

GENERAL MOTORS CORP

Form S-3

September 05, 2003

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As filed with the Securities and Exchange Commission on September 5, 2003

No. 333-

SECURITIES AND EXCHANGE COMMISSION

Washington, D.C. 20549

FORM S-3

REGISTRATION STATEMENT

UNDER

THE SECURITIES ACT OF 1933

GENERAL MOTORS CORPORATION GENERAL MOTORS NOVA SCOTIA FINANCE COMPANY

(Exact name of registrant as specified in its charter)

Delaware

A Nova Scotia Unlimited Liability Company

(State or other jurisdiction of incorporation or organization)

300 Renaissance Center

Detroit, Michigan 48265-3000

(313) 556-5000

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

38-0572515

38-0572515

(I.R.S. Employer Identification No.)

1908 Colonel Sam Drive

Oshawa, Ontario L1H 8P7

(905) 644-5000

Peter R. Bible,
Chief Accounting Officer
General Motors Corporation
300 Renaissance Center
Detroit, Michigan 48265-3000
(313) 556-5000

Robbert-Jan Brabander,
Chief Executive Officer, Chief Financial Officer
and Principal Accounting Officer
General Motors Nova Scotia Finance Company
1908 Colonel Sam Drive
Oshawa, Ontario L1H 8P7
(905) 644-5000

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

Copies to:

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(902) 420-3200

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Davis Polk & Wardwell
450 Lexington Avenue
New York, New York 10017
(212) 450-4000

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

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

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

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

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

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

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Title of Each Class of Securities to be Registered	Amount to be Registered(1)(2)	Proposed Maximum Offering Price Per Unit(3)	Proposed Maximum Aggregate Offering Price(4)	Amount of Registration Fee(5)
Debt Securities of GM				
Preferred Stock (without par value) of GM				
Preference Stock (par value \$0.10 per share) of GM				
Common Stock (par value \$1 2/3 per share) of GM				
Class H Common Stock (par value \$0.10 per share) of GM				
Purchase Contracts of GM				
Depository Shares of GM (6)				
Warrants of GM				
Units of GM (7)				
Debt Securities of GM Nova Scotia				
Guarantees of Debt Securities of GM Nova Scotia (8)				
Total	\$ 10,000,000,000		\$ 10,000,000,000	\$ 809,000

- (1) This Registration Statement also covers such indeterminate number of shares of Preferred Stock, Preference Stock, \$1 2/3 Par Value Common Stock and Class H Common Stock of GM as shall be issuable or deliverable upon conversion of any Debt Securities, Preferred Stock, Preference Stock or Units of GM registered hereby which are convertible into such Preferred Stock, Preference Stock, \$1 2/3 Par Value Common Stock or Class H Common Stock. In addition, this Registration Statement covers an indeterminate number of shares of Preferred Stock, Preference Stock, \$1 2/3 Par Value Common Stock or Class H Common Stock as shall be issuable or deliverable upon settlement of Purchase Contracts or exercise of Warrants.
- (2) Or, if any Debt Securities of GM or GM Nova Scotia (a) are denominated or payable in a foreign or composite currency or currencies, such principal amount as shall result in an aggregate initial offering price equivalent to \$10,000,000,000 at the time of initial offering, (b) are issued at an original issue discount, such greater principal amount as shall result in an aggregate initial offering price not in excess of \$10,000,000,000 or (c) are issued with their principal amount payable at maturity to be determined with reference to a currency exchange rate or other index, such principal amount as shall result in an aggregate initial offering price of \$10,000,000,000.
- (3) The proposed maximum offering price per unit is not specified as to each class of securities to be registered, pursuant to General Instruction II.D of Form S-3 under the Securities Act of 1933, as amended. The proposed maximum offering price per unit will be determined from time to time by the applicable Registrant in connection with, and at the time of, the issuance by such Registrant of the securities registered hereunder.
- (4) Estimated solely for the purpose of calculating the registration fee pursuant to Rule 457(o).
- (5) Pursuant to Rule 457(p) of the Securities Act, GM is offsetting a portion of the registration fee payable in connection with this Registration Statement with the current unused portion of the registration fee of \$2,289,679.59 previously paid in connection with the Registration Statement on Form S-4 (File No. 333-84472) filed on March 18, 2002 by HEC Holdings, Inc., a wholly owned subsidiary of GM, such current unused portion being \$638,352.33. GM is also offsetting a portion of the registration fee payable in connection with this Registration Statement with the unused portion of the registration fee of \$124,586 previously paid in connection with its Registration Statement on Form S-3 (File No. 333-105949) filed on June 9, 2003 and the unused portion of the registration fee of \$809,000 previously paid in connection with its Registration Statement on Form S-3 (File No. 333-103530) filed on February 28, 2003, which unused portions of such Registration Statements equal an aggregate of \$450,000,000, and the fee related to such amount being \$36,405.
- (6) Depository Shares representing Preferred Stock or Preference Stock of GM.
- (7) Units comprising any combination of one or more Debt Securities or other securities, including Preferred Stock, Preference Stock, \$1 2/3 Par Value Common Stock, Class H Common Stock, Purchase Contracts, Depository Shares, Warrants or any combination thereof.
- (8) No proceeds will be received by GM for the Guarantees. Pursuant to Rule 457(n), no separate fee is required to be paid in respect of guarantees of the Debt Securities that are currently being registered.

