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## Raider Wants SEC to Investigate Broadridge Over Share Count

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Chris Kentouris

Wyser-Pratte Management, a New York-based fund manager and corporate raider, claims Broadridge Financial Solutions and French media giant Lagardere Group may have lost shares voted in favor of its proposals during an April proxy contest.

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Guy Wyser-Pratte, president of the firm bearing his name, wants the Securities and Exchange Commission to investigate whether U.S. broker-dealers and custodians or their agents for the Lagardere general meeting transmitted their votes accurately.

He had been seeking a place on Lagardere's board and a change in Lagardere by-laws that would make it easier to block other shareholder proposals.

Wyser-Pratte also wants the SEC and Autorite des Marches Financiers (AMF) in Paris, the French securities watchdog, to investigate the nature of an alleged "improper" relationship between Broadridge Financial and Lagardere and whether Lagardere accurately counted the votes it received, he contended in a July letter to the SEC.

Kevin Callahan, a spokesman for the SEC, declined to comment about the status of Wyser-Pratte's request on the grounds the regulator "can neither confirm nor deny any investigation into the company."

Broadridge said there was "no basis" for Wyser-Pratte's comments and that Broadridge had "no dog in the fight" between Wyser-Pratte and Lagardere.

New York-based Broadridge Financial is the world's largest proxy distribution and voting firm. The firm is typically hired by U.S. banks and brokerages to send out proxy materials and collect votes for meetings in the United States and overseas.

Wyser-Pratte is known for reaping big profits by taking minority stakes in poorly managed overseas companies and forcing management to either raise dividends, buy back shares at a profit to the firm or to break up the company and sell off the pieces.

Last year TUI AG, owner of Europe's biggest tour operator, decided to sell off part of its Hapag-Lloyd shipping unit after Wyser-Pratte and other shareholders demanded the move. In 2009, Horst Kayser, chief executive officer, and Matthias Rapp, chief financial officer, at German robot-maker Kuka AG stepped down after pressure from Wyser-Pratte and other shareholders to change their corporate strategy.

Having received only 22 percent of votes in favor of his board candidacy, Guy Wyser-Pratte failed to win a seat on Lagardere's board. He also lost a vote to change the company's corporate structure as a "societe en commandite par actions" – a type of French stock partnership that gives CEO Arnaud Lagardere the power to block some shareholder proposals.

Wyser-Pratte owns a 0.53 percent stake in Lagardere and needed to win a majority of the shares voted to gain a seat on Lagardere's board. He also needed to win two-thirds of the total number of shares voted in order to get Lagardere to change its corporate structure; in that case, his proposal won about 23 percent.

Guy Wyser-Pratte's request for an investigation into Broadridge's role in Lagardere's annual meeting was made in a July 14th letter to the SEC. That request followed one to the AMF in June. The letter to the SEC was one of several dozen written by respondents to the SEC's request for comment starting that day to proposed changes to the proxy distribution and voting system.

Among the changes the SEC is considering is a way for U.S. corporations to confirm that they had actually received the votes of shareholders in the way they were cast. Financial intermediaries – banks and brokerage firms – do confirm with their fund manager clients that they have received their votes at annual meetings but there is typically no way for fund managers and retail investors to know whether the votes actually made it all the way to the company.

What was Broadridge's role? According to Guy Wyser-Pratte, Broadridge told Wyser-Pratte's proxy solicitation firm Mackenzie Partners in New York that Broadridge was responsible for transmitting 28 percent of the total shares voted at Lagardere's annual meeting. Based upon Wyser-Pratte's belief that many proxy advisory firms used by institutional investors supported his resolutions, his resolutions could have passed, he said.

"It is highly probable, given the recommendations of proxy advisory firms, that a major portion of these votes had been transmitted in my favor, but this turned out not to be the case for a reason I am unable to explain," wrote Guy Wyser-Pratte in his letter to the SEC. He listed those firms as ISS/Riskmetrics, Deminor, Proxinvest, and ADAM. Fund managers often rely on the opinions of proxy advisory firms when voting at annual meetings.

Just as troubling to Wyser-Pratte is the fact that Broadridge Financial initially refused to distribute Wyser-Pratte's "shareholder fight" letters on the basis there was an exclusive arrangement between Broadridge and Lagardere.

"This exclusivity is apparently extraordinary for this company, generally known to be open to business with everyone. It is for its reputation of independence that it is highly utilized in the United States for one of its main tasks, the centralization and transmission of electronic votes to overseas shareholder meetings," said Guy Wyser-Pratte in his letter to the SEC. In a footnote, he added that at the 11th hour Broadridge "relented based, in part on Mackenzie Partners appeal to high-ranking executives."

In an emailed statement issued to *Securities Technology Monitor* on Monday morning, Chuck Callan, senior vice president for regulatory affairs at Broadridge wrote: "We are aware of the letter from Mr. Wyser-Pratte. The matter was looked into and there is no basis for the comments raised."

The statement went on to say that "It is Broadridge's policy not to enter into exclusive servicing arrangements for opponents in contested solicitations. All participants may rely on the fact that we have no dog in the fight."

Guy Wyser-Pratte confirmed what he believes happened during Lagardere's annual meeting in a separate interview with *Securities Technology Monitor* on Monday. In that interview Wyser-Pratte insisted that he was never informed of Broadridge's policy because "Broadridge didn't want to deal with [his firm]."

According to Guy Wyser-Pratte, the shares of his management firm in favor of his two resolutions were initially not voted during Lagardere's annual general meeting on April 27.

Because he proposed two resolutions to be included in Lagardere's annual meeting, he "took great care to electronically vote a portion of our shares and to be present with an admission card and vote in person the remainder of his firm's shares," said his letter to the SEC.

However, when he arrived at Lagardere's annual meeting in Paris on April 17 he was informed by a representative for Arlis BNP Paribas, the registrar for Lagardere, that "an important number of his electronically transmitted shares" were not taken into consideration and were thus not voted due to "technical reasons." Guy Wyser-Pratte says that he never received any explanation of just what those technical reasons were but he did eventually succeed in having those shares registered with Arlis BNP Paribas.

According to Guy Wyser-Pratte, "the same representative indicated to counsel that the case involving my omitted shares was not an isolated case and numerous other votes transmitted through the same electronic process had very probably not been taken into consideration as well. Arlis explained that this situation involved technical problems emanating essentially from American custodian banks." Those American banks, he says, were JP Morgan, UBS, Citibank and BNP Paribas.

To Guy Wyser-Pratte, Arlis BNP Paribas' statement raised a red flag on whether votes cast by other investors in favor of his proposals were actually counted.

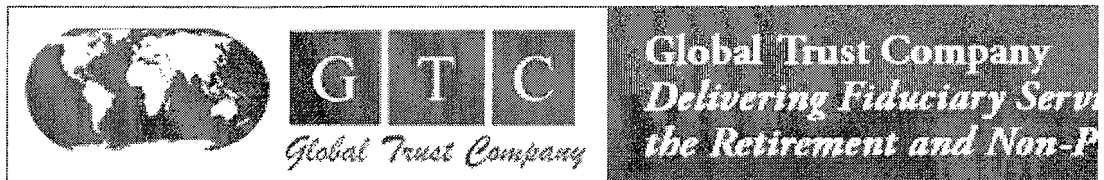
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