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Headnote

Mutual Reliance Review System for Exemptive Relief Applications – relief from eligibility requirements to allow wholly-owned Canadian subsidiary of an MJDS-eligible U.S. issuer to issue approved rating debt, fully and unconditionally guaranteed by the parent company – relief also granted from Canadian GAAP reconciliation requirements, Canadian GAAS reconciliation requirements and certain continuous disclosure requirements for the Canadian subsidiary, subject to conditions

Applicable British Columbia Provisions

Securities Act, R.S.B.C. 1996, c. 418, ss. 85, 87, 91, 117(2) and 119(2)(b)

Securities Rules, B.C. Reg. 194/97, ss. 144, 145 and 149

National Instrument 44-10 *Short Form Prospectus Distributions*

**IN THE MATTER OF THE SECURITIES LEGISLATION OF ALBERTA,
BRITISH COLUMBIA, MANITOBA, NEW BRUNSWICK,
NEWFOUNDLAND AND LABRADOR, NOVA SCOTIA, ONTARIO,
PRINCE EDWARD ISLAND, QUEBEC AND SASKATCHEWAN**

AND

**IN THE MATTER OF THE MUTUAL RELIANCE REVIEW SYSTEM
FOR EXEMPTIVE RELIEF APPLICATIONS**

AND

**IN THE MATTER OF GENERAL ELECTRIC CAPITAL CORPORATION
AND GE CAPITAL CANADA FUNDING COMPANY**

MRRS DECISION DOCUMENT

WHEREAS the local securities regulatory authority or regulator (the Decision Maker) in each of Alberta, British Columbia, Manitoba, New Brunswick, Newfoundland and Labrador, Nova Scotia, Ontario, Prince Edward Island, Quebec and Saskatchewan (collectively, the Jurisdictions) has received an application (the Application) from General Electric Capital Corporation (GE Capital) and its indirect wholly-owned subsidiary, GE Capital Canada Funding Company (the Issuer, and together with GE Capital, the Filer), for a decision pursuant to the securities legislation of the Jurisdictions (the Legislation) that:

- A. the Filer be exempted from the following requirements contained in the Legislation:

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- (i) the requirements in section 2.5(1) of National Instrument 44-101 (NI 44-101) that a person or company guaranteeing non-convertible debt issued by an issuer be a reporting issuer with a 12-month reporting history in a Canadian province or territory and have a current annual information form (an AIF) (the Eligibility Requirement) in order to permit the Issuer to issue non-convertible debt securities, in particular medium term notes (the Notes), with an approved rating (as defined in NI 44-101) which will be fully and unconditionally guaranteed by GE Capital (any issue of the Notes being referred to as an Offering);
- (ii) the requirement in NI 44-101 that a short form prospectus filed by the Issuer in connection with an Offering include a reconciliation (the Reconciliation Requirement) to Canadian generally accepted accounting principles (GAAP) of the consolidated financial statements of GE Capital included in or incorporated by reference into the prospectus which have been prepared in accordance with foreign GAAP and that, where such financial statements are audited in accordance with foreign generally accepted auditing standards (GAAS), the Issuer provide a statement by the auditor disclosing any material differences in the auditor's report and confirming that the auditing standards of the foreign jurisdiction are substantially similar to Canadian GAAS;
- (iii) the requirement in NI 44-101 and under the Legislation of Ontario, Quebec and Saskatchewan that the Issuer have a current AIF and file renewal AIFs (the AIF Requirement) with the Decision Makers;
- (iv) the requirement that the Issuer file with the Decision Makers and send, where applicable, to its securityholders audited annual financial statements or annual reports, including without limitation, management's discussion and analysis thereon (the Annual Financial Statement Requirement);
- (v) the requirement that the Issuer file with the Decision Makers and send, where applicable, to its securityholders unaudited interim financial statements, including without limitation, management's discussion and analysis thereon (the Interim Financial Statement Requirement);

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- (vi) the requirement that the Issuer issue and file with the Decision Makers press releases and file material change reports (the Material Change Requirement);
 - (vii) the requirement that the insiders of the Issuer file with the Decision Makers insider reports (the Insider Reporting Requirement); and
 - (viii) the requirement that the Issuer comply with the proxy and proxy solicitation requirements, including filing an information circular or report in lieu thereof (the Proxy Requirement and together with the Annual Financial Statement Requirement, the Interim Financial Statement Requirement, the Material Change Requirement and the Insider Reporting Requirement, the Continuous Disclosure and Reporting Requirements); and); and
- B. the Application and the Decision, as defined below, be held in confidence by the Decision Makers subject to certain conditions.

