

General Motors Co  
Form DEFA14A  
July 23, 2010

**UNITED STATES**  
**SECURITIES AND EXCHANGE COMMISSION**

Washington, D.C. 20549

**FORM 8-K**

**CURRENT REPORT**

Pursuant to Section 13 or 15(d) of the  
Securities Exchange Act of 1934

**Date of Report (Date of earliest event reported): July 21, 2010**

**GENERAL MOTORS COMPANY**

(Exact name of registrant as specified in its charter)

**Delaware**  
(State or other jurisdiction  
of incorporation)

**000-53930**  
(Commission  
File Number)

**27-0756180**  
(I.R.S. Employer  
Identification No.)

Edgar Filing: General Motors Co - Form DEFA14A

**300 Renaissance Center, Detroit, Michigan**  
(Address of principal executive offices)  
**(313) 556-5000**

**48265-3000**  
(Zip Code)

(Registrant's telephone number, including area code)

**Not Applicable**

(Former name or former address, if changed since last report)

Check the appropriate box below if the Form 8-K filing is intended to simultaneously satisfy the filing obligation of the registrant under any of the following provisions (see General Instruction A.2. below):

- Written communications pursuant to Rule 425 under the Securities Act (17 CFR 230.425)
- Soliciting material pursuant to Rule 14a-12 under the Exchange Act (17 CFR 240.14a-12)
- Pre-commencement communications pursuant to Rule 14d-2(b) under the Exchange Act (17 CFR 240.14d-2(b))
- Pre-commencement communications pursuant to Rule 13e-4(c) under the Exchange Act (17 CFR 240.13e-4(c))

**Item 1.01 Entry into a Material Definitive Agreement.**

On July 21, 2010, General Motors Holdings LLC ( GM Holdings ), a Delaware limited liability company and a wholly owned subsidiary of General Motors Company ( GM ), entered into an Agreement and Plan of Merger (the Merger Agreement ) with Goalie Texas Holdco Inc. ( Merger Sub ), a Texas corporation and a direct wholly owned subsidiary of GM Holdings, and AmeriCredit Corp., a Texas corporation ( AmeriCredit ). Under the terms of the Merger Agreement, Merger Sub will be merged with and into AmeriCredit, with AmeriCredit continuing as the surviving corporation and a direct wholly owned subsidiary of GM Holdings (the Merger ).

Consummation of the Merger is not subject to a financing condition, but is subject to various other conditions, including approval of the Merger by two thirds of AmeriCredit s shareholders, expiration or termination of applicable waiting periods under the Hart-Scott-Rodino Antitrust Improvements Act of 1976, as amended, receipt of certain other required regulatory approvals and certain other closing conditions. The parties expect to close the transaction in the fourth quarter of 2010.

Subject to the terms and conditions of the Merger Agreement, at the effective time:

each outstanding share of common stock of AmeriCredit will be cancelled and converted into the right to receive \$24.50 in cash, without interest, other than (i) any shares held by AmeriCredit or any of its subsidiaries immediately prior to the effective time of the Merger, which shares will be cancelled with no consideration in exchange for such cancellation, and (ii) any shares held by shareholders who are entitled to and who properly exercise appraisal rights under Texas law;

each vested or unvested option to purchase shares of AmeriCredit common stock held by employees (each an AmeriCredit Option ) outstanding at the effective time of the Merger will, as of the effective time, become fully vested and be converted into the right to receive a cash payment (less any applicable withholding) equal to the lesser of (i) the product obtained by multiplying (x) the total number of shares of AmeriCredit common stock subject to such AmeriCredit Option immediately prior to the effective time of the Merger by (y) the excess, if any, of \$24.50 over the exercise price per share of such AmeriCredit Option or (ii) the amount that the holder of such AmeriCredit Option would otherwise be entitled to receive under the terms of the applicable AmeriCredit Option;

other AmeriCredit stock-based awards outstanding at the effective time of the Merger (whether vested or unvested but subject to all applicable performance goals having been met) generally will be cancelled and converted into the right to receive a cash amount of \$24.50 per share (less any applicable withholding), without interest; and

each warrant outstanding at the effective time of the Merger will, as of the effective time, be cancelled and converted into the right to receive a cash payment (less any applicable withholding) equal to the product obtained by multiplying (x) the total number of shares of AmeriCredit common stock subject to such warrant immediately prior to the effective time of the Merger by (y) the excess, if any, of \$24.50 over the exercise price per share of such warrant.

