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Legal Protection of Investors and Shareholders: A Comparative Study on Azerbaijani, EU and US Securities Regulation

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Faig Aliyev

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ABSTRACT (ENGLISH)

This thesis evaluates the effectiveness of legal protections for investors and shareholders in Azerbaijan by comparing them to those in the European Union and the United States. Despite significant reforms in corporate governance and securities regulation over the past two decades, Azerbaijan’s securities market remains small, illiquid, and has limited participation by investors. The research identifies three essential elements for effective investor protection: clear legal rights, reliable access to information, and effective enforcement mechanisms. While Azerbaijan’s legislation formally provides voting rights, dividend protections, disclosure requirements, and prohibitions on insider trading, it lacks effective practical protections due to institutional weaknesses and political interference. The analysis found that legal provisions alone are insufficient. The effective protection requires independent regulators, transparent enforcement, and a democratic environment that supports economic diversity. The thesis finds that institutional and anti-democratic uncertainty is the main cause of Azerbaijan's weak financial markets. Comprehensive democratic reforms, such as establishing independent courts, a free media, civil society, and an independent securities regulator, are also necessary for meaningful progress. The study highlights that investor protection is closely linked to accountable and democratic governance. Inspiration from US and EU securities laws and democratic reforms is essential for Azerbaijan’s transition from an oil-based economy to a sustainable capital market.

ABSTRACT (DEUTCH)

Diese Arbeit untersucht die Wirksamkeit des Rechtsschutzes für Anleger und Aktionäre in Aserbaidschan im Vergleich zu den Regelungen in der Europäischen Union und den Vereinigten Staaten. Trotz bedeutender Reformen der Unternehmensführung und der Wertpapierregulierung in den letzten zwei Jahrzehnten ist der aserbaidschanische Wertpapiermarkt nach wie vor klein, illiquide und weist eine geringe Anlegerbeteiligung auf. Die Untersuchung identifiziert drei wesentliche Elemente für einen effektiven Anlegerschutz: klare Rechtsansprüche, verlässlichen Zugang zu Informationen und wirksame Durchsetzungsmechanismen. Zwar sieht die aserbaidschanische Gesetzgebung formal Stimmrechte, Dividendenschutz, Offenlegungspflichten und ein Verbot von Insiderhandel vor, doch mangelt es aufgrund institutioneller Schwächen und politischer Einflussnahme an einem wirksamen praktischen Schutz. Die Analyse zeigt, dass rechtliche Bestimmungen allein nicht ausreichen. Ein effektiver Schutz erfordert unabhängige Regulierungsbehörden, eine transparente Durchsetzung und ein demokratisches Umfeld, das wirtschaftliche Vielfalt fördert. Die Arbeit kommt zu dem Schluss, dass institutionelle und antidemokratische Unsicherheit die Hauptursache für die Schwäche der aserbaidschanischen Finanzmärkte ist. Umfassende demokratische Reformen, wie die Einrichtung unabhängiger Gerichte, freier Medien, einer Zivilgesellschaft und einer unabhängigen Wertpapieraufsichtsbehörde, sind für einen nachhaltigen Fortschritt ebenfalls notwendig. Die Studie unterstreicht, dass Anlegerschutz eng mit verantwortungsvoller und demokratischer Regierungsführung verknüpft ist. Die Orientierung an US-amerikanischen und EU-Wertpapiergesetzen und demokratischen Reformen ist für Aserbaidschans Übergang von einer erdölbasierten Wirtschaft zu einem nachhaltigen Kapitalmarkt unerlässlich.

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CHAPTER 1

Introduction

1.1 Research Background and Relevance

In the modern global economy, a nation's economic situation depends on the strength, depth, and stability of its financial markets, as well as the impact of its legal system on those financial markets. Financial markets are any marketplace where stocks, bonds, and other investments are traded.[1] Financial markets play an arterial role in a country's economy, connecting those who have capital (investors, shareholders) with those who need capital (corporations). A shareholder is a type of investor who owns one or more shares of a company and, to the extent of the shares they own, acquires a number of corporate rights in that company, including voting, dividend, and information rights, within the framework determined by the corporate law or the company's charter.[2] An investor, on the other hand, is any person or entity that allocates capital with the expectation of a financial return and may own certain equity, debt, or other financial instruments. Investors may invest in various assets such as stocks, bonds, real estate, or startups.[3] However, the proper functionality of financial markets is strongly linked to trust. Both shareholders and investors are parties who invest capital in the financial markets without having total ownership or control of the corporation. Without proper legal protection that safeguards the rights of those who take risks and provide capital, shareholders and investors will avoid buying and selling stocks or investing in financial markets. This is a significant risk for developing economies, especially for countries such as Azerbaijan that seek to shift their economy from the oil-dependent sector to the non-oil sector.

In jurisdictions where the legislation and legal system provide legal certainty to shareholders and investors, investment decisions are made with greater confidence. By contrast, in countries where this certainty is lacking or have weaker legal system, companies generally have difficulty surviving without government support. Since capital owners are not willing to risk and allocate capital to the corporations in risky legal regimes, the state allocates financial assistance for

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[1] Adam Hayes, 'Financial Markets: Role in the Economy, Importance, Types, and Examples' (Investopedia, 17 August 2025) <https://www.investopedia.com/terms/f/financial-market.asp> accessed 15 November 2025.

[2] Adam Hayes, 'Shareholder (Stockholder): Definition, Rights, and Types' (Investopedia, April 16, 2025) <https://www.investopedia.com/terms/s/shareholder.asp> accessed 15 November 2025.

