



February 2, 2015

Robert deV. Frierson,
Secretary
Board of Governors of the Federal Reserve System,
20th Street and Constitution Avenue NW.
Washington, DC 20551.
Via Email: regs.comments@federalreserve.gov.

Re: R-1503

Request for Public Comment on the Application of Enhanced Prudential Standards and Reporting Requirements to General Electric Capital Corporation.

Dear Officers,

On behalf of more than 350,000 members and supporters of Public Citizen, we hereby respond to the Federal Reserve Board's (Board) "Request For Public Comment On The Application Of Enhanced Prudential Standards And Reporting Requirements To General Electric Capital Corporation."

Generally, we agree with the various capitals, capital planning, stress-testing, risk-management and other prudential standards that the Board proposes for GE Capital. As a firm that violates the separation of banking and commerce, we urge the Board to use available tools reduce the harms associated with mixing these two businesses.

As a wholly owned subsidiary of the General Electric Co., GE Capital is a savings and loan holding company and one of the largest holding companies in the United States by assets, with \$539 billion in total consolidated assets as of December 31, 2012. The Financial Stability Oversight Council found that GE Capital is a "significant source" of credit to the U.S. economy,

providing financing to both commercial and consumer customers.¹ In 2012, GE Capital extended credit to more than 243,000 commercial customers and 201,000 small businesses, as well as 57 million consumers in the United States. Money market funds purchase commercial paper issued by GE Capital. As seen in the failure of Lehman Brothers, which precipitated struggles by the money market fund Reserve Primary and thereafter tremors in short term funding markets, a failure by GE Capital could send the same ripples through the economy. During the financial crisis, federal officials “provided huge amounts of financial assistance” to financial firms, including GE Capital, noted one observer. In fact, the government authorized 19 banks “and GE Capital to issue \$290 billion of FDIC-guaranteed, low-interest debt.”²

The Financial Stability Oversight Council has determined that GE Capital is a systemically important financial institution. Pursuant to Section 165 of the Dodd-Frank Wall Street Reform and Consumer Protection Act, this compels the Board to develop standards by which GE shall operate, and to oversee compliance with those standards.

We agree with this designation and that failure of GE Capital, which is the factor that the FSOC must consider when designating a firm as significant, would undoubtedly have a significant impact on the economy. GE Capital did not contest in court its designation as significant. Further, GECC has stated that it has been preparing for rules very much like those now proposed and “does not believe that GECC’s designation as a nonbank SIFI will have a material impact on its business or operations.”³

Accordingly, the Board proposes to apply standards that are essentially identical to those that apply to large banks. These standards include:

- Regulatory capital framework applicable to a large bank holding company including the minimum common equity tier 1, tier 1, and total risk-based capital ratios, the minimum generally-applicable leverage ratio, and restrictions on distributions or discretionary bonus payments associated with the capital conservation buffer.
- A so-called “living will,” that provides that GE Capital can prove that it can be resolved without government assistance, and, short of such proof, a requirement that certain steps be taken such as divestiture of various credit businesses to come into compliance.

¹ Determination, Financial Stability Oversight Council, available at: <http://www.treasury.gov/initiatives/fsoc/designations/Documents/Basis%20of%20Final%20Determination%20Regarding%20General%20Electric%20Capital%20Corporation,%20Inc.pdf>

² “Turning a Blind Eye,” by Arthur Wilmarth, George Washington Law School Legal Theory Paper, (2013), available at: <http://www.top1000funds.com/wp-content/uploads/2013/12/Why-Washington-keeps-giving-into-Wall-Street.pdf>

³ General Electric Co. Form 10-K, Feb. 27, 2014, p.65

- Liquidity requirements that will promote the short-term resilience of GE Capital, improve its ability to withstand financial and economic stress, and mitigate the potential adverse effects on other financial firms and markets.

We think these standards are appropriate in that GE Capital operates essentially as a large bank. We do believe capital standards generally are woefully low, and urge the Board to consider increasing them. Higher standards should apply to all large banks, including GE Capital. We understand that the Board is currently considering requiring an additional layer of debt that can be converted into equity upon the failure of a firm that would aid in a resolution. We believe that this form of funding would be appropriate for GE Capital as well.

GE Capital relies on substantial wholesale funding. This is a relatively fragile source. As the market revalues GE's assets, such funding can evaporate. It is not sound practice that a mature parent company with an otherwise sound balance sheet would operate a bank with high leverage.

We remain troubled by the perforations in what should be an iron clad wall between banking and commerce. When this wall is stalwart, commerce performs well, with financing funneled to it from impartial conduits in the commercial lending sector. When this wall breaks down, when firms that own commodities and factories become banks, or when banks begin owning commodities or factories, abuses abound. Please see our report, "Big Banks, Big Appetites," which explores these problems.⁴ The Board recognizes this when it explains that GE Capital "engages in some activities that are not permitted for a bank holding company or a savings and loan holding company."⁵

The Board proposes some modest steps to manage this problem. The Board appropriately recognizes that "conflicts of interest" may arise from the GE's unusual circumstance both as a commercial firm that manufactures appliances and as a financial firm that may provide credit to competing firms that manufactures appliances. To address this, the Board proposes that at least 25% or 2 members of the GE Capital board be independent of GE management or the GE parent board. Currently, the entire GE Capital board comes from GE. We support the spirit of this proposal but believe that such a number fails to achieve desired independence. This would allow 75% of the board to come from management, and thus to out-vote the independent directors 3-to-1. In answer to Question 10, we urge that a majority of the board, ideally the entire board, be composed of independent directors. In answer to Question 12, we also urge

⁴ "Big Banks, Big Appetites," by Bartlett Naylor, Public Citizen (2014), available at: <http://www.citizen.org/Page.aspx?pid=6278>

⁵ Request for comment, GE Capital (December 2014), available at: <https://www.federalregister.gov/articles/2014/12/03/2014-28414/application-of-enhanced-prudential-standards-and-reporting-requirements-to-general-electric-capital>

the Board to insist that directors possess proven experience in managing complex risk. The Federal Reserve relies in this rule and many other prudential oversight policies on boards of directors to ensure that management hews carefully to safe and sound practices. The truth has been, however, that major banks have suffered significant mismanagement, including massive legal violations. An examination of director profiles of the largest banks reveals an obvious lack in suitable experience in too many cases, which likely contributes to these violations.⁶

In response to Question 14, we appreciate that Section 23B of the Federal Reserve Act prohibits special loan treatment between a bank and an affiliate. Enforcing this law remains especially important for GE whose parent company competes with hundreds of other businesses across the globe. An easier way to enforce prejudicial lending would be to bar commercial firms from associating with a bank. In the Board's forthcoming proposed rule on separating banking from commercial business, we urge an ambitious use of the safety and soundness provisions in financial law that could restore the separation from commerce.

For questions, please contact Bartlett Naylor at bnaylor@citizen.org, or 202.580.5626

Sincerely,

Public Citizen.

⁶ For example, James Crown chairs the JP Morgan board's risk committee despite the fact that he has no professional banking experience. --See letter to JP Morgan from CtW Investment Group, (2013), available at: <http://online.wsj.com/public/resources/documents/CtWtoJPM32813.pdf>