AND WHEREAS under the Mutual Reliance Review System for Exemptive Relief Applications (the System), the Ontario Securities Commission is the principal regulator for this Application;

AND WHEREAS, unless otherwise defined, the terms herein have the meaning set out in National Instrument 14-101 Definitions or in Quebec Commission Notice 14-101;

AND WHEREAS the Filer has represented to the Decision Makers that:

1. GE Capital was incorporated in 1943 in the State of New York under the provisions of the New York Banking Law relating to investment companies, as successor to General Electric Contracts Corporation, which was formed in 1932. Until 1987, the name of GE Capital was General Electric Credit Corporation. GE Capital was reincorporated in 2001 in the State of Delaware.
2. All outstanding common stock of GE Capital is owned by General Electric Capital Services, Inc., the common stock of which is in turn wholly owned directly or indirectly by General Electric Company (GEC). GEC is a diversified industrial company whose common stock is listed and posted for trading on the facilities of the New York Stock Exchange.
3. GE Capital provides a variety of consumer services, mid-market financing, specialized financing, specialty insurance, equipment management and

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other specialized services to businesses and individuals around the world. As at December 31, 2002, GE Capital had total assets of more than US\$439 billion.

4. GE Capital is not a reporting issuer or the equivalent in any of the Jurisdictions.
5. GE Capital has been a reporting company under the 1934 Act for more than 15 years.
6. GE Capital has filed with the SEC all filings required to be made with the SEC under the 1934 Act during the last 12 months.
7. GE Capital's outstanding long term debt is rated AAA by both Standard & Poor's and Moody's Investors Services. As at December 31, 2002, GE Capital had more than US\$138 billion in long term debt outstanding. GE Capital also had more than US\$76 billion outstanding in the commercial paper markets as at December 31, 2002.
8. The Issuer was incorporated as an unlimited liability company under the laws of Nova Scotia on September 17, 1998 and is an indirect wholly-owned subsidiary of GE Capital. The head office of the Issuer is in Mississauga, Ontario.
9. The Issuer is a reporting issuer or the equivalent in each of the Jurisdictions.
10. The Issuer's primary business is to obtain financing in public markets to fund the operations of affiliated companies in Canada, and will have no other operations.
11. *In the Matter of General Electric Capital Corporation and GE Capital Canada Funding Company* dated June 21, 2002 (the Previous Decision), the Decision Makers ruled pursuant to the Legislation that the Eligibility Requirement, the Reconciliation Requirement, the AIF Requirement and the Continuous Disclosure and Reporting Requirements be waived in connection with an offering of Notes by the Issuer (the Previous Offering).
12. In reliance on the Previous Decision, the Issuer filed and received a receipt for a short form base shelf prospectus in each of the Jurisdictions on July 18, 2002 for Notes in an aggregate principal amount of up to \$6,000,000,000 (the Previous Prospectus). As at July 1, 2003, Notes in an aggregate principal amount of \$5,483,000,000 have been offered under the Previous Prospectus.

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13. As at December 31, 2002, the Issuer had more than \$10.2 billion in non-convertible debt securities outstanding (the Existing Debt). The Existing Debt was issued in the Eurobond market, the Canadian commercial paper market and pursuant to the Previous Prospectus and has been fully and unconditionally guaranteed by GE Capital. The Issuer expects to continue to obtain financing on the same basis from time to time.
14. The Issuer proposes to file another short form base shelf prospectus in each of the Jurisdictions for Notes in an aggregate principal amount of up to \$6,000,000,000 (the Proposed Offering) and may in the future file additional short form prospectuses in each of the Jurisdictions for Notes (the Future Offerings).
15. GE Capital satisfies the criteria set forth in paragraph 3.1(a) of National Instrument 71-101 (NI 71-101) and is eligible to use the multi-jurisdictional disclosure system (MJDS), as set out in NI 71-101, for the purpose of distributing approved rating non-convertible debt in Canada based on compliance with United States prospectus requirements with certain additional Canadian disclosure.
16. Except for the fact that the Issuer is not incorporated under United States law, an Offering would comply with the alternative eligibility criteria for offerings of non-convertible debt having an approved rating under the MJDS as set forth in Section 3.2 of NI 71-101.
17. The Issuer is ineligible to issue the Notes by way of a prospectus in the form of a short form prospectus under NI 44-101 as GE Capital, as credit supporter for the payments to be made by the Issuer under the Notes, is not a reporting issuer in any province or territory of Canada and does not have a current AIF.
18. In connection with any Offering (which, for greater certainty, includes the Proposed Offering and any Future Offerings):
 - (i) each prospectus will be prepared pursuant to the short form prospectus requirements contained in NI 44-101 and will comply with the requirements set out in Form 44-101F3 of NI 44-101 with the disclosure required by items 12 (documents incorporated by reference) and 13 (issues of guaranteed securities) of Form 44-101F3 of NI 44-101 being addressed by incorporating by reference GE Capital's public disclosure documents, including GE Capital's most recently filed Form 10-K (as filed under the 1934 Act) and

