

GSV Capital Corp.
Form POS EX
May 11, 2012

As filed with the Securities and Exchange Commission on May 11, 2012

Securities Act File No. 333-180416

**U.S. SECURITIES AND EXCHANGE COMMISSION
Washington, D.C. 20549**

FORM N-2

**REGISTRATION STATEMENT UNDER THE
SECURITIES ACT OF 1933 ☐**
(Check appropriate box or boxes)
Pre-Effective Amendment No.
Post-Effective Amendment No. 1

GSV CAPITAL CORP.

(Exact name of Registrant as specified in charter)

**2965 Woodside Road
Woodside, CA 94062**

(Address of Principal Executive Offices)

**Registrant's telephone number, including Area Code:
(650) 206-2965**

**Michael T. Moe
Chief Executive Officer
GSV Capital Corp.
2965 Woodside Road**

Woodside, CA 94062

(Name and address of agent for service)

COPIES TO:

Steven B. Boehm
John J. Mahon
Sutherland Asbill & Brennan LLP
1275 Pennsylvania Avenue, NW
Washington, DC 20004
(202) 383-0100

Approximate date of proposed public offering: From time to time after the effective date of this Registration Statement.

If any securities being registered on this form will be offered on a delayed or continuous basis in reliance on Rule 415 under the Securities Act of 1933, other than securities offered in connection with a dividend reinvestment plan, check the following box. x

It is proposed that this filing will become effective (check appropriate box):

☐ when declared effective pursuant to section 8(c).

CALCULATION OF REGISTRATION FEE UNDER THE SECURITIES ACT OF 1933

Title of Securities Being Registered	Proposed Maximum Aggregate Offering Price ⁽¹⁾	Amount of Registration Fee ⁽⁴⁾
Common Stock, \$0.01 par value per share ⁽²⁾		
Total	\$ 250,000,000 ⁽³⁾	\$ 28,650

- Estimated pursuant to Rule 457(o) under the Securities Act of 1933 solely for the purpose of determining the registration fee. The proposed maximum offering price per security will be determined from time to time, by the
- (1) Registrant in connection with the sale by the Registrant of the securities registered under this Registration Statement.
- (2) Subject to Note 3 below, there is being registered hereunder an indeterminate number of shares of common stock, as may be sold from time to time.
- (3) In no event will the aggregate offering price of all securities issued from time to time pursuant to this Registration Statement exceed \$250,000,000.
- (4) Previously paid.

EXPLANATORY NOTE

This Post-Effective Amendment No. 1 to the Registration Statement on Form N-2 (File No. 333-180416) is being filed pursuant to Rule 462(d) under the Securities Act of 1933, as amended (the "Securities Act"), solely for the purpose of adding exhibits to such Registration Statement. Accordingly, this Post-Effective Amendment No. 1 consists only of a facing page, this explanatory note, and Part C of the Registration Statement on Form N-2. This Post-Effective Amendment No. 1 does not change the form of prospectus relating to the Registration Statement on Form N-2 previously filed with the SEC. As permitted by Rule 462(d), this Post-Effective Amendment No. 1 shall become effective upon filing with the SEC.

PART C OTHER INFORMATION

ITEM 25. FINANCIAL STATEMENTS AND EXHIBITS

1. Financial Statements

The following financial statements of GSV Capital Corp. (the Registrant or the Company) are included in Part A Information Required to be in the Prospectus of the Registration Statement.

INDEX TO FINANCIAL STATEMENTS

	Page
Report of Independent Registered Public Accounting Firm	F-2
Statements of Assets and Liabilities as of December 31, 2011	F-3
Statement of Operations for the period from January 6, 2011 (Date of Inception) to December 31, 2011	F-4
Statement of Changes in Net Assets for the period from January 6, 2011 (Date of Inception) to December 31, 2011	F-5
Statement of Cash Flows for the period from January 6, 2011 (Date of Inception) to December 31, 2011	F-6
Schedule of Investments as of December 31, 2011	F-7
Notes to the Financial Statements as of December 31, 2011	F-10
Statements of Assets and Liabilities as of March 31, 2012 (Unaudited) and December 31, 2011	F-21
Statements of Operations for the three months ended March 31, 2012 (Unaudited) and for the period from January 6, 2011 (date of inception) to March 31, 2011 (Unaudited)	F-22
Statements of Changes in Net Assets for the months ended March 31, 2012 (Unaudited) and for the period from January 6, 2011 (date of inception) to March 31, 2011 (Unaudited)	F-23
Statements of Cash Flows for the three months ended March 31, 2012 (Unaudited) and for the period from January 6, 2011 (date of inception) to March 31, 2011 (Unaudited)	F-24
Schedule of Investments as of March 31, 2012 (Unaudited)	F-25
Schedule of Investments as of December 31, 2011	F-25
Notes to the Financial Statements as of March 31, 2012 (Unaudited)	F-31