[3] Thomas Sutherland, 'What Are the Differences Between an Investor and Shareholder?' LegalVision UK (July 9, 2024) <https://legalvision.co.uk/corporations/differences-investor-shareholder/> accessed 15 November 2025.

corporations from its own budget. [4] Since a weak legal system provides weaker legal protection of shareholder and investor rights, shareholders and investors demand higher returns or avoid providing capital to the corporations. From this perspective, it restricts corporations' access to external finance and slows economic growth. At times, another factor that discourages shareholders and investors, or prevents financially illiterate persons from investing capital in financial markets, is the abuse of gaps and loopholes in corporate law to commit unlawful acts, which leads to undermining the trust in financial markets. For instance, since there is no minimum capital requirement for establishing a limited liability company in Azerbaijan, it is easy to establish a legal entity and implement a Ponzi scheme, deceiving investors and significantly reducing their confidence in the sector.[5]

These insights are relevant for countries such as Azerbaijan, which is trying to shift its economy beyond the oil and gas sector and develop its domestic capital market. Over the last 20 years, Azerbaijan has implemented legal and institutional reforms in the corporate governance and securities regulation fields with the support of international organizations.[6] However, the local securities market remains relatively small and illiquid. Share/stock financing represents only a minor portion of overall corporate funding.[7] In Azerbaijan's financial markets, investors and shareholders face issues such as opacity, limited information, legal and factual restrictions on obtaining information, serious state and political interference, and limited enforcement capacity. In Azerbaijan, a shareholder or investor cannot boldly and transparently say, "My rights are fully protected." On the other hand, the European Union (EU) and the United States of America (U.S.A) have developed and adopted securities and corporate legislation that can be widely adopted as a benchmark for other countries, such as Azerbaijan, to protect the rights of investors and shareholders. As it is stated by Niamh Moloney, "Overall, financial markets regulation is primarily directed to the support of market efficiency, transparency, and integrity, and with related

[4] Decree of the Cabinet of Ministers of the Republic of Azerbaijan on allocating funds for the Baku Metro Joint Stock Company, 2 July 2012 <https://e-qanun.az/framework/24141> accessed 18 November 2025.
[5] Qafqazinfo.az, 'Piramida üsulu ilə 10 minə yaxın şəxsi aldatmışdılar – ağır cəza verildi' (Qafqazinfo, 13 March 2024)<https://qafqazinfo.az/news/detail/piramida-usulu-ile-10-mine-yaxin-sexsi-aldatmisdilar-agir-ceza-verildi-430040> accessed 18 November 2025.
[6] Tanja Boskovic, Caroline Marie Cecile Cerruti Hailey and Michel Desire R Noel, 'Comparing European and U.S. Securities Regulations: MiFID versus Corresponding U.S. Regulations' (World Bank Working Paper No 184, World Bank, 2010).
[7] OECD, Capital Markets in Eurasia: Two Decades of Reform, Corporate Governance (OECD Publishing, Paris 2013) 15-22.

consumer/investor protection; and, since its most recent defining trauma, the global financial crisis, to the securing of financial stability."[8] Against this background, there is a need to analyze the extent to which Azerbaijani legislation protects the rights of shareholders and investors, to what extent it conforms to or differs from the European Union and US models, and to examine its impact on Azerbaijan's economic situation and financial markets. Therefore, the central research problem of this research can be defined as follows: despite several legal and institutional reforms, it remains unclear to what extent the rights of shareholders and investors are being protected in Azerbaijan when compared to EU and US corporate law. Legislative acts are outdated, and there is no unified judicial practice. The uncertainty of legislative acts and the legal regime in Azerbaijan discourages people from providing capital to corporations, buying and selling shares, and investing. There is no academic study in Azerbaijan on the impact of the political and legal regime on financial markets and its role in protecting the rights of shareholders and investors. This gap in the literature and in policy analysis is the starting point for the present study.

1.2 Objectives and Methodology

In light of the problem described, this thesis aims to examine the extent to which the legal frameworks of Azerbaijan, the European Union (EU), and the United States (US) provide effective protection for investors and shareholders. The study will explore how each jurisdiction ensures transparency in capital markets, enforces securities regulations, and safeguards shareholder rights. By assessing these regulatory systems comparatively, the research will identify structural differences, enforcement efficiency, and potential reforms necessary to strengthen investor confidence and capital market participation in Azerbaijan. The overall aim is to analyze the core rules and insights of shareholders' rights and enforcement in Azerbaijan's corporate law, to describe and compare the EU, US, and Azerbaijan's legal systems for the protection of investor and shareholder rights, and to formulate realistic recommendations for improving corporate law in Azerbaijan. The thesis critically evaluates whether the legal provisions lead to actual protection after doctrinal legal research and comparative analysis.

[8] Niamh Moloney, 'EU Securities and Financial Markets Regulation' (4th edn, OUP 2023) 61.

To achieve these objectives, the thesis primarily focuses on doctrinal legal research, analysis, and interpretation of legislative acts and selected case law examples in the three jurisdictions. For Azerbaijan, the thesis analyzes Azerbaijani securities law, such as the Law of the Republic of Azerbaijan on the Securities Market, the Law of the Republic of Azerbaijan on Joint-Stock Companies, the Law of the Republic of Azerbaijan on Consumer Rights, and the Civil Code of the Republic of Azerbaijan.[9] For the EU, the Shareholder Rights Directive, Prospectus Regulation, Market Abuse Regulation, and Transparency Directive are the main legislative acts for comparison.[10] For the US, the Securities Act of 1933, the Securities Exchange Act of 1934, the Sarbanes-Oxley Act of 2002, the Delaware General Corporation Law, the Dodd-Frank Wall Street Reform and Consumer Protection Act of 2010, the Securities Investor Protection Act of 1970, and the Williams Act of 1968 are the legislative acts that will be primarily focused on.[11]

The research question is to what extent the legal frameworks of Azerbaijan, the European Union, and the United States provide effective protection for investors and shareholders, and how they compare in terms of transparency, enforcement, and shareholder rights.

1.3 Structure of the Thesis

The thesis is organized into six chapters. Following this introduction chapter, Chapter 2 discusses the theoretical and legal framework. It defines the basic concepts of "investor" and "shareholder" and explains the economic and legal justification for the protection of the rights of investors and shareholders. Chapter 3 examines the Azerbaijani legislative framework in detail. It explains the main provisions of securities and company legislation relevant to investor and

[9] Law of the Republic of Azerbaijan on the Securities Market; Law of the Republic of Azerbaijan on Joint-Stock Companies; Law of the Republic of Azerbaijan on Consumer Rights; Civil Code of the Republic of Azerbaijan.

