

# PROXINVEST ACTIVE INVESTORS

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Paris, April 7<sup>th</sup>, 2005

## URGENT

**Concerns: Invitation to vote against the resolution reinstalling the voting right limitation at the April 28<sup>th</sup>, 2005 AGM of VIVENDI UNIVERSAL**

Ladies and Gentlemen,

The initiative of the Proxinvest Active Investors fund<sup>1</sup> and the advice of several investors have persuaded the management and the shareholders of VIVENDI UNIVERSAL to remove its voting right limitation from the new version of the company bylaws introduced for approval in the Resolution 6 of the forth coming AGM.

However, it decided to propose again this voting right limitation in a separate vote (Resolution 32 or "New resolution A") adding a new and complex voting right calculation formula (see our note attached).

It appears necessary now to urge you to oppose this voting right limitation by voting

- **FOR** the **Resolution 6** which amends the bylaws and suppress the voting right limitation,
- **AGAINST** the "**New resolution A**" or **Resolution 32 just** added by the company on the publicly released agenda (see: <http://finance.vivendiuniversal.com/finance/home/>).

We hope you will join this initiative and would be thankful if you could kindly inform us of your final decision in this respect.

We remain at your disposal for any question regarding this initiative and we thank you in advance for your support.

Yours faithfully,

Denis Branche

Olivier de Guerre

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<sup>1</sup> Proxinvest Active Investors fund, managed by PHITRUST FINANCE in Paris is the first continental European engagement fund dedicated to improving the corporate governance of listed companies. The 2004 first initiative campaign of the Fund has already had a clear positive impact on the governance features of several French companies and important institutional investors such as AGF-Allianz, Natexis-Banques Populaires, MACIF, SMABTP are now represented at the Board of the fund which introduced about 140 recommendations for governance changes to the Board of Directors of the French CAC40 listed companies.

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## REFERENCE GUIDELINES :

- **AFG** - ASSOCIATION FRANÇAISE DE LA GESTION, (Recommandations sur le gouvernement d'entreprise -2004) : Being in favour of the principle "one share, one vote", the Commission takes the view that any practice which can allow control of a company to be held by minority shareholders, can be abused and used in a manner contrary to the spirit of responsible corporate governance.

The principle of "one share, one vote" rejects any limitations of voting rights.

The Commission is also against limitations on voting rights.

- **OECD**: In some countries, companies employ anti-takeover devices. However, both investors and stock exchanges have expressed concern over the possibility that widespread use of anti-takeover devices may be a serious impediment to the functioning of the market for corporate control.

- **ECGS** (European Corporate Governance Service Guidelines, January 2004): Shareholder rights and voting power should be proportional to ownership. The ECGS is opposed to all anti-takeover devices which serve to entrench management and therefore harm shareholders' interests. Examples of unacceptable protective devices include special Board appointment rights, poison-pills and voting caps.

- **INTERNATIONAL CORPORATE GOVERNANCE NETWORK**: Global Share Voting Principles July 10, 1998 EQUAL AND FAIR VOTING RIGHTS

The same voting rights should attach to shares regardless of how much equity a shareholder holds, or how geographically distant a shareholder may be from the company. The ICGN affirms that divergence from a 'one-share, one-vote' standard which gives certain shareholders power disproportionate to their equity ownership is undesirable. Any such divergence should be both disclosed and justified.

Unequal Voting: The ICGN affirms that divergence from a 'one-share, one-vote' standard which gives certain shareholders power disproportionate to their equity ownership is undesirable. Any such divergence should be both disclosed and justified.

- **CalPERS** Global and International principles: Investors, even minority and foreign investors, must be treated equitably and upon the principle of one share/one vote. CalPERS embraces and adopts as its own the attached Statement of Global Corporate Governance Principles, as adopted in July 1999 by the International Corporate Governance Network.

- **TIAA CREF** (Policy Statement on Corporate Governance) : One Share-One Vote. Shareholders should have the right to a vote in proportion to their economic stake in the company. Each share of common stock should have one vote. The board should not create multiple classes of common stock with disparate or super voting rights, nor should it give itself the discretion to cap voting rights or reduce the proportional impact of larger shareholdings.

- **VANGUARD's Proxy Voting Guidelines**: We are generally opposed to cumulative voting under the premise that it allows shareholders a voice in director elections that is disproportionate to their economic investment in the corporation. We are opposed to dual-class capitalization structures that provide disparate voting rights to different groups of shareholders with similar economic investments. As such, we will oppose the creation of separate classes with different voting rights and will support the dissolution of such classes. Vanguard's Proxy Voting Update June 2004: We have generally supported proposals that seek to enhance director accountability and reduce barriers to shareholder action.

- **FIDELITY PROXY VOTING GUIDELINES** July 2003 : Because classes of common stock with unequal voting rights limit the rights of certain shareholders, the guidelines call for voting against adoption of a dual or multiple class capitalization structure.

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- **HERMES:** *Statement on international governance. Hermes supports the recommendations of the ICGN and the "One share one vote" principle. Corporations' ordinary shares should feature one vote for each share. Corporations should act to ensure the owners' rights to vote. Fiduciary investors have a responsibility to vote. Regulators and law should facilitate voting rights and timely disclosure of the levels of voting.*

- **ALLIANZ AG (German Statutory Requirement 2.1.2.-2002)** *"In principle, each share carries one vote. There are no shares with multiple voting rights, preferential voting rights (golden shares) or maximum voting rights."*

**PROXINVEST ACTIVE INVESTORS FUND - GOVERNANCE PRINCIPLES :** *The Fund considers that the "One share-one vote" principle is a cornerstone of good governance and request the equitable treatment of all shareholders.*