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with the disclosure required by item 7 (earnings coverage ratios) of Form 44-101F3 of NI 44-101 and section 8.4 (requirement to update earnings coverage ratios) of National Instrument 44-102 (NI 44-102) being addressed by disclosure with respect to GE Capital in accordance with United States requirements;

- (ii) each prospectus will include or incorporate by reference all material disclosure concerning the Issuer;
- (iii) each prospectus will incorporate by reference GE Capital's most recently filed Form 10-K (as filed under the 1934 Act) together with all Form 10-Qs and Form 8-Ks of GE Capital filed under the 1934 Act in respect of the financial year following the year that is the subject of GE Capital's most recently filed Form 10-K, as would be required were GE Capital to file a registration statement on Form S-4 in the United States, and will incorporate by reference any documents of the foregoing type filed after the date of the prospectus and prior to termination of the particular Offering and will state that purchasers of the Notes will not receive separate continuous disclosure information regarding the Issuer;
- (iv) the consolidated annual and interim financial statements of GE Capital that will be included in or incorporated by reference into the short form prospectus are prepared in accordance with U.S. GAAP and otherwise comply with the requirements of U.S. law, and in the case of audited annual financial statements, such financial statements are audited in accordance with U.S. GAAS;
- (v) GE Capital will fully and unconditionally guarantee the payments to be made by the Issuer as stipulated in the terms of the Notes or in an agreement governing the rights of holders of Notes (the Noteholders) such that the Noteholders shall be entitled to receive payment from GE Capital within 15 days of any failure by the Issuer to make a payment as stipulated;
- (vi) the Notes will have an approved rating;
- (vii) the Notes will rank *pari passu* to the Existing Debt;
- (viii) GE Capital will sign each prospectus as credit supporter; and
- (ix) GE Capital will undertake to file with the Commissions, in electronic format through SEDAR (as defined in National

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Instrument 13-101) under the Issuer's SEDAR profile, all documents that it files under Sections 13 (other than sections 13(d), (f) and (g) which relate, *inter alia*, to holdings by GE Capital of securities of other public companies) and 15(d) of the 1934 Act, together with the appropriate filing fees, until such time as the Notes are no longer outstanding.

19. In the circumstances, were GE Capital to effect an Offering of the Notes under the MJDS it would be unnecessary for it to reconcile to Canadian GAAP its financial statements included in or incorporated by reference into the short form prospectus in connection with the issuance of the Notes.
20. Part 7 of NI 44-101 and Item 20.1 of Form 44-101F3 of NI 44-101 require the reconciliation to Canadian GAAP of financial statements prepared in accordance with foreign GAAP that are included in a short form prospectus.

AND WHEREAS under the System this MRRS Decision Document evidences the decision of each Decision Maker (collectively, the Decision);

AND WHEREAS each of the Decision Makers is satisfied that the test contained in the Legislation that provides the Decision Maker with the jurisdiction to make the Decision has been met;

THE DECISION of the Decision Makers pursuant to the Legislation is that the Filer be exempted from the Eligibility Requirement and the Reconciliation Requirement in connection with any Offering (which, for greater certainty, includes the Proposed Offering and any Future Offerings) provided that:

- (i) each of the Issuer and GE Capital complies with paragraph 18 above;
- (ii) the Issuer complies with all of the filing requirements and procedures set out in NI 44-101 except as varied by the Decision or as permitted by NI 44-102;
- (iii) GE Capital remains the direct or indirect beneficial owner of all of the issued and outstanding voting securities of the Issuer; and
- (iv) GE Capital continues to satisfy the criteria set forth in paragraph 3.1 of NI 71-101 (or any successor provision) and remains eligible to use MJDS (or any successor instrument) for the purposes of

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distributing approved rating non-convertible debt in Canada based on compliance with United States prospectus requirements with certain additional Canadian disclosure.

