

NEWTEK BUSINESS SERVICES INC

Form 10-Q

November 12, 2009

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## SECURITIES AND EXCHANGE COMMISSION

WASHINGTON, D.C. 20549

### FORM 10-Q

(Mark One)

**QUARTERLY REPORT PURSUANT TO SECTION 13 OR 15(d) OF THE SECURITIES EXCHANGE ACT OF 1934**

For the quarterly period ended September 30, 2009

OR

**TRANSITION REPORT PURSUANT TO SECTION 13 OR 15(d) OF THE SECURITIES EXCHANGE ACT OF 1934**

For the transition period from \_\_\_\_\_ to \_\_\_\_\_

Commission File Number: 001-16123

## NEWTEK BUSINESS SERVICES, INC.

(Exact name of registrant as specified in its charter)

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

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

1440 Broadway, 17<sup>th</sup> floor, New York, NY  
(Address of principal executive offices)

10018  
(Zip Code)

Registrant's telephone number, including area code: (212) 356-9500

Indicate by checkmark whether the registrant: (1) has filed all reports required to be filed by Section 13 or 15(d) of the Securities Exchange Act of 1934 during the preceding 12 months (or for such shorter period that the registrant was required to file such reports), and (2) has been subject to such filing requirements for the past ninety days. Yes  No

Indicate by check mark whether the registrant has submitted electronically and posted on its corporate Web site, if any, every Interactive Data File required to be submitted and posted pursuant to Rule 405 of Regulation S-T (§232.405 of this chapter) during the preceding 12 months (or for such shorter period that the registrant was required to submit and post such files). Yes  No

Indicate by check mark whether the registrant is a large accelerated filer, an accelerated filer, a non accelerated filer, or a smaller reporting company. See the definitions of large accelerated filer, accelerated filer and smaller reporting company in Rule 12b-2 of the Exchange Act (Check one):

Large Accelerated Filer  Accelerated Filer   
Non-Accelerated Filer  Smaller reporting company   
Indicate by check mark whether the registrant is a shell company (as defined in Rule 12b-2 of the Exchange Act). Yes  No

As of November 10, 2009, there were 36,012,673 of the Company's Common Shares outstanding.

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**Table of Contents****Item 1. Financial Statements****NEWTEK BUSINESS SERVICES, INC. AND SUBSIDIARIES****CONDENSED CONSOLIDATED STATEMENTS OF OPERATIONS (UNAUDITED)****FOR THE THREE AND NINE MONTHS ENDED SEPTEMBER 30, 2009 AND 2008****(In Thousands, except for Per Share Data)**

	<b>Three Months ended September 30,</b>		<b>Nine Months Ended September 30,</b>	
	<b>2009</b>	<b>2008</b>	<b>2009</b>	<b>2008</b>
Operating revenues	\$ 26,812	\$ 24,243	\$ 78,010	\$ 72,393
Operating expenses:				
Electronic payment processing costs	15,370	13,075	42,424	38,224
Salaries and benefits	4,410	5,052	13,717	17,616
Interest	2,668	2,333	8,790	6,816
Depreciation and amortization	1,313	1,772	4,532	5,348
Provision for loan losses	387	711	1,320	1,622
Other general and administrative costs	3,797	4,026	12,223	12,218
Total operating expenses	27,945	26,969	83,006	81,844
Operating loss before fair market value adjustment and benefit (provision) for income taxes	(1,133)	(2,726)	(4,996)	(9,451)
Net change in fair market value of credits in lieu of cash and notes payable in credits in lieu of cash	34	(74)	1,044	(13)
Loss before benefit (provision) for income taxes	(1,099)	(2,800)	(3,952)	(9,464)
Benefit (provision) for income taxes	1,244	(56)	2,389	1,706
Net income (loss)	145	(2,856)	(1,563)	(7,758)
Net loss attributable to noncontrolling interests	637	109	732	335
Net income (loss) attributable to Newtek Business Services, Inc.	\$ 782	\$ (2,747)	\$ (831)	\$ (7,423)
Weighted average common shares outstanding - basic	35,631	35,628	35,625	35,771
Weighted average common shares outstanding - diluted	35,756	35,628	35,625	35,771
Earnings (loss) per share - basic and diluted	\$ 0.02	\$ (0.08)	\$ (0.02)	\$ (0.21)

See accompanying notes to these unaudited condensed consolidated financial statements.