The Registrants hereby amend this Registration Statement on such date or dates as may be necessary to delay its effective date until the Registrants shall file a further amendment which specifically states that this Registration Statement shall thereafter become effective in accordance with Section 8(a) of the Securities Act of 1933 or until this Registration Statement shall become effective on such date as the

Commission, acting pursuant to said Section 8(a), may determine.

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Information contained herein is subject to completion or amendment. A registration statement relating to these securities has been filed with the Securities and Exchange Commission. These securities may not be sold nor may offers to buy be accepted prior to the time the registration statement becomes effective. This prospectus shall not constitute an offer to sell or the solicitation of an offer to buy nor shall there be any sale of these securities in any State in which such offer, solicitation or sale is not permitted or would be unlawful prior to registration or qualification under the securities laws of any such State.

SUBJECT TO COMPLETION, DATED SEPTEMBER 5, 2003

PROSPECTUS

\$10,000,000,000

GENERAL MOTORS CORPORATION

Debt Securities

Common Stock (par value \$1^{2/3})

Class H Common Stock (par value \$0.10)

Preference Stock (par value \$0.10)

Preferred Stock (without par value)

Purchase Contracts

Depository Shares

Warrants

Units

We may offer from time to time debt securities, \$1^{2/3} par value common stock, Class H common stock, preference stock, preferred stock, purchase contracts, depository shares, warrants or units. The aggregate initial offering price of all securities sold by us under this prospectus will not exceed \$10,000,000,000. We will provide specific terms of these securities in supplements to this prospectus. You should read this prospectus and any supplement carefully before you invest.

Our \$1 ²/₃ par value common stock is listed in the United States on the New York Stock Exchange, the Chicago Stock Exchange, the Pacific Stock Exchange and the Philadelphia Stock Exchange under the symbol GM. Our Class H common stock is listed on the New York Stock Exchange under the symbol GMH.

We reserve the sole right to accept and, together with our agents from time to time, to reject in whole or in part any proposed purchase of securities to be made directly or through any agents.

Neither the Securities and Exchange Commission nor any state securities commission has approved or disapproved of these securities or determined if this prospectus is truthful or complete. Any representation to the contrary is a criminal offense.

_____, 2003

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You should rely only on the information contained in or incorporated by reference into this prospectus or any accompanying supplemental prospectus. We have not authorized anyone to provide you with different information or make any additional representations. We are not making an offer of these securities in any state or other jurisdiction where the offer is not permitted. You should not assume that the information contained in or incorporated by reference into this prospectus or any prospectus supplement is accurate as of any date other than the date on the front of each of such documents. The terms General Motors, GM, we, us, and our refer to General Motors Corporation. The term Hughes Electronics Corporation, a wholly owned subsidiary of GM.

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ABOUT THIS PROSPECTUS

This prospectus, along with a prospectus for General Motors Nova Scotia Finance Company, a wholly owned subsidiary of GM, is part of a registration statement that we filed with the Securities and Exchange Commission, referred to as the SEC in this prospectus, utilizing a shelf registration process. Under this shelf process, we may sell any combination of our securities and General Motors Nova Scotia Finance Company may sell its debt securities, guaranteed by us, as described in the related prospectus, in one or more offerings. The aggregate initial offering price of all securities sold by us under this prospectus will not exceed \$10,000,000,000. This prospectus provides you with a general description of the securities we may offer. Each time we sell securities, we will provide a prospectus supplement that will contain specific information about the terms of that offering. The prospectus supplement may also add, update or change information contained in this prospectus. You should read both this prospectus and any prospectus supplement together with additional information described below under Incorporation of Certain Documents By Reference.