2. Exhibits

Exhibit Number	Description
a.1	Amended and Restated Articles of Incorporation*
a.2	Articles of Amendment**
b.	Bylaws*
d.1	Form of Common Stock Certificate****
e.	Dividend Reinvestment Plan*
g.	Form of Investment Advisory Agreement by and between Registrant and GSV Asset Management, LLC*
h.1	Form of Underwriting Agreement*****
h.2	Underwriting Agreement dated May 11, 2012

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- j. Form of Custodian Agreement***
- k.1 Form of Administration Agreement by and between Registrant and GSV Capital Service Company, LLC*
- k.2 Form of Indemnification Agreement by and between Registrant and each of its directors*
- k.3 Form of Trademark License Agreement by and between the Registrant and GSV Asset Management, LLC**
- l.1 Opinion of Sutherland Asbill & Brennan LLP*****
- l.2 Opinion of Sutherland Asbill & Brennan LLP
- n.1 Consent of Sutherland Asbill & Brennan LLP (Incorporated by reference to exhibit l.1 hereto)
- n.2 Consent of Grant Thornton LLP*****
- r. Code of Ethics*
- 99.2 Form of Prospectus Supplement For Common Stock Offerings.*****

C-1

- * Previously filed in connection with Pre-Effective Amendment No. 2 to the Registrant's Registration Statement on Form N-2 (File No. 333-171578), filed on March 30, 2011, and incorporated by reference herein.
- ** Previously filed in connection with the Registrant's Current Report on Form 8-K (File No. 814-00852), filed on June 1, 2011, and incorporated by reference herein.
- *** Previously filed in connection with Pre-Effective Amendment No. 3 to the Registrant's Registration Statement on Form N-2 (File No. 333-171578), filed on April 15, 2011, and incorporated by reference herein.
- **** Previously filed in connection with Pre-Effective Amendment No. 3 to the Registrant's Registration Statement on Form N-2 (File No. 333-175655) filed on September 20, 2011, and incorporated by reference herein.
- ***** Previously filed in connection with Pre-Effective Amendment No. 1 to the Registrant's Registration Statement on Form N-2 (File No. 333-178932) filed on February 9, 2012, and incorporated by reference herein.
- ***** Previously filed in connection with Pre-Effective Amendment No. 1 to the Registrant's Registration Statement on Form N-2 (File No. 333-180416) filed on May 7, 2012, and incorporated by reference herein.
- ***** Previously filed in connection with Pre-Effective Amendment No. 2 to the Registrant's Registration Statement on Form N-2 (File No. 333-180416) filed on May 10, 2012, and incorporated by reference herein.

ITEM 26. MARKETING ARRANGEMENTS

The information contained under the heading "Underwriting" on this Registration Statement is incorporated herein by reference.

ITEM 27. OTHER EXPENSES OF ISSUANCE AND DISTRIBUTION

SEC registration fee	\$ 28,650
FINRA filing fee	\$ 25,500
NASDAQ Capital Market	\$ 75,000
Printing and postage	\$ 60,000
Legal fees and expenses	\$ 400,000
Accounting fees and expenses	\$ 255,000
Sales and Marketing	\$ 30,000
Total	\$ 874,150

Note: All listed amounts are estimates.

ITEM 28. PERSONS CONTROLLED BY OR UNDER COMMON CONTROL

See "Management, Certain Relationships and Transactions" and "Control Persons and Principal Stockholders" in the Prospectus contained herein.

ITEM 29. NUMBER OF HOLDERS OF SECURITIES

The following table sets forth the number of record holders of the Registrant's common stock at May 4, 2012:

Title of Class

	Number of Record Holders
C-2 Common Stock, par value \$0.01 per share	113

ITEM 30. INDEMNIFICATION

Directors and Officers

Reference is made to Section 2-418 of the Maryland General Corporation Law, Article VII of the Registrant's charter and Article XI of the Registrant's Amended and Restated Bylaws.