The anticipated aggregate consideration to be paid by GM Holdings to consummate the Merger is approximately \$3.5 billion.

GM Holdings and AmeriCredit have made customary representations, warranties and covenants in the Merger Agreement, all of which expire at the effective time of the Merger. AmeriCredit may not solicit acquisition proposals or, subject to exceptions that permit AmeriCredit s Board of Directors to take actions required by their fiduciary duties, participate in any discussions or negotiations regarding acquisition proposals.

The Merger Agreement may be terminated under certain circumstances, including if AmeriCredit's Board of Directors has determined in good faith that it has received a superior proposal and otherwise complies with certain terms of the Merger Agreement, including the no solicitation obligation referenced above. Upon the termination of the Merger Agreement, under specified circumstances AmeriCredit will be required to pay GM Holdings a termination fee of \$105 million. In addition, the termination fee is payable if the Merger Agreement is terminated for other specified circumstances or expires and AmeriCredit enters into a transaction for the sale of control to another party within 12 months from the date of termination or expiration. Concurrently with the execution of the Merger Agreement, two of AmeriCredit's significant shareholder groups entered into a Shareholder Support and Voting Agreement with GM Holdings and Merger Sub (the "Voting Agreements") and have agreed, in their capacities as AmeriCredit shareholders, to, among other things, vote their shares of AmeriCredit common stock in favor of the Merger and the Merger Agreement. Such shares represent an aggregate of approximately 42.5% of the AmeriCredit common stock outstanding as of July 21, 2010.

Management of AmeriCredit is expected to remain intact.

Certain affiliates of GM have entered into, from time to time, and may enter into transactions with AmeriCredit in the ordinary course of business.

The foregoing summaries of the Merger Agreement and the transactions contemplated thereby and the Voting Agreements do not purport to be complete and are subject to, and qualified in their entirety by, the full text of the Merger Agreement and the Voting Agreements, which are attached as Exhibit 2.1, 99.1 and 99.2, respectively, and incorporated herein by reference.

The Merger Agreement and the Voting Agreements have been included to provide information regarding their terms to investors and security holders. The representations, warranties and covenants contained in the Merger Agreement and Voting Agreements were negotiated between the parties for the principal purpose of setting forth their respective rights and obligations for purposes of the Merger Agreement or Voting Agreements, as applicable, and as of specific dates, were solely for the benefit of the parties to the Merger Agreement or Voting Agreements, as applicable, and may be subject to limitations agreed upon by the contracting parties, including being qualified by confidential disclosures exchanged between the parties in connection with the execution of the Merger Agreement or Voting Agreements, as applicable. The representations and warranties may have been made for the purposes of allocating contractual risk between the parties to the Merger Agreement or Voting Agreements, as applicable, instead of establishing these matters as facts, and may be subject to standards of materiality applicable to the contracting parties that differ from those applicable to investors. Investors are not third-party beneficiaries under the Merger Agreement or Voting Agreements and should not rely on the representations, warranties and covenants or any descriptions thereof as characterizations of the actual state of facts or condition of GM Holdings, Merger Sub or AmeriCredit or any of their respective subsidiaries or affiliates. Moreover, information concerning the subject matter of the representations and warranties may change after the date of the Merger Agreement or Voting Agreements, as applicable, which subsequent information may or may not be fully reflected in GM's public disclosures.