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PRINCIPAL EXECUTIVE OFFICES

Our principal executive offices are located at 300 Renaissance Center, Detroit, Michigan 48265-3000, and our telephone number is (313) 556-5000.

WHERE YOU CAN FIND MORE INFORMATION

We file annual, quarterly and special reports, proxy statements and other information with the SEC. You may read and copy any document that we file at the Public Reference Room of the SEC at 450 Fifth Street, N.W., Washington, D.C. 20549. You may obtain information on the operation of the Public Reference Room by calling the SEC at 1-800-SEC-0330. In addition, the SEC maintains an Internet site at *www.sec.gov* that contains reports, proxy statements and other information regarding registrants that file electronically, including GM. We are not incorporating the contents of the SEC website into this prospectus. Reports and other information can also be inspected at the offices of the New York Stock Exchange, Inc., 20 Broad Street, New York, New York 10005, where our \$1 ²/₃ par value common stock and Class H common stock are listed, as well as at the offices of the following stock exchanges where our \$1 ²/₃ par value common stock is also listed in the United States: the Chicago Stock Exchange, Inc., One Financial Place, 440 South LaSalle Street, Chicago, Illinois 60605; the Pacific Stock Exchange, Inc., 233 South Beaudry Avenue, Los Angeles, California 90012 and 301 Pine Street, San Francisco, California 94104; and the Philadelphia Stock Exchange, Inc., 1900 Market Street, Philadelphia, Pennsylvania 19103.

Table of Contents**INCORPORATION OF CERTAIN DOCUMENTS BY REFERENCE**

The SEC allows us to incorporate by reference the information that we file with them, which means that we can disclose important information to you by referring you to those documents. The information incorporated by reference is an important part of this prospectus, and information that we file later with the SEC will automatically update and supersede this information. We incorporate by reference the documents listed below and any future filings made with the SEC by us under Sections 13(a), 13(c), 14 or 15(d) of the Securities Exchange Act of 1934 until we sell all of the securities, except as noted below:

GM SEC Filings (File No. 1-143)**Period**

Annual Report on Form 10-K	Year ended December 31, 2002
Quarterly Report on Form 10-Q	Quarters Ended March 31, 2003 and June 30, 2003
Current Reports on Form 8-K	Dates filed: January 3, 2003, January 9, 2003*, January 9, 2003*, January 10, 2003*, January 16, 2003, February 3, 2003, February 13, 2003*, February 25, 2003, February 27, 2003*, February 28, 2003, March 3, 2003, March 3, 2003, March 7, 2003, March 19, 2003, March 20, 2003, April 1, 2003, April 10, 2003, April 14, 2003, April 15, 2003*, April 23, 2003, May 1, 2003, May 15, 2003, June 3, 2003, June 6, 2003, June 10, 2003*, June 12, 2003*, June 13, 2003, June 19, 2003, June 19, 2003, June 19, 2003, June 20, 2003, June 20, 2003, July 2, 2003, July 16, 2003, July 17, 2003*, July 23, 2003*, July 24, 2003, August 1, 2003 and September 3, 2003

The description of the \$1 ²/₃ par value common stock and the Class H common stock set forth in Article Fourth of General Motors Restated Certificate of Incorporation filed as Exhibit 3(i) to the Current Report on Form 8-K of General Motors dated June 24, 1999, as amended by the amendment filed as Exhibit 3(i) to the Current Report on Form 8-K of General Motors dated June 6, 2000

* Reports submitted to the SEC under Item 9, Regulation FD Disclosure, or Item 12, Results of Operations and Financial Condition. Pursuant to General Instructions B(2) and B(6) of Form 8-K, the reports submitted under Item 9 and/or Item 12 are not deemed to be filed for the purpose of Section 18 of the Securities Exchange Act of 1934, and we are not subject to the liabilities of that section. We are not incorporating, and will not incorporate by reference future filings of, these reports into a filing under the Securities Act of 1933 or the Securities Exchange Act of 1934 or into this prospectus.