Maryland law permits a Maryland corporation to include in its charter a provision limiting the liability of its directors and officers to the corporation and its stockholders for money damages except for liability resulting from (a) actual receipt of an improper benefit or profit in money, property or services or (b) active and deliberate dishonesty established by a final judgment as being material to the cause of action. The Registrant's charter contains such a provision which eliminates directors' and officers' liability to the maximum extent permitted by Maryland law, subject to the requirements of the Investment Company Act of 1940, as amended (the "1940 Act").

The Registrant's charter authorizes the Registrant, to the maximum extent permitted by Maryland law and subject to the requirements of the 1940 Act, to indemnify any present or former director or officer or any individual who, while serving as the Registrant's director or officer and at the Registrant's request, serves or has served another corporation, real estate investment trust, partnership, joint venture, trust, employee benefit plan or other enterprise as a director, officer, partner or trustee, from and against any claim or liability to which that person may become subject or which that person may incur by reason of his or her service in any such capacity and to pay or reimburse their reasonable expenses in advance of final disposition of a proceeding. The Registrant's bylaws obligate the Registrant, to the maximum extent permitted by Maryland law and subject to the requirements of the 1940 Act, to indemnify any present or former director or officer or any individual who, while serving as the Registrant's director or officer and at the Registrant's request, serves or has served another corporation, real estate investment trust, partnership, joint venture, trust, employee benefit plan or other enterprise as a director, officer, partner or trustee and who is made, or threatened to be made, a party to the proceeding by reason of his or her service in that capacity from and against any claim or liability to which that person may become subject or which that person may incur by reason of his or her service in any such capacity and to pay or reimburse his or her reasonable expenses in advance of final disposition of a proceeding. The charter and bylaws also permit the Registrant to indemnify and advance expenses to any person who served a predecessor of the Registrant in any of the capacities described above and any of the Registrant's employees or agents or any employees or agents of the Registrant's predecessor. In accordance with the 1940 Act, the Registrant will not indemnify any person for any liability to which such person would be subject by reason of such person's willful misfeasance, bad faith, gross negligence or reckless disregard of the duties involved in the conduct of his or her office.

Maryland law requires a corporation (unless its charter provides otherwise, which the Registrant's charter does not) to indemnify a director or officer who has been successful in the defense of any proceeding to which he or she is made, or threatened to be made, a party by reason of his or her service in that capacity. Maryland law permits a corporation to indemnify its present and former directors and officers, among others, against judgments, penalties, fines, settlements and reasonable expenses actually incurred by them in connection with any proceeding to which they may be made, or threatened to be made, a party by reason of their service in those or other capacities unless it is established that (a) the act or omission of the director or officer was material to the matter giving rise to the proceeding and (1) was committed in bad faith or (2) was the result of active and deliberate dishonesty, (b) the director or officer actually received an improper personal benefit in money, property or services or (c) in the case of any criminal proceeding, the director or officer had reasonable cause to believe that the act or omission was unlawful. However, under Maryland law, a Maryland corporation may not indemnify for an adverse judgment in a suit by or in the right of the corporation or for a judgment of liability on the basis that a personal benefit was improperly received unless, in either case, a court orders indemnification, and then only for expenses. In addition, Maryland law permits a corporation to advance

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reasonable expenses to a director or officer in advance of final disposition of a proceeding upon the corporation's receipt of (a) a written affirmation by the director or officer of his or her good faith belief that he or she has met the standard of conduct necessary for indemnification by the corporation and (b) a written undertaking by him or her or on his or her behalf to repay the amount paid or reimbursed by the corporation if it is ultimately determined that the standard of conduct was not met.

C-3

Adviser and Administrator

The Investment Advisory Agreement provides that, absent willful misfeasance, bad faith or gross negligence in the performance of its duties or by reason of the reckless disregard of its duties and obligations, GSV Asset Management, LLC (the investment adviser) and its officers, managers, agents, employees, controlling persons, members and any other person or entity affiliated with it are entitled to indemnification from the Registrant for any damages, liabilities, costs and expenses (including reasonable attorneys' fees and amounts reasonably paid in settlement) arising from the rendering of the investment adviser's services under the Investment Advisory Agreement or otherwise as an investment adviser of the Registrant.