[10] Regulation (EU) 2017/1129 of the European Parliament and of the Council of 14 June 2017 on the prospectus to be published when securities are offered to the public or admitted to trading on a regulated market, and repealing Directive 2003/71/EC [2017] OJ L168/12; Regulation (EU) No 596/2014 of the European Parliament and of the Council of 16 April 2014 on market abuse (market abuse regulation); Directive 2004/109/EC of the European Parliament and of the Council of 15 December 2004 on the harmonisation of transparency requirements in relation to information about issuers whose securities are admitted to trading on a regulated market; Directive 2007/36/EC of the European Parliament and of the Council of 11 July 2007 on the exercise of certain rights of shareholders in listed companies [2007] OJ L184/17.

[11] Securities Act of 1933; Securities Exchange Act of 1934; Sarbanes-Oxley Act of 2002; Delaware General Corporation Law; Dodd-Frank Wall Street Reform and Consumer Protection Act of 2010; Securities Investor Protection Act of 1970; and Williams Act 1968 (United States).

shareholder protection, as well as the current state of transparency rules, shareholder rights, and enforcement mechanisms, and the political situation and business atmosphere in Azerbaijan. Chapter 4 discusses the protection of shareholder and investor rights in the EU and the US jurisdictions. It explains the level of protection of shareholder and investor rights in EU and US legislation and case law examples, and the extent to which legislative acts maximize those rights. Chapter 5 then conducts a basic comparative analysis, systematically comparing shareholder and investor rights, enforcement mechanisms, and democratic participation levels across Azerbaijani, EU, and US jurisdictions, using the criteria identified in the previous chapters. As a result of the comparative analysis, a critical assessment of Azerbaijani legislation is carried out with recommendations. Finally, Chapter 6 covers the key findings of the study, practical recommendations for improving investor and shareholder protection in Azerbaijan, and a conclusion.

CHAPTER 2

Historical Evolution and Theoretical Foundations of Investor and Shareholder Rights Protection. Why should investor and shareholder rights be protected?

The protection of shareholder and investor rights has progressed in parallel with the emergence and rise of joint-stock companies and stock exchanges. From the moment when commercial activities and trades began to be conducted professionally by legally recognized entities rather than individual merchants, the terms shareholder and investor also appeared. This chapter narrates the historical background of modern shareholder protection standards, explains who is a "shareholder" and "investor" within the legal and economic framework, and seeks to explain why it is essential to protect their rights.

2.1 Historical Background

2.1.1 Historical Development of Shareholder and Investor Rights in the US, UK, Europe, and Azerbaijan.

The legal frameworks protecting shareholders and investors developed in parallel with the formation of the first joint-stock companies. The Dutch East India Company (VOC), founded in

1602, is one of the early examples. The VOC is one of the first joint-stock companies in the world. The shares of the company could be purchased and sold in Amsterdam Stock Exchange by any citizen of the Dutch Republic.[12] With the emergence of the first joint-stock companies, it did not take long for concerns from shareholders and investors to arise. The VOC shareholders, Dutch businessmen, were possibly the first investors in history to have raised their voices about concerns with corporate governance.[13][14] Isaac Le Maire, one of the major shareholders of the VOC, petitioned against the directors for misusing funds and poor corporate governance of the VOC on 24 January 1609, an action regarded as the first recorded expression of shareholder activism.[15] Later, shareholders organized a larger uprising to defend their rights in 1622, which was the first shareholder revolt recorded in history. Shareholders accused directors of power abuse, short-selling, and self-enrichment. They argued that the VOC should not borrow from the capital market without shareholder approval and demanded that large shareholders should have a right to vote in director elections. [16][17]

As companies issued shares, they had more opportunities to raise money from the public. This also led to speculation in the market, which led to fraud that overstated or understated stock prices. As a result, shareholders and investors were deceived and lost their money by the joint-stock companies and stock markets. One of the first examples of this situation is the "South Sea Bubble" incident. The South Sea Company, founded in January 1711, was a British joint-stock company. Despite having no realistic prospect of trade and the company never realizing a significant profit from its monopoly, its stock price rose sharply and reached a peak in 1720 as the company expanded its operations into government debt.[18] This was followed by a sudden collapse, leaving the price barely above its initial offering price. This speculation, which caused the market

[12] Niall Fergusson, 'The Ascent of Money: A Financial History of the World'(Penguin Books 2009) 129-133.
[13] Paul Frentrop, 'A History of Corporate Governance' (Deminor 2003) 1602-2002.
[14] Jon Lukomnik, 'Thoughts on the Origins and Development of the Modern Corporate Governance Movement and Shareholder Activism' in Richard Leblanc (ed), The Handbook of Board Governance: A Comprehensive Guide for Public, Private and Not-for-Profit Board Members (John Wiley & Sons 2016) 450.
[15] Oscar Gelderblom, Abe de Jong and Joost Jonker, 'Putting Le Maire into Perspective: Business Organization and the Evolution of Corporate Governance in the Dutch Republic', in Jonathan GS Koppell (ed), Origins of Shareholder Advocacy (Palgrave Macmillan 2010) 1590-1610.
[16] Shareholders and the Dutch East India Company (January 29, 2025) <https://etonomics.com/2025/01/29/shareholders-and-the-dutch-east-india-company/> accessed 20 November 2025.
[17] Jacob Soll, 'No Accounting Skills? No Moral Reckoning' (The New York Times, 27 April 2014).
[18] 'The South Sea Bubble of 1720' (Historic UK, December 23, 2021) <https://www.historic-uk.com/HistoryUK/HistoryofEngland/South-Sea-Bubble/> accessed 20 November 2025.

to crash and uninformed investors to suffer from fraud and manipulation, led to the adoption of the British Bubble Act of 1720.[19] The act restricted the new unauthorized joint-stock companies and aimed to protect the rights of uninformed and unsophisticated shareholders and investors from fraudulent by joint-stock companies.[20]

During the 19th century, corporations witnessed a significant liberalization of company law, which led to the growth of stock exchanges in Britain and the United States. These developments mobilized the public capital. In 1862, the Companies Act was adopted in the UK. It provided a general framework for shareholder rights, such as equal treatment and access to company information.[21] One of the first pieces of legislation, the Buttonwood Agreement, is the founding document and was signed on May 17, 1792.[22] The act was the result of one of the first financial crises in US history, which was the Panic of 1792.[23] Rapid industrialization and railroad financing, which led to widespread stock ownership in the United States, brought with it problems and scandals, culminating in the Wall Street Crash of 1929. Also known as the Great Crash, the Wall Street Crash was the most devastating crash in the history of the USA. The crash caused bankruptcies, business closures, the firing of workers, and a decline in money supply, and by destroying the confidence of shareholders and investors in financial markets, it also led to the destruction of projects and companies trying to enter the market.[24][25] This severe crisis resulted in the adoption of one of the landmark federal legislations, the Securities Act of 1933. This act required full disclosure for public offering shares, and the Securities Exchange Act of 1934 established the Securities and Exchange Commission (SEC) in order to regulate the exchanges and prevent insider abuse.[26]

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[19] Andrew Odlyzko, 'Newton's financial misadventures in the South Sea Bubble' (2009) Notes Rec R Soc Lond 73, 29-59.