You may request a copy of the documents incorporated by reference into this prospectus, except exhibits to such documents unless those exhibits are specifically incorporated by reference in such documents, at no cost, by writing or telephoning the office of Paul W. Schmidt, Controller, at the following address and telephone number:

General Motors Corporation

300 Renaissance Center

Detroit, Michigan 48265-3000

(313) 556-5000

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DESCRIPTION OF GENERAL MOTORS CORPORATION

We are primarily engaged in the automotive and, through our wholly owned subsidiary, Hughes Electronics Corporation, the communications services industries. We are the world's largest manufacturer of automotive vehicles. We also have financing and insurance operations and, to a lesser extent, are engaged in other industries.

Our automotive segment is comprised of four regions:

GM North America;

GM Europe;

GM Latin America/Africa/Mid-East; and

GM Asia Pacific.

GM North America designs, manufactures and/or markets vehicles primarily in North America under the following nameplates:

Chevrolet	GMC	Buick	Saturn
Pontiac	Oldsmobile	Cadillac	HUMMER

GM Europe, GM Latin America/Africa/Mid-East and GM Asia Pacific meet the demands of customers outside North America with vehicles designed, manufactured and/or marketed under the following nameplates:

Opel	Holden	Buick	GMC
Vauxhall	Saab	Chevrolet	Cadillac

Our automotive regions also have investments in Fiat Auto Holdings, Fuji Heavy Industries Ltd., Suzuki Motor Corporation, Isuzu Motors Limited, Shanghai General Motors Corporation, SAIC-GM-Wuling Automobile Company Ltd. and GM Daewoo Auto & Technology Company. These investees design, manufacture and market vehicles under the following nameplates:

Fiat	Subaru	Isuzu	Wuling
Alfa Romeo	Suzuki	Buick	Daewoo

Certain of these investees also design, manufacture and market vehicles under the Chevrolet nameplate.

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Our communications services relate to Hughes, which includes digital entertainment, information and communications services and satellite-based private business networks. For more information about Hughes, see the documents filed separately by Hughes with the SEC, including Hughes' most recent Annual Report on Form 10-K, Quarterly Reports on Form 10-Q and various Current Reports on Form 8-K.

Our financing and insurance operations primarily relate to General Motors Acceptance Corporation, which provides a broad range of financial services, including consumer vehicle financing, automotive dealership and other commercial financing, residential and commercial mortgage services, automobile service contracts, personal automobile insurance coverage and selected commercial insurance coverage. For more information about GMAC, see the documents filed separately by GMAC with the SEC, including GMAC's most recent Annual Report on Form 10-K, Quarterly Reports on Form 10-Q and various Current Reports on Form 8-K.

Our other industrial operations include the design, manufacturing and marketing of locomotives and heavy-duty transmissions.

Substantially all of our automotive-related products are marketed through retail dealers and distributors in the United States, Canada and Mexico, and through distributors and dealers overseas. At December 31, 2002, there were approximately 7,790 GM vehicle dealers in the United States, 800 in Canada and 210 in Mexico. Additionally, there were a total of approximately 11,800 outlets overseas which include dealers and authorized sales, service and parts outlets.

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**RATIO OF EARNINGS TO FIXED CHARGES AND
RATIO OF EARNINGS TO FIXED CHARGES AND PREFERENCE STOCK DIVIDENDS**

The following table presents the ratio of our earnings to fixed charges for the periods indicated:

Six Months		Years Ended December 31,				
Ended June 30,						
2003	2002	2002	2001	2000	1999	1998
1.69	1.48	1.24	1.16	1.72	2.13	1.73

We compute the ratio of earnings to fixed charges by dividing earnings before income taxes and fixed charges by the fixed charges. This ratio includes the earnings and fixed charges of us and our consolidated subsidiaries. Fixed charges consist of interest and discount and the portion of rentals for real and personal properties in an amount deemed to be representative of the interest factor.