THE FURTHER DECISION of the Decision Makers in Ontario, Quebec and Saskatchewan pursuant to the Legislation is that, in connection with any Offering (which, for greater certainty, includes the Proposed Offering and any Future Offerings), the AIF Requirement shall not apply to the Issuer, provided that (i) GE Capital complies with the AIF requirements of NI 44-101 as if it is the issuer by filing an AIF in the form of GE Capital's most recently filed Form 10-K (as filed under the 1934 Act) and (ii) the Filer complies with all of the conditions in the Decisions above and below.

Dated July 31, 2003.

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THE FURTHER DECISION of the Decision Makers pursuant to the Legislation is that, in connection with any Offering (which, for greater certainty, includes the Proposed Offering and any Future Offerings):

- A. the Annual Financial Statement Requirement shall not apply to the Issuer, provided that (i) the Issuer files with the Commissions the annual reports on Form 10-K filed by GE Capital with the SEC within one business day after they are filed with the SEC; and (ii) such documents are provided to Noteholders whose last address as shown on the books of the Issuer is in Canada in the manner and at the time required by applicable United States law;
- B. the Interim Financial Statement Requirement shall not apply to the Issuer, provided that (i) the Issuer files with the Commissions the quarterly reports on Form 10-Q filed by GE Capital with the SEC within one business day after they are filed with the SEC; and (ii) such documents are provided to Noteholders whose last address as shown on the books of the Issuer is in Canada in the manner and at the time required by applicable United States law;
- C. the Material Change Requirement shall not apply to the Issuer, provided that (i) the Issuer files with the Commissions the mandatory reports on Form 8-K (including press releases) filed by GE Capital with the SEC forthwith after the earlier of the date the report is filed with the SEC and the date it is required to be filed with the SEC; (ii) GE Capital forthwith issues in each Jurisdiction and the Issuer files with the Commissions any

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press release that discloses material information and which is required to be issued in connection with the mandatory Form 8-K requirements applicable to GE Capital; and (iii) if there is a material change in respect of the business, operations or capital of the Issuer that is not a material change in respect of GE Capital, the Issuer will comply with the requirements of the Legislation to issue a press release and file a material change report notwithstanding that the change may not be material in respect of GE Capital;

- D. the Insider Reporting Requirement shall not apply to insiders of the Issuer, provided that such insiders file with the SEC on a timely basis the reports, if any, required to be filed with the SEC pursuant to section 16(a) of the 1934 Act and the rules and regulations thereunder; and
- E. the Proxy Requirements shall not apply to the Issuer, provided that (i) GE Capital complies with the requirements of the 1934 Act and the rules and regulations thereunder relating to proxy statements, proxies and proxy solicitations in connection with any meetings of its noteholders (if any); (ii) the Issuer files with the Commissions the materials relating to any such meeting filed by GE Capital with the SEC within one business day after they are filed by GE Capital with the SEC; and (iii) such documents are provided to Noteholders whose last address as shown on the books of the Issuer is in Canada in the manner, at the time and if required by applicable United States law;

for so long as (i) GE Capital maintains an approved rating in respect of the Notes; (ii) GE Capital maintains direct or indirect beneficial ownership of all of the issued and outstanding voting securities of the Issuer; (iii) GE Capital maintains a class of securities registered pursuant to section 12(b) or 12(g) of the 1934 Act or is required to file reports under Section 15(d) of the 1934 Act; (iv) GE Capital continues to satisfy the criteria set forth in paragraph 3.1 of NI 71-101 (or any successor provision) and remains eligible to use MJDS (or any successor instrument) for the purpose of distributing approved rating non-convertible debt in Canada based on compliance with United States prospectus requirements with certain additional Canadian disclosure; (v) the Issuer carries on no other business than that set out in paragraph 10 of the Decision; (vi) GE Capital continues to fully and unconditionally guarantee the Notes as to the payments required to be made by the Issuer to the Noteholders; (vii) the Issuer does not issue additional securities other than (a) the Notes, debt securities ranking *pari passu* to the Notes, any debentures issued in connection with the security granted by the Issuer to the Noteholders or the holders of the Existing Debt or debt ranking *pari passu* with the Notes, or (b) to GE Capital or to, direct or indirect, wholly-owned subsidiaries of GE Capital; and (viii) if debt securities ranking *pari passu* with the Notes are

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hereinafter issued by the Issuer, GE Capital shall fully and unconditionally guarantee such debt securities as to the payments required to be made by the Issuer to holders of such debt securities.

THE FURTHER DECISION of the Decision Makers pursuant to the Legislation is that the Application and the Decision shall be held in confidence by the Decision Makers until the earlier of the date that the preliminary prospectus is filed in connection with the Proposed Offering and August 31, 2003.

Dated July 31, 2003.

Robert W. Korthals

H. Lorne Morphy