The Administration Agreement provides that, absent willful misfeasance, bad faith or gross negligence in the performance of its duties or by reason of the reckless disregard of its duties and obligations, GSV Capital Service Company, LLC and its officers, managers, agents, employees, controlling persons, members and any other person or entity affiliated with it are entitled to indemnification from the Registrant for any damages, liabilities, costs and expenses (including reasonable attorneys' fees and amounts reasonably paid in settlement) arising from the rendering of GSV Capital Service Company, LLC's services under the Administration Agreement or otherwise as administrator for the Registrant.

The law also provides for comparable indemnification for corporate officers and agents. Insofar as indemnification for liability arising under the Securities Act of 1933, as amended (the Securities Act) may be permitted to directors, officers and controlling persons of the Registrant pursuant to the foregoing provisions, or otherwise, the Registrant has been advised that in the opinion of the Securities and Exchange Commission such indemnification is against public policy as expressed in the Securities Act and is, therefore, unenforceable. In the event that a claim for indemnification against such liabilities (other than the payment by the Registrant of expenses incurred or paid by a director, officer or controlling person of the Registrant in the successful defense of any action, suit or proceeding) is asserted by such director, officer or controlling person in connection with the securities being registered, the Registrant will, unless in the opinion of its counsel the matter has been settled by controlling precedent, submit to a court of appropriate jurisdiction the question whether such indemnification by it is against public policy as expressed in the Securities Act and will be governed by the final adjudication of such issue.

The Registrant has entered into indemnification agreements with its directors. The indemnification agreements are intended to provide the Registrant's directors the maximum indemnification permitted under Maryland law and the 1940 Act. Each indemnification agreement provides that the Registrant shall indemnify the director who is a party to the agreement (an Indemnitee), including the advancement of legal expenses, if, by reason of his or her corporate status, the Indemnitee is, or is threatened to be, made a party to or a witness in any threatened, pending, or completed proceeding, other than a proceeding by or in the right of the Registrant.

ITEM 31. BUSINESS AND OTHER CONNECTIONS OF INVESTMENT ADVISER

A description of any other business, profession, vocation, or employment of a substantial nature in which the investment adviser, and each managing director, director or executive officer of the investment adviser, is or has been during the past two fiscal years, engaged in for his or her own account or in the capacity of director, officer, employee, partner or trustee, is set forth in Part A of this Registration Statement in the sections entitled Management Board of Directors, Investment Advisory Agreement and Portfolio Management Investment Personnel. Additional information regarding the investment adviser and its officers and directors will be set forth in its Form ADV, as filed with the Securities and Exchange Commission (SEC File No.

801-71749), under the Investment Advisers Act of 1940, as amended, and is incorporated herein by reference.

C-4

ITEM 32. LOCATION OF ACCOUNTS AND RECORDS

All accounts, books, and other documents required to be maintained by Section 31(a) of the 1940 Act, and the rules thereunder are maintained at the offices of:

- (1) the Registrant, GSV Capital Corp., 2965 Woodside Road, Woodside, CA 94062;
- (2) the Transfer Agent, American Stock Transfer & Trust Company, 59 Maiden Lane, New York, NY 10038;
- (3) the Custodian, U.S. Bank National Association, One Federal Street, Boston, MA, 02110; and
- (4) the investment adviser, GSV Asset Management, LLC, 2965 Woodside Road, Woodside, CA 94062.

ITEM 33. MANAGEMENT SERVICES

Not applicable.

ITEM 34. UNDERTAKINGS

(1) Registrant undertakes to suspend the offering of the shares of common stock covered hereby until it amends its prospectus contained herein if (a) subsequent to the effective date of this Registration Statement, its net asset value per share of common stock declines more than 10% from its net asset value per share of common stock as of the effective date of this Registration Statement, or (b) its net asset value per share of common stock increases to an amount greater than its net proceeds as stated in the prospectus contained herein.

(2) Not applicable.

(3) Not applicable.

(4) Registrant undertakes:

(a) to file, during any period in which offers or sales are being made, a post-effective amendment to this registration statement:

(i) to include any prospectus required by Section 10(a)(3) of the Securities Act of 1933;

(ii) to reflect in the prospectus any facts or events arising after the effective date of the registration statement (or the most recent post-effective amendment thereof) which, individually or in the aggregate, represent a fundamental change in the information set forth in the registration statement; and

(iii) to include any material information with respect to the plan of distribution not previously disclosed in the registration statement or any material change to such information in the registration statement.