[20] Bubble Act 1720 (UK).

[21] Companies Act 1862 (UK) 35-48.

[22] Bob Pisani, 'This Single-Paged Document Started the New York Stock Exchange 225 Years Ago' (CNBC, 17 May 2017)<https://www.cnbc.com/2017/05/17/this-single-paged-document-started-the-new-york-stock-exchange-225-years-ago.html> accessed 21 November 2025.

[23] Abram Brown, 'The High Crimes and Misadventures of William Duer, The Founding Father Who Swindled America' (Forbes, 4 July 2019)

[24] Britannica Educational Publishing, 'The Great Depression' (Britannica Educational Publishing 2012).

[25] Wisconsin Department of Financial Institutions, 'History of Securities Regulation' <https://dfi.wi.gov/Pages/Securities/Filings/SecuritiesRegulationHistory.aspx> accessed 21 November 2025.

[26] Securities Act of 1933 (n 11), 15 USC Sections 77a-77aa; Securities Exchange Act of 1934 (n 11), 15 USC Sections 78a-78qq.

The Erie War is another example of examining the 19th-century American financial markets. The Erie War was a financial conflict between Cornelius Vanderbilt and Jay Gould for control of the Erie Railway Company.[27] Daniel Drew, a Wall Street banker, loaned $2 million to the railroad. Although the railroad was built with public funds and on land donated by public officials, it faced significant debt due to mismanagement.[28] Between 1866 and 1868, Jay Gould and James Fisk were on the board of the company. They issued 50,000 shares of new stock delivered to Wall Street.[29] When the 50,000 shares were issued on the market, the price of Erie Railway Company stock fell from 83 to 71.[30] Erie Railroad shares led to "watering down" the stock of the company.[31] Vanderbilt, who had previously purchased most of the company's shares in order to gain control over it, lost $7 million after this manipulation. Jay Gould gained fame in his gold manipulation, known as Black Friday. In order to stop Cornelius Vanderbilt from taking control over their interest in the railroad, Jay Gould began to buy gold to illegally corner the nation's gold market. He used his political network to speculate in the market. This speculation led to financial panic, and several businesses and thousands of investors went bankrupt on September 24, 1869, also known as "Black Friday".[32] This act caused devastation in the United States financial market.

Bernie Madoff, one of the most famous financial criminals, was the founder of the largest known Ponzi scheme in history, which was worth an estimated $65 billion.[33][34] As the chairman of the Nasdaq stock exchange, he founded Bernie Madoff Investment Securities.[35][36] The Madoff investment scandal, one of the major stock and securities frauds, defrauded thousands of investors

[27] John Steele Gordon, 'The Scarlet Woman of Wall Street: Jay Gould, Jim Fisk, Cornelius Vanderbilt, the Erie Railway Wars, and the Birth of Wall Street' (Weidenfeld & Nicolson 1988)
[28] ibid.
[29] Henry Davenport Northrop, 'Life and Achievements of Jay Gould, the Wizard of Wall Street: Being a Complete and Graphic Account of the Greatest Financier of Modern Times' (National Publishing Company 1892) 67.
[30] ibid.
[31] Clifford Browder, 'The Money Game in Old New York: Daniel Drew and His Times' (University of Kentucky 1986)
[32] Julia Stapleton (ed), G K Chesterton at the Daily News, Part II, vol 5: Literature, Liberalism and Revolution, 1901-1913 (Taylor & Francis 2024) 6.
[33] Martha Graybow, 'US Prosecutors Updated the Size of Madoff's Scheme from $50 Billion to $64 Billion' (*Reuters*, 13 December 2008) <https://www.reuters.com/article/business/madoffs-alleged-50-billion-fraud-hits-other-investors-idUSN12444672/> accessed 23 November 2025.
[34] Reuters, 'Wife Says She and Madoff Tried Suicide' (The New York Times, 26 October 2011) <https://www.nytimes.com/2011/10/27/business/wife-says-she-and-madoff-tried-suicide.html> accessed 23 November 2025.
[35] 'Ex-Nasdaq Chair Arrested for Securities Fraud' (*CNN*, 12 December 2008)
[36] Emily Langer, 'Bernard Madoff, Mastermind of Vast Wall Street Ponzi Scheme, Dies at 82' (The Washington Post, 14 April 2021).

of $65 billion.[37] After the scandal, the Securities and Exchange Commission (SEC) established the Whistleblower Program, which provides monetary awards to individuals who inform the SEC about possible federal securities law violations.[38]

In Europe, shareholder and investor protection, stock exchange, and securities regulation have gradually developed. Compared to the United States, European history has witnessed more long-term and destructive wars. Post-war laws, such as the Companies Act 1948 (UK), strengthen the protection of minority shareholders' rights, providing remedies and allowing court intervention against oppression (Section 210)[39]

In 1968, the European Economic Community adopted its First Company Law Directive (68/151/EEC). It aimed to set standards for basic company safeguards across Member States, focused on company formation, disclosure, nullity of the company, and minimum protections for holders of shares in companies.[40] Second Council Directive (77/91/EEC), adopted in 1976, followed it "in order to ensure minimum equivalent protection for both shareholders and creditors of public limited liability companies."[41] While subsequent legislative acts further built and improved European Union company law, the OECD and IOSCO play a direct role in shaping international standards.