**Table of Contents****NEWTEK BUSINESS SERVICES, INC. AND SUBSIDIARIES****CONDENSED CONSOLIDATED BALANCE SHEETS****SEPTEMBER 30, 2009 AND DECEMBER 31, 2008****(In Thousands, except for Per Share Data)**

	<b>September 30, 2009 Unaudited</b>	<b>December 31, 2008 (Note 1)</b>
<b>ASSETS</b>		
Cash and cash equivalents	\$ 15,572	\$ 16,852
Restricted cash	8,548	8,366
Credits in lieu of cash	53,230	70,559
SBA loans held for investment (net of reserve for loan losses of \$4,014 and \$3,420, respectively)	23,408	26,912
Accounts receivable (net of allowance of \$563 and \$192, respectively)	5,524	5,175
SBA loans held for sale		6,133
Prepaid expenses and other assets (net of accumulated amortization of deferred financing costs of \$2,423 and \$2,122, respectively)	9,966	9,998
Servicing asset (net of accumulated amortization and allowances of \$4,351 and \$3,756, respectively)	2,422	2,282
Fixed assets (net of accumulated depreciation and amortization of \$11,591 and \$9,477, respectively)	3,861	5,062
Intangible assets (net of accumulated amortization of \$13,840 and \$12,113, respectively)	4,649	6,096
Goodwill	12,092	12,092
<b>Total assets</b>	<b>\$ 139,272</b>	<b>\$ 169,527</b>
<b>LIABILITIES AND EQUITY</b>		
<b>Liabilities:</b>		
Accounts payable and accrued expenses	\$ 8,841	\$ 9,344
Notes payable	16,801	25,998
Deferred revenue	1,964	2,203
Notes payable in credits in lieu of cash	53,230	70,559
Deferred tax liability	3,833	5,344
<b>Total liabilities</b>	<b>84,669</b>	<b>113,448</b>
<b>Commitments and contingencies</b>		
<b>Equity:</b>		
Newtek Business Services, Inc. stockholders' equity:		
Preferred stock (par value \$0.02 per share; authorized 1,000 shares, no shares issued and outstanding)		
Common stock (par value \$0.02 per share; authorized 54,000 shares, 36,657 and 36,667 issued, respectively; 35,631 and 35,649 outstanding, respectively, not including 97 and 394 shares held in escrow, respectively)	733	733
Additional paid-in capital	58,324	58,232
Accumulated deficit	(5,377)	(4,545)
Treasury stock, at cost (1,026 shares)	(649)	(649)
<b>Total Newtek Business Services, Inc. stockholders' equity</b>	<b>53,031</b>	<b>53,771</b>
<b>Noncontrolling interests</b>	<b>1,572</b>	<b>2,308</b>

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Total equity	54,603	56,079
Total liabilities and equity	\$ 139,272	\$ 169,527

See accompanying notes to these unaudited condensed consolidated financial statements.

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**NEWTEK BUSINESS SERVICES, INC. AND SUBSIDIARIES**  
**CONDENSED CONSOLIDATED STATEMENTS OF CASH FLOWS (UNAUDITED)**

**FOR THE NINE MONTHS ENDED SEPTEMBER 30, 2009 AND 2008**

**(In Thousands)**

	<b>2009</b>	<b>2008</b>
Cash flows from operating activities:		
Net loss	\$ (1,563)	\$ (7,758)
Adjustments to reconcile net loss to net cash provided by (used in) operating activities:		
Income from tax credits	(6,483)	(4,634)
Accretion of interest expense	7,528	5,300
Fair market value adjustment	(1,044)	(13)
Deferred income taxes	(1,511)	(2,562)
Depreciation and amortization	4,532	5,348
Provision for loan losses	1,320	1,528
Gain on sale/recovery of investments in qualified business	(1,078)	(93)
Other, net	553	300
Changes in operating assets and liabilities:		
Originations of SBA loans held for sale	(3,976)	(16,067)
Proceeds from sale of SBA loans held for sale	10,109	10,311
Broker receivable	(1,096)	
Prepaid expenses and other assets, accounts receivable and accrued interest receivable	(393)	(412)
Accounts payable, accrued expenses and deferred revenue	(729)	(1,365)
Other, net	(532)	228
<b>Net cash provided by (used in) operating activities</b>	<b>5,637</b>	<b>(9,889)</b>
Cash flows from investing activities:		
Investments in qualified businesses		(885)
Return of investments in qualified businesses	1,981	859
Purchase of fixed assets and customer merchant accounts	(1,298)	(2,733)
SBA loans originated for investment, net	(1,004)	(5,169)
Proceeds from sales of loans held for investment	400	
Payments received on SBA loans	2,846	4,102
Change in restricted cash	(387)	2,889
<b>Net cash provided by (used in) investing activities</b>	<b>2,538</b>	<b>(937)</b>

See accompanying notes to these unaudited condensed consolidated financial statements.

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**NEWTEK BUSINESS SERVICES, INC. AND SUBSIDIARIES**

**CONDENSED CONSOLIDATED STATEMENTS OF CASH FLOWS (UNAUDITED)**

**FOR THE NINE MONTHS ENDED SEPTEMBER 30, 2009 AND 2008 (CONTINUED)**

	<b>2009</b>	<b>2008</b>
Cash flows from financing activities:		
Net repayment on notes payable	\$	\$ (338)
Purchase of treasury shares		(458)
Net (repayments) proceeds on bank notes payable	(9,197)	4,226
Other	(258)	