The following table presents the ratio of our earnings to fixed charges and preference stock dividends for the periods indicated:

Six Months		Years Ended December 31,				
Ended June 30,						
2003	2002	2002	2001	2000	1999	1998
1.69	1.46	1.23	1.14	1.69	2.10	1.71

We compute the ratio of earnings to fixed charges and preference stock dividends by dividing earnings before income taxes and fixed charges by the sum of fixed charges and preference stock dividends. This ratio includes the earnings and fixed charges of us and our consolidated subsidiaries. Preference stock dividends consist of pre-tax earnings that are required to pay dividends on outstanding preference securities.

USE OF PROCEEDS

We will add the net cash proceeds from the sale by us of any securities to our general funds and they will be available for general corporate purposes, including the repayment of existing indebtedness. In addition, we intend to cancel or retire any indebtedness or other outstanding liabilities of GM that we acquire in exchange for the sale of any securities.

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OVERVIEW OF OUR CAPITAL STOCK

The following description of our capital stock is based upon our restated certificate of incorporation, as amended (Certificate of Incorporation), our bylaws, as amended (Bylaws), and applicable provisions of law. We have summarized certain portions of our Certificate of Incorporation and Bylaws below. The summary is not complete. Our Certificate of Incorporation and Bylaws have been filed as exhibits to the registration statement of which this prospectus is a part and are incorporated by reference into this prospectus. You should read our Certificate of Incorporation and Bylaws for the provisions that are important to you.

Certain provisions of the Delaware General Corporation Law (DGCL), our Certificate of Incorporation and our Bylaws summarized in the following paragraphs may have an anti-takeover effect. This may delay, defer or prevent a tender offer or takeover attempt that a stockholder might consider in its best interests, including those attempts that might result in a premium over the market price for its shares.

Authorized Capital Stock

Our Certificate of Incorporation authorizes us to issue 5,706,000,000 shares of capital stock, consisting of:

6,000,000 shares of preferred stock, without par value;

100,000,000 shares of preference stock, \$0.10 par value; and

5,600,000,000 shares of common stock comprising two classes, which shall include 2,000,000,000 shares of \$1²/₃ par value common stock and 3,600,000,000 shares of Class H common stock, \$0.10 par value.

As of July 31, 2003, the following shares of our capital stock were outstanding:

560,718,432 shares of \$1²/₃ par value common stock (and an additional 146,741,400 shares were reserved for possible issuance upon conversion of our outstanding convertible debt securities); and

1,108,336,710 shares of Class H common stock.

There are currently no outstanding shares of preferred stock or preference stock.

Certain Provisions of Our Certificate of Incorporation and Bylaws

Amendments to our Certificate of Incorporation. Under the DGCL, the affirmative vote of a majority of the outstanding shares entitled to vote and a majority of the outstanding stock of each class entitled to vote is required to amend a corporation's certificate of incorporation. Under the DGCL, the holders of the outstanding shares of a class of our capital stock shall be entitled to vote as a class upon a proposed amendment, whether or not entitled to vote thereon by the certificate of incorporation, if the amendment would:

increase or decrease the aggregate number of authorized shares of such class;

increase or decrease the par value of the shares of such class; or

alter or change the powers, preferences or special rights of the shares of such class so as to affect them adversely.

If any proposed amendment would alter or change the powers, preferences or special rights of one or more series of any class of our capital stock so as to affect them adversely, but shall not so affect the entire class, then only the shares of the series so affected by the amendment shall be considered a separate class for the purposes of this provision. As described below under Description of ~~\$1/3~~ Par Value Common Stock and Class H Common Stock Voting Rights, our Certificate of Incorporation expressly provides that ~~\$1~~ par value common stockholders and Class H common stockholders each are entitled to vote separately as a class with respect to certain amendments to our Certificate of Incorporation.

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Vacancies in the Board of Directors. Our Bylaws provide that any vacancy occurring in our board of directors for any cause may be filled by a majority of the remaining members of our board, although such majority is less than a quorum.

Special Meetings of Stockholders. Under our Bylaws, only our board of directors or the chairman of our board may call special meetings of stockholders at such place, date and time and for such purpose or purposes as shall be set forth in the notice of such meeting.

Requirements for Notice of Stockholder Director Nominations and Stockholder Business. If a stockholder wishes to bring any business before an annual or special meeting or nominate a person for election to our board of directors, our Bylaws contain certain procedures that must be followed in terms of the advance timing required for delivery of stockholder notice of such business and the information that such notice must contain. The information required in a stockholder notice includes general information regarding the stockholder, a description of the proposed business and, with respect to nominations for the board of directors, certain specified information regarding the nominee(s).