(b) that, for the purpose of determining any liability under the Securities Act of 1933, each such post-effective amendment shall be deemed to be a new registration statement relating to the securities offered therein, and the offering of those securities at the time shall be deemed to be the initial *bona fide* offering thereof;

(c) to remove from registration by means of a post-effective amendment any of the securities being registered which remain unsold at the termination of the offering;

(d) that, for the purpose of determining liability under the Securities Act of 1933 to any purchaser, if the Registrant is subject to Rule 430C [17 CFR 230.430C]: Each prospectus filed pursuant to Rule 497(b), (c), (d) or (e) under the Securities Act of 1933 [17 CFR 230.497(b), (c), (d) or (e)] as part of a registration statement relating to an offering, other than prospectuses filed in reliance on Rule 430A under the Securities Act of 1933 [17 CFR 230.430A], shall be deemed to be part of and included in the registration statement as of the date it is first used after effectiveness.

Provided, however, that no statement made in a registration statement or prospectus that is part of the registration statement or made in a document incorporated or deemed incorporated by reference into the registration statement or prospectus that is part of the registration statement will, as to a purchaser with a time of contract of sale

C-5

prior to such first use, supersede or modify any statement that was made in the registration statement or prospectus that was part of the registration statement or made in any such document immediately prior to such date of first use; and

(e) that for the purpose of determining liability of the Registrant under the Securities Act of 1933 to any purchaser in the initial distribution of securities, the undersigned Registrant undertakes that in a primary offering of securities of the undersigned Registrant pursuant to this registration statement, regardless of the underwriting method used to sell the securities to the purchaser, if the securities are offered or sold to such purchaser by means of any of the following communications, the undersigned Registrant will be a seller to the purchaser and will be considered to offer or sell such securities to the purchaser:

(i) any preliminary prospectus or prospectus of the undersigned Registrant relating to the offering required to be filed pursuant to Rule 497 under the Securities Act of 1933 [17 CFR 230.497];

(ii) the portion of any advertisement pursuant to Rule 482 under the Securities Act of 1933 [17 CFR 230.482] relating to the offering containing material information about the undersigned Registrant or its securities provided by or on behalf of the undersigned Registrant; and

(iii) any other communication that is an offer in the offering made by the undersigned Registrant to the purchaser.

(f) To file a post-effective amendment to the registration statement, and to suspend any offers or sales pursuant the registration statement until such post-effective amendment has been declared effective under the 1933 Act, in the event the shares of Registrant are trading below its net asset value and either (i) Registrant receives, or has been advised by its independent registered accounting firm that it will receive, an audit report reflecting substantial doubt regarding the Registrant's ability to continue as a going concern or (ii) Registrant has concluded that a material adverse change has occurred in its financial position or results of operations that has caused the financial statements and other disclosures on the basis of which the offering would be made to be materially misleading.

(5) Not applicable.

(6) Not applicable.

C-6

SIGNATURES

Pursuant to the requirements of the Securities Act of 1933, as amended, the Registrant has duly caused Post-Effective Amendment No. 1 to this Registration Statement on Form N-2 to be signed on its behalf by the undersigned, thereunto duly authorized, in the City of Woodside, in the State of California, on the 11th day of May, 2012.

GSV CAPITAL CORP.

By: /s/ Michael T. Moe
Michael T. Moe
President, Chief Executive Officer and
Chairman of the Board of Directors

Pursuant to the requirements of the Securities Act of 1933, as amended, Post-Effective Amendment No. 1 to this Registration Statement on Form N-2 has been signed by the following persons on behalf of the Registrant, and in the capacities indicated, on the 11th day of May, 2012.

Signature	Title
/s/ Michael T. Moe Michael T. Moe	President, Chief Executive Officer and Chairman of the Board of Directors (Principal Executive Officer)
/s/ Stephen D. Bard Stephen D. Bard	Chief Financial Officer, Chief Compliance Officer, Treasurer and Corporate Secretary (Principal Financial and Accounting Officer)
* Mark D. Klein	Director
* Leonard A. Potter	Director
* Mark W. Flynn	Director
* R. David Spreng	Director

*Signed by Michael T. Moe pursuant to a power of attorney filed with this Registration Statement on March 28, 2012.
C-7