A fully integrated market for investors only began to take shape in the late 1990s. In 1999, the European Commission introduced the Financial Services Action Plan (FSAP), which included 42 measures aimed at creating a single market for wholesale financial services and opening up retail markets.[42] Around this time, the EU also introduced the Lamfalussy Process, a four-level

[37] Graybow (n 33).
[38] US Securities and Exchange Commission, 'Whistleblower Program' <https://www.sec.gov/enforcement-litigation/whistleblower-program> accessed 23 November 2025.
[39] Companies Act 1948 UK
[40] First Council Directive 68/151/EEC of 9 March 1968 on co-ordination of safeguards which, for the protection of the interests of members and others, are required by Member States of companies within the meaning of the second paragraph of Article 58 of the Treaty, with a view to making such safeguards equivalent throughout the Community [1968] OJ L65/8.
[41] Second Council Directive 77/91/EEC of 13 December 1976 on coordination of safeguards which, for the protection of the interests of members and others, are required by Member States of companies within the meaning of the second paragraph of Article 58 of the Treaty, in respect of the formation of public limited liability companies and the maintenance and alteration of their capital, with a view to making such safeguards equivalent [1977] OJ L26/1.
[42] Commission, 'Financial Services: Implementing the Framework for Financial Markets: Action Plan' COM(1999) 232 final.

law-making approach that helped the EU adopt financial regulations more quickly and with greater flexibility.[43]

The 2008 global financial crisis marked a turning point in EU financial regulation.[44] According to Niamh Moloney, the focus of financial markets regulation shifted to promoting market efficiency, transparency, integrity, and financial stability.[45] To meet these goals, the EU introduced key laws discussed in this thesis, such as the Shareholder Rights Directive (SRD), the Market Abuse Regulation (MAR), and the Markets in Financial Instruments Directive (MiFID II).[46]

2.1.2. Historical Development of Shareholders and Investors Rights in Azerbaijan

Azerbaijan, unlike the United States and the European Union, does not have a long history of private corporations, free trade, or private property protection.[47] This is mainly because it was part of the Soviet Union for more than 70 years. During that time, the economy was centrally planned, and the ideas of a "shareholder" or "investor" in the modern legal sense did not really exist. The business atmosphere in the civil legislation of Azerbaijan was ruled by Lenin's motto in the years of the Soviet Union: "We do not recognize anything 'private.' For us, everything in the field of economy means public, and not private."[48]

After gaining independence in 1991, Azerbaijan had to shift quickly from a planned economy to a market economy. To support this change, the country needed to set up new private law rules for business. The first big step was privatization, which started in the mid-1990s and created a class of shareholders. Through the State Program on Privatization of State Property (1995-1998), the government used a "voucher privatization" system.[49] Each citizen received

[43] Committee of Wise Men, 'Final Report of the Committee of Wise Men on the Regulation of European Securities Markets' (Brussels, 15 February 2001).
[44] Moloney (n 8) 12.
[45] ibid.
[46] Shareholders Rights Directive (n 10) 2007/36/EC; Market Abuse Regulation (n 10) (EU) No 596/2014.
[47] Natig Khalilov, 'Codification of Civil Law in Azerbaijan: History, Current Situation and Development Perspectives' (2022) 14 J Civ L Stud 315.
[48] V.I. Lenin, 'On the Tasks of the People's Commissariat of Justice under the New Economic Policy: A Letter to DI Kursky' in Collected Works, (1964) Progress Publishers 389.
[49] Government Accountability Project, Privatization & Corruption: The World Bank and Azerbaijan (August 18, 2008) <https://whistleblower.org/resources/reports-and-publications/privatization-corruption-the-world-bank-and-azerbaijan/> accessed 25 November 2025.

privatization checks, or vouchers, which they could use to buy shares in former state-owned companies.[50] This move made many people minority shareholders almost overnight. However, the privatization program created a loophole that led to corruption. The formerly state-owned assets have ended up in the hands of companies, secretly owned by family members of political elites.[51] A US bribery trial in federal court in New York revealed that two-thirds of the Azerbaijani vouchers were last traced to 28 shell companies owned by Azerbaijani government officials.[52] Legal protection of shareholders against political elites' disbalanced power requires that the developed legislation be adopted.

A major step forward came with the adoption of the Civil Code of the Republic of Azerbaijan in 2000.[53] The Code was mainly based on the Pandect system from the German Civil Code (Bürgerliches Gesetzbuch) and the Model Civil Code for CIS member states.[54] While the Code is similar to the civil law systems of other CIS countries, it follows the continental European tradition, especially the German law of 1896, since German legal experts helped prepare it.[55] After adopting the Civil Code, Azerbaijan has kept updating its policies to bring more investment into non-oil sectors. Over the last 20 years, the adoption of the Law of the Republic of Azerbaijan on Banks, the Law on Investment Activities, and the Law on Securities Market are legal and institutional reforms that were implemented in corporate governance and securities regulation.

To summarize, today, the protection of the rights of shareholders and investors did not emerge suddenly in legislative acts, but was formed over centuries as a synthesis of reactions to historical facts, financial crises, stock market scandals, and uprisings.[56]

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[50] ibid.
[51] Asadzade U and Ismayilova K, 'Aliyev's Azerbaijani Empire Grows, As Daughter Joins The Game' RFE/RL (August 13 2010) <https://www.rferl.org/a/Aliyevs_Azerbaijani_Empire_Grows_As_Daughter_Joins_The_Game/2127137.html> accessed 25 November 2025.
[52] Organized Crime and Corruption Reporting Project, 'Offshores Close to President Paid Nothing for State Share of Telecom' (OCCRP, May 27, 2015) <https://www.occrp.org/en/project/corruptistan-azerbaijan/offshores-close-to-president-paid-nothing-for-state-share-of-telecom> accessed 25 November 2025.
[53] Civil Code (n 9).
[54] Khalilov (n 47) 320.
[55] ibid.
[56] Brian R Cheffins, Steven A Bank and Harwell Wells, 'Shareholder Protection Across Time' (2016) 68 Fla L Rev 691.