In addition to the information required in a stockholder notice described above, our Bylaws require a representation that the stockholder is a holder of our voting stock and intends to appear in person or by proxy at the meeting to make the nomination or bring up the matter specified in the notice. In terms of the timing of the stockholder notice, our Bylaws require that the notice must be received by our secretary:

in the case of an annual meeting, not more than 180 days and not less than 120 days in advance of the annual meeting; and

in the case of a special meeting, not later than the fifteenth day following the day on which notice of the meeting is first mailed to stockholders.

Certain Anti-Takeover Effects of Delaware Law

We are subject to Section 203 of the DGCL (Section 203). In general, Section 203 prohibits a publicly held Delaware corporation from engaging in various business combination transactions with any interested stockholder for a period of three years following the date of the transaction(s) in which the person became an interested stockholder, unless:

the transaction is approved by the board of directors prior to the date the interested stockholder obtained such status;

upon consummation of the transaction which resulted in the stockholder becoming an interested stockholder, the interested stockholder owned at least 85% of the voting stock of the corporation outstanding at the time the transaction commenced; or

on or subsequent to such date the business combination is approved by the board and authorized at an annual or special meeting of stockholders by the affirmative vote of at least 66²/₃% of the outstanding voting stock which is not owned by the interested stockholder.

A business combination is defined to include mergers, asset sales, and other transactions resulting in financial benefit to an interested stockholder. In general, an interested stockholder is a person who, together with affiliates and associates, owns (or is an affiliate or associate of

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the corporation and, within the prior three years, did own) 15% or more of a corporation's voting stock. The statute could prohibit or delay mergers or other takeover or change in control attempts with respect to us and, accordingly, may discourage attempts to acquire us even though such a transaction may offer our stockholders the opportunity to sell their stock at a price above the prevailing market price.

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**DESCRIPTION OF \$1 ²/₃ PAR VALUE COMMON STOCK
AND CLASS H COMMON STOCK**

We have two classes of common stock:

\$1 ²/₃ par value common stock; and

Class H common stock.

Our Class H common stock is a tracking stock designed to provide holders with financial returns based on the financial performance of Hughes. In addition to the following description of our \$1 ²/₃ par value common stock and Class H common stock, please refer to our Certificate of Incorporation which sets forth in full detail the terms of our \$1 ²/₃ par value common stock and our Class H common stock. Our Certificate of Incorporation has been filed as an exhibit to the registration statement of which this prospectus is a part and is incorporated by reference into this prospectus. For information regarding how you can find a copy of our Certificate of Incorporation, see [Where You Can Find More Information](#).

There are no redemption or sinking fund provisions applicable to our \$1 ²/₃ par value common stock or Class H common stock. All outstanding shares of \$1 ²/₃ par value common stock and Class H common stock are fully paid and non-assessable, and any shares of \$1 ²/₃ par value common stock or Class H common stock to be issued upon completion of this offering will be fully paid and non-assessable.

Dividends

The DGCL and our Certificate of Incorporation do not require our board of directors to declare dividends on any class of our common stock. The declaration of any dividend on either class is a matter to be acted upon by our board of directors upon the recommendation of our management. If and to the extent our board of directors chooses to declare dividends on either or both of the classes of our common stock, neither the DGCL nor our Certificate of Incorporation requires any proportionate or other fixed relationship between the amount of the dividends declared on the different classes of common stock. Our board of directors reserves the right to reconsider from time to time its policies and practices regarding dividends on our common stock and to increase or decrease the dividends paid on our common stock. Our board of directors may reconsider such matters on the basis of our consolidated financial position, which includes liquidity and other factors, and, with regard to Class H common stock, the earnings and consolidated financial position of Hughes.

Both the DGCL and our Certificate of Incorporation, however, restrict the power of our board of directors to declare and pay dividends on either class of our common stock. The amounts which may be declared and paid by our board of directors as dividends on our common stock are allocated pursuant to our Certificate of Incorporation to each separate class of our common stock and are subject to the amount legally available for the payment of dividends by us under the DGCL. For dividend purposes, this allocation serves to preserve for each class of our common stockholders an interest in retained earnings that is not shared by the other class. This restriction does not require a physical segregation of our assets from the assets of Hughes. Nor does it require separate accounts or separate dividend or liquidation preferences of our assets and the assets of Hughes for the benefit of the holders of either of the separate classes of our common stock.

