for determining their overall compensation. We also believe that their compensation should not be based on the short-term performance of our stock, whether favorable or unfavorable, but rather that the price of our stock will, in the long-term, reflect our operating performance and, ultimately, the management of the Company by our executives. We seek to have the long-term performance of our stock reflected in executive compensation through our equity incentive programs, including stock options and restricted stock awards.

Role of Executive Officers in Compensation Decisions

The Compensation, Corporate Governance and Nominating Committee supervises the design and implementation of compensation policies for all executive officers (which include the named executive officers) and overall incentive equity awards to all employees of the Company. Decisions regarding the non-equity compensation

of executive officers, other than named executive officers, are made by the Chief Executive Officer within the compensation philosophy set by the Committee. Decisions regarding the non-equity compensation of named executive officers are made by the Chief Executive Officer and the Committee for consistency with the Company's compensation policies.

The Chief Executive Officer semi-annually reviews the performance of each member of the senior executive team, including named executive officers (other than himself whose performance is reviewed by the Committee). The conclusions reached and recommendations based on these reviews, including with respect to salary adjustments and annual award amounts, are then presented to the Committee by the Chief Executive Officer. The Committee will review and approve the recommendations for consistency with the Company's compensation policies.

Setting Executive Compensation

During the course of each fiscal year, it has been the practice of the Chief Executive Officer to review the history of all the elements of each executive officer's total compensation and the Chief Executive Officer may also compare the compensation of the executive officers with that of the executive officers in an appropriate market comparison group of companies with a capitalization similar to that of the Company. We seek to set compensation levels that are perceived as fair, internally and externally, and competitive with overall compensation levels at other companies in our industry, including larger companies from which we may want to recruit employees. However, the Company does not establish individual objectives in the range of comparative data for each individual or for each element of compensation. Typically, the Chief Executive Officer sets compensation with respect to the executive officers who report to him and presents it to the Committee for conformity with the Company's overall compensation policies. The named executive officers are not present at the time of these deliberations. The Committee then performs a similar review of the Chief Executive Officer's total compensation and makes compensation decision