2.2 Definition of shareholder, investor, and key concepts

A shareholder (sometimes called a "stockholder" in some regions) is "a person or company that owns one or more shares in a company."[57] By owning a share issued by the company, the shareholder acquires partial ownership and a specific bundle of rights under company law. Shares represent a portion of a company's assets and future profits and provide representation in two main legal spheres for the holder of shares: economic and governance rights. Economic rights usually include the right to receive dividends, claims on assets remaining after payments to creditors from assets during liquidation, and the right to pre-empt new shares in proportion to existing shares in the event of a new share issue. Management rights generally include the right to vote in proportion to the shares held in general meetings on matters such as the election of directors, approval of major transactions, or amendments to the company's charter, the right to receive information on annual financial reports, and the right to inspect the company's books and records.[58] These rights may vary across jurisdictions and different types of shares. For example, while ordinary shares carry full voting rights, preferred shares may exclude voting rights and give preference to dividends.[59]

Shareholders can be categorized by the size of their shareholding or their role. Thus, controlling or majority shareholders (usually more than 50%) have sufficient voting power to direct corporate strategy, appoint the board of directors, and veto major decisions. To this can be added blocking minority shareholders, who also have sufficient voting power in an organizational structure to exercise these rights. Minority shareholders are individuals who own less than 51% of shares of a company and have less influence than majority shareholders.[60]

Sometimes, when defining a shareholder, it is said that the shareholder is the owner of the company. But in contrast, some lawyers argue that "Shareholders do not, and cannot, own corporations. Corporations are independent legal entities that own themselves".[61] Shareholders are

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[57] Alex Solo, 'Shareholders vs Investors: Ownership Rights Compared' (Sprintlaw, 5 May 2025) <https://sprintlaw.co.uk/articles/shareholders-vs-investors-ownership-rights-compared/#Defining_a_Shareholder> accessed 25 November 2025.
[58] Hayes (n 2).
[59] Solo (n 29).
[60] M&A Community, 'Legal Rights of Minority Shareholders: Protections and Remedies' (M&A Community, 27 December 2024)< https://mnacommunity.com/insights/legal-rights-minority-shareholders/> accessed 27 November.
[61] Susan Holmberg, 'Who Are the Shareholders?' (Roosevelt Institute, 19 June 2018) 10 <https://rooseveltinstitute.org/publications/who-are-the-shareholders/> accessed 27 November 2025.

owners of shares, which give them limited rights in the company to the extent of those shares. To understand this, the definition of ownership should be explained. To call something property, to call it someone's legal possession, it must have sufficient ownership characteristics. Examples of these characteristics include the right to control or possess, the right to benefit (for example, the right to profit from the property), the right to transference of (i.e., the right to give or sell), and the right to destroy.[62] Having more than 50% of shares of a corporation is a power; however, it does not give total ownership to the holder of shares. Simply, Boston College Professor of Law Kent Greenfield argues, “Bondholders own their bonds, suppliers own their inventory, and employees own their labor.”[63]

An investor is a person who invests money in a company or some business structure (startups) for financial return through capital appreciation or income payments. An investor invests money in a business to help it plan, grow, and develop. The purpose is to get a great financial return after the term of the investment is up.[64] In stock markets, an investor is typically defined as someone who buys and sells securities based on company reports and market rules, earning income from these transactions, rather than actively controlling or exercising voting rights in the company.

The key difference is simple: all shareholders are investors, but not all investors are shareholders (for example, a bond buyer is an investor, but does not hold shares).[65] For example, a bank makes an equity investment by buying corporate bonds, but it does not own shares or voting rights. This distinction is legally crucial because while corporate law protects shareholders' rights, such as voting and information rights, securities law protects investors from fraud, disclosure, and insider trading. Shareholders and investors are distinct people who have different interests. While shareholders enjoy governance rights, investors (including short-term traders) are primarily interested in trading and “making money” through trade transactions. Trading in cryptocurrency markets, including owning Bitcoin and buying or selling altcoins, has become a popular investment trend.

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[62] ibid 10-11.
[63] ibid 11.
[64] Mai Sarkissian, ‘Investor vs Shareholder: What’s the Difference?’ (Lawpath, 21 May 2024) <https://lawpath.com.au/blog/investor-vs-shareholder-whats-the-difference> accessed 28 November 2025.
[65] Solo (n 29).

These investors typically invest in Bitcoin, Ethereum, and other cryptocurrencies through online trading platforms instead of traditional exchanges. From a legal point of view, the position of crypto-asset investors is more uncertain than that of traditional shareholders or bondholders. In many jurisdictions, crypto-assets do not clearly qualify as a matter of investment. The novelty and legal uncertainty of this type of investment in many jurisdictions encourage a number of criminals to exploit this loophole. As an example, Faruk Özer, founder of the Thodex cryptocurrency exchange platform, was accused of defrauding 390,000 investors out of approximately US$2 billion and was sentenced to 11,196 years in prison by Turkish authorities. [66][67]Considering that, as a new investment area, investors suffer from a number of problems, it is inevitable that legal regulations will be implemented for crypto-investment in many jurisdictions.

2.3 Why protect shareholder and investor rights

Since the capital market does not function properly and reliably solely on trust, it is necessary to protect the rights of investors and shareholders within a legal framework. By purchasing stocks or other securities, individuals or institutions are essentially making a capital payment today, believing in the promise of uncertain future returns from the managers who run the company and the large shareholders who control it. Even the management, financial condition, and future prospects of the company in which they own shares or other securities are sometimes uncertain. In other words, the fate of the financial investment becomes completely dependent on the fate of third parties over whom they have no control. The legal protection is fundamental in the proper operation of the financial market, making investment, owning shares and bonds, and trading cryptocurrency.[68] In the absence of reliable rules to prevent abuse and ensure the healthy functioning of financial markets, many potential new investors would refuse to enter the market or demand higher returns.

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[66] Lara Dihmis, 'Turkey Arrests 68 for Cryptocurrency Fraud, Leader Flees to Albania' (OCCRP, 28 April 2021) <https://www.occrp.org/en/news/turkey-arrests-68-for-cryptocurrency-fraud-leader-flees-to-albania> accessed 28 November 2025.

[67] Jenna Scatena, 'He Emptied an Entire Crypto Exchange Onto a Thumb Drive. Then He Disappeared' (WIRED, 2 April 2024) <https://www.wired.com/story/faruk-ozer-turkey-crypto-fraud/> accessed 29 November 2025.

[68] Rafael La Porta and others, 'Law and Finance' (1998) 106 Journal of Political Economy 1113.