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Calculation of Amounts Available for Payment of Dividends on Our Common Stock. Under our Certificate of Incorporation, dividends may be paid on the \$1 ²/₃ par value common stock to the extent of the assets legally available for the payment of dividends reduced by the sum of:

an amount determined by our board of directors to be available for the payment of dividends on the Class H common stock as of December 17, 1997, which we refer to as the Hughes transaction date, plus the paid-in surplus attributable to shares of Class H common stock issued after the Hughes transaction date; and

the portion of our net earnings allocated to the Class H common stock in accordance with our Certificate of Incorporation.

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The financial performance of Hughes determines the earnings per share of Class H common stock and the portion of our earnings out of which dividends on the Class H common stock may be paid. The earnings per share and the amounts available for the payment of dividends on the Class H common stock are calculated using a fraction set forth in our Certificate of Incorporation. This fraction reflects the portion of Hughes earnings that is allocated to the amount available for dividends on the Class H common stock. We sometimes refer to this fraction as the Class H fraction. The numerator and denominator of the Class H fraction are determined as follows:

The numerator of the Class H fraction is the weighted average number of shares of Class H common stock that is outstanding during the applicable period.

The denominator of the Class H fraction is the number of notional shares of Class H common stock which, if outstanding, would result in 100% of the earnings of Hughes being allocated to the Class H common stock. We sometimes refer to the denominator of the Class H fraction as the Class H dividend base.

In order to determine what amount is available to pay dividends on the Class H common stock, the following steps are taken:

the net income of Hughes is determined for each quarterly accounting period (without giving effect to any adjustment which would result from accounting for our acquisition of Hughes Aircraft Company using the purchase method);

the net income of Hughes determined for each quarter is divided into amounts allocated to the Class H common stock and the \$1 ²/₃ par value common stock (an amount equal to such quarterly net income of Hughes multiplied by the Class H fraction will be allocated to the Class H common stock, and the remaining amount of such quarterly net income of Hughes will be allocated to the \$1 ²/₃ par value common stock); and

the amount allocated to the Class H common stock, which we sometimes refer to as the available separate consolidated net income of Hughes, is accumulated from quarter to quarter, together with any surplus attributable to shares of Class H common stock issued from time to time, and is reduced by the amount of any dividends actually paid on the Class H common stock.

If dividends have been declared but not paid on any outstanding shares of our preferred stock or preference stock, dividends may not be paid on the \$1 ²/₃ par value common stock or Class H common stock until all declared but unpaid dividends on any outstanding shares of our preferred stock and preference stock have been paid.

Class H Dividend Base Adjustments. Under our Certificate of Incorporation, our board of directors may adjust the Class H dividend base from time to time as our board of directors deems appropriate to reflect the following:

subdivisions and combinations of the Class H common stock and stock dividends payable in shares of Class H common stock to holders of Class H common stock;

the fair market value of contributions of our cash or property to Hughes, or of our cash or property to, or for the benefit of, employees of Hughes in connection with employee benefit plans or arrangements of General Motors or any of our subsidiaries;

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the number of shares of our capital stock contributed to, or for the benefit of, employees of Hughes in connection with benefit plans or arrangements of General Motors or any of our subsidiaries;

payments made by Hughes to us of amounts applied to our repurchase of shares of Class H common stock, to the extent that our board of directors has approved the repurchase and has declared that such payments be applied to the repurchase; and

the number of shares of Class H common stock repurchased by Hughes and no longer outstanding, to the extent that our board of directors has approved the repurchase.

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Our Board of Directors Discretion Regarding Payment of Dividends on Our Common Stock. After the amounts available to pay dividends on the \$1 ²/₃ par value common stock and Class H common stock are determined as provided above, our board of directors may decide to pay or not pay dividends on the \$1 ²/₃ par value common stock and/or the Class H common stock in its sole discretion. This discretion is subject to the following restrictions:

The holders of our preferred stock, if any, and our preference stock, if any, may have a higher priority claim on amounts that would otherwise be available to pay dividends on our common stock, to the extent that dividends have been accumulated but not paid on our preferred or preference stock.

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