Important Additional Information Regarding the Merger will be filed with the Securities and Exchange Commission (the "SEC"):

In connection with the proposed Merger, AmeriCredit plans to file a proxy statement with the SEC. INVESTORS AND SECURITY HOLDERS ARE ADVISED TO READ THE PROXY STATEMENT WHEN IT BECOMES AVAILABLE BECAUSE IT WILL CONTAIN IMPORTANT INFORMATION ABOUT THE MERGER AND THE PARTIES TO THE MERGER. Investors and security holders may obtain a free copy of the proxy statement (when available) and other relevant documents filed with the SEC from the SEC's website at <http://www.sec.gov>. Investors and security holders and other interested parties will also be able to obtain, free of charge, a copy of the proxy statement and other relevant documents (when available) by directing a request by mail or telephone to Investor Relations, AmeriCredit Corp., 801 Cherry Street, Suite 3500, Fort Worth, Texas 76102, telephone (800) 644-2297, or from AmeriCredit's website at [www.AmeriCredit.com](http://www.AmeriCredit.com).

GM and its directors, executive officers and other members of its management and employees may be deemed to be participants in the solicitation of proxies from AmeriCredit's shareholders with respect to the Merger. Information about GM's directors and executive officers is set forth in GM's Form 10-K filed on April 7, 2010 and GM's Form 10 Amendment No.1 filed May 17, 2010. These documents are available free of charge from the SEC's website at <http://www.sec.gov>, and by directing a request by mail or telephone to Investor Relations, General Motors Company, 303 Renaissance Center, Detroit, Michigan 48265-3000, telephone (313) 667-1669, or from GM's website at [www.GM.com](http://www.GM.com).

**Item 8.01 Other Events.**

On July 22, 2010, GM and AmeriCredit issued a joint press release announcing the entering into of the Merger Agreement. A copy of the press release is attached as Exhibit 99.3 hereto.

**Item 9.01 Financial Statements and Exhibits.**

**(d) Exhibits**

**Exhibit**

<b>Number</b>	<b>Description</b>
2.1*	Agreement and Plan of Merger, dated as of July 21, 2010, among General Motors Holdings LLC, Goalie Texas Holdco Inc. and AmeriCredit Corp.
99.1	Shareholder Support and Voting Agreement, dated as of July 21, 2010, among General Motors Holdings LLC, Goalie Texas Holdco Inc., Fairholme Capital Management, L.L.C., Bruce R. Berkowitz and Fairholme Funds, Inc.
99.2	Shareholder Support and Voting Agreement, dated as of July 21, 2010, among General Motors Holdings LLC, Goalie Texas Holdco Inc., Leucadia National Corporation, Phlcorp, Inc., Baldwin Enterprises, Inc., BEI Arch Holdings, LLC and BEI-Longhorn, LLC.
99.3	Press release, dated July 22, 2010.

\* The schedules to this agreement have been omitted from this filing pursuant to Item 601(b)(2) of Regulation S-K. The registrant will furnish copies of such schedules to the Securities and Exchange Commission upon request.

**SIGNATURES**

Pursuant to the requirements of the Securities Exchange Act of 1934, the registrant has duly caused this report to be signed on its behalf by the undersigned hereunto duly authorized.

GENERAL MOTORS COMPANY

(Registrant)

Date: July 23, 2010

By: /s/ Nick S. Cyprus  
Nick S. Cyprus  
Vice President, Controller and Chief Accounting Officer

**EXHIBIT INDEX**

**Exhibit**

<b>Number</b>	<b>Description</b>
2.1*	Agreement and Plan of Merger, dated as of July 21, 2010, among General Motors Holdings LLC, Goalie Texas Holdco Inc. and AmeriCredit Corp.
99.1	Shareholder Support and Voting Agreement, dated as of July 21, 2010, among General Motors Holdings LLC, Goalie Texas Holdco Inc., Fairholme Capital Management, L.L.C., Bruce R. Berkowitz and Fairholme Funds, Inc.
99.2	Shareholder Support and Voting Agreement, dated as of July 21, 2010, among General Motors Holdings LLC, Goalie Texas Holdco Inc., Leucadia National Corporation, Phlcorp, Inc., Baldwin Enterprises, Inc., BEI Arch Holdings, LLC and BEI-Longhorn, LLC.
99.3	Press release, dated July 22, 2010.

\* The schedules to this agreement have been omitted from this filing pursuant to Item 601(b)(2) of Regulation S-K. The registrant will furnish copies of such schedules to the Securities and Exchange Commission upon request.