Economically, strong legal protection reduces the risks that insiders can divert company assets, manipulate information, or leak inside information to change the rules of "the game" against other investors. Sometimes, by leaking information that could be considered a business secret within a company to third parties, it influences those third parties' decisions to buy or sell shares of that company and helps them earn large profits from these transactions. For example, company X will announce in 2 days that it will invest in a big project, and most likely its stock price will sharply increase on that day. Insiders pass this information on to other investors and encourage them to invest in the company's shares, or insiders actually buy and sell shares themselves through people close to them. This is not only in line with economic ethics, but also creates an unequal environment for other honest investors.

Empirical studies show that the more a country's legislation offers clear rights, reliable information, and reliable enforcement mechanisms, the more it can attract domestic capital and foreign investment.[69] In countries with weak legislation, people tend to invest in the real estate market and get financial return from passive income instead of investing in promising projects.

Protection of minority shareholders is particularly important because they lack the bargaining power or sufficient voting power to stop harmful decisions directly. As given in the definition, minority shareholders are individuals who own less than 51% of shares of a company and have less influence, but sufficient voting power, rather than majority shareholders. In such a case, some may think that majority shareholders can bypass minority shareholders due to their majority voting rights, or even drive them out of the company and own all of the company's shares. However, it's not at all what it seems. The Supreme Court of Missouri heard a case on shareholder oppression in 2020. Thus, Joan Robinson was the president, director, and a minority shareholder of the Perma-Jack Company with her two siblings. Her siblings called a special board meeting and voted against Robinson to remove her from the company, terminated her salary and dividends. Robinson applied to the court for oppressive conduct. Oppressive conduct is a "burdensome, harsh and wrongful conduct, a lack of probity and fair dealing in the affairs of a company to the prejudice of some of its members, or a visible departure from the standards of fair dealings and a violation

[69] Rafael La Porta and others, 'Investor Protection and Corporate Governance' (2000) 58 Journal of Financial Economics 3, 5-13.

of fair play on which every shareholder who entrusts his money to a company is entitled to rely."[70] Although the defendants claimed that they were dissatisfied with Robinson's management and acted in accordance with the company law, the court held that the defendants did not act in good faith in removing Robinson.[71] Consequently, where the legislation fails to protect the rights of minority shareholders, dominant shareholders may use their voting power proportional to their shares to remove minority shareholders from the company and ruin their investments.

The protection of investor rights in the securities market is more systematic. Mandatory prospectus disclosures, periodic reporting, and insider trading prohibitions help prevent market manipulation and support rational valuation. They also enhance market efficiency and reduce systemic risks from misinformation or fraud.[72] Investors make investments based on the reports disclosed by companies. Only legislation can regulate the accuracy and integrity of these reports and impose penalties in case of inaccuracies, which is also intended to protect investors. One of the best examples is the Enron accounting scandal. Enron Corporation, an American energy company, was able to hide millions of dollars in debt from failed deals and failed projects by using poor financial statements, exploiting accounting loopholes, and manipulating shareholders and investors. As this internal fraud became public, the shares decreased sharply, leading to the bankruptcy of the company.[73] While the company's stock price culminated from a high of $90.75 per share in the 1990s, it decreased sharply to less than $1 by the end of 2001, which led to a shareholder bankruptcy crisis. Shareholders filed a $40 billion lawsuit; however, they were compensated $7.2 billion.[74] After the scandal, restoring investor confidence was very difficult. The scandal led to the passage of the Sarbanes-Oxley Act on July 30, 2002, related to accounting and investor protection issues.[75] Clearly, the dishonest and manipulative disclosure of financial reports has a destructive effect on the economy of the country and investors' confidence.

[70] The Missouri Bar, 'Shareholder Oppression and the Quest for Fairness' The Missouri Bar (October 3, 2023). <https://news.mobar.org/shareholder-oppression-and-the-quest-for-fairness/> accessed 30 November 2025.
[71] ibid.
[72] Moloney (n 8) 201-250.
[73] Enron Shareholders Look to SEC for Support in Court (The New York Times, 10 May 2007) <https://www.nytimes.com/2007/05/10/business/worldbusiness/10iht-enron.1.5648578.html> accessed 30 November 2025.
[74] ibid.
[75] Vidhi Chhaochharia and Yaniv Grinstein, 'Corporate Governance and Firm Value: The Impact of the 2002 Governance Rules' (2007) Johnson School Research Paper Series No 23-06.

Finally, the effectiveness of the implementation and enforcement of shareholders' and investors' rights is also significant. Supervisory authorities detect violations and punish the respondents through investigations and sanctions. Additionally, shareholders and investors may file lawsuits for compensation, claiming that their rights have been violated.[76] To increase investor confidence, remedies, enforcement mechanisms, and effective dispute resolution alternatives must be sufficiently reliable.[77] Together, these legal and financial elements provide insight for shareholders and investors in decision-making.[78]

2.4 Elements of effective investor and shareholder protection

The previous sections suggest that effective protection of shareholder and investor rights is based on several elements. First, when defining the rules, it must be clearly and precisely defined who is covered by the terms shareholder and investor, who is a shareholder, and who is an investor, and which rights and duties they hold. As mentioned in the 2.2 subparagraph, cryptocurrency investors are not recognized or covered by existing legislation in many jurisdictions. A legislative act should specify the rights and duties, such as voting and dividend rights, and the duty to disclose financial reports.

Secondly, the effective protection requires a legal framework to ensure that shareholders and investors have access to adequate information within a reasonable amount of time. A legislative act should establish a legal basis for the shareholders and investors receiving reliable periodic financial reporting, audit reports, and other sensitive information that may have an effect on their shares or investments. Without clear and credible disclosure, even well-established rights and duties in legislation are difficult to enforce in practice, because investors and shareholders cannot detect mismanagement or false reports.[79] In developing countries like Azerbaijan, the

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[76] Howell E Jackson and Mark J Roe, 'Public and Private Enforcement of Securities Laws: Resource-Based Evidence' (2009) 93 Journal of Financial Economics 207, 208-213.

[77] OECD, Corporate Governance in Turkey: A Pilot Study (OECD 2006) 68.

[78] OECD, G20/OECD Principles of Corporate Governance (OECD 2015) <https://www.oecd.org/en/publications/2015/11/g20-oecd-principles-of-corporate-governance_g1g56c3d.html> accessed 1 December 2025.

[79] Alex Berenson, 'A Self-Inflicted Wound Aggravates Angst Over Enron' (The New York Times, 9 September 2001).

financial literacy of not only investors and shareholders but also entrepreneurs is insufficient.[80] This is due to a lack of understanding of financial control, their lack of trust in others, the absence of a management team that operates with ethical principles, and the predominance of family businesses that rely primarily on personal trust.[81] For this reason, people fear entering the financial markets and turn to traditional investment methods such as the real estate market. It is highly unrealistic for anyone other than accountants and university students to understand financial reports in Azerbaijan. For this reason, corporations seeking to raise public capital are required to disclose their financial reports in a way that ensures their target audience can understand.

Third, there should be reliable enforcement mechanisms to ensure that rules are respected and that violations lead to proportionate consequences. As mentioned in 2.1 subparagraph, the Securities and Exchange Commission (SEC) is one of the examples of supervisory authorities that executes public enforcement, and sets the mission of protecting investors, maintaining fair, orderly, and efficient markets, and facilitating capital formation in the US.[82] It requires submission of quarterly and annual reports, as well as other disclosures from public and other regulated entities.[83] This institution has a well-established structure and enforcement mechanism. Such an organization in Europe is the European Securities and Markets Authority (ESMA). ESMA is the EU's financial markets regulator and supervisor.[84] In Azerbaijan, the Financial Market Supervision Chamber of the Republic of Azerbaijan was the responsive organization in investor protection. However, by order of the President of the Republic of Azerbaijan, the organization was abolished, and all its powers were transferred to the Central Bank of the Republic of Azerbaijan in 2019.[85]

In summary, well-defined rights and duties, transparent information, and effective enforcement create an environment where investors and shareholders can invest with confidence

80 Ashraf Mehdiyev, 'Do Entrepreneurs in Azerbaijan Have Financial Literacy?' (Report.az, 29 June 2022) <https://report.az/maliyye-xeberleri/azerbaycanda-sahibkarlarin-maliyye-savadi-varmi> accessed 1 December 2025.

81 ibid.

82 US Securities and Exchange Commission, 'Mission' (SEC.gov, 9 August 2023) <https://www.sec.gov/about/mission> accessed 2 December 2025.

83 Laura Rodini, 'What Is the Securities and Exchange Commission (SEC)? How Does It Protect Investors?' (TheStreet, 6 October 2022) <https://www.thestreet.com/dictionary/securities-exchange-commission> accessed 2 December 2025.

84 European Securities and Markets Authority, 'About ESMA' (ESMA) <https://www.esma.europa.eu/about-esma> accessed 2 December 2025.

85 President of the Republic of Azerbaijan, 'On Improving the Management of the Regulatory and Supervisory System in the Financial Services Market' (e-qanun, 28 November 2019) <https://e-qanun.az/framework/43695> accessed 2 December 2025.

that their rights will be protected in cases of fraud, mismanagement, or financial crisis. For this reason, the following chapters explain and compare the content of Azerbaijani, EU, and US legislation, while also focusing on how these elements are satisfied in the relevant regulatory and institutional frameworks.

CHAPTER 3

Protection of Shareholders' and Investors' Rights in Azerbaijan

3.1 The current state of corporates and investment activity in Azerbaijan

The economy remains heavily dependent on the oil-gas sector in Azerbaijan, which has been the main source of income and expenditure of the budget and foreign investment.[86] The size of the domestic securities market in Azerbaijan is relatively small. A very small number of companies issue their stocks in the securities market with low trading volume. Bank loans have a larger share in corporate financing.[87] People prefer traditional forms of investment such as purchasing real estate, foreign currency (USD or Euro), or bank deposits.

One of the important reasons for the low level of investment in the stock and other securities markets and the lack of development of the market size is the weak practical legal protection mechanisms for shareholders and investors.[88] Although the Law on Securities Market and Investment Activities was adopted, on the other hand, the Financial Markets Supervisory Authority, which ensured the proper implementation of those laws, was abolished and all its powers were transferred to the Central Bank. In addition, the Law on Joint Stock Companies was repealed, further reducing the mechanisms for protecting shareholder rights. Investors, shareholders, and other participants in the financial markets doubt whether these laws are properly

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[86] OECD (n 7).

[87] Baku Stock Exchange, 'Market Watch' (Bakı Fond Birjası) <https://www.bfb.az/en/market-watch> accessed 3 December 2025.

[88] World Bank, 'Why It Matters in Protecting Minority Investors' (Doing Business) <https://subnational.doingbusiness.org/en/data/exploretopics/protecting-minority-investors/why-matters> accessed 3 December 2025.

applied, especially in politically motivated cases.[89][90] There is a perception that corporations with close ties to government agencies and government officials are treated more favorably, while other companies seeking to engage in commercial activities related to those companies are subject to political pressure, which creates legal and commercial uncertainty.[91][92] In this environment, shareholders and investors, as risk-takers, fear that, despite their rights being recognized in legislative acts, they may not be able to enforce them against powerful insiders or state-linked interests.

These concerns directly affect the willingness of individuals to invest in shares of joint-stock companies, and the emergence of potential companies that aim to raise capital from the issuance of shares in the domestic securities markets. Developing Azerbaijan's domestic financial markets by ensuring the active participation of shareholders and investors in the market is the main source of motivation for this thesis. In Azerbaijan, people have been defrauded for years by investing money in Ponzi schemes. At the same time, they have unofficially sponsored the new project, a business, with the promise of income. It is possible to formalize this and put it into a legal framework, and convince them that they can also get a financial return by owning stocks or other securities. The best way to maximize the proper protection of shareholders' and investors' rights in Azerbaijan is to examine the experiences of the United States and the European Union, which have practiced this for many years, and compare them with Azerbaijani legislation to fill the gap.

3.2 Main Legislative Framework

[89] Guest Contributor, ‘Adnan Ahmadzada: The Jeffrey Epstein of the East’ (EU Reporter, 24 October 2025) <https://www.eureporter.co/economy/finance/2025/10/24/adnan-ahmadzada-the-jeffrey-epstein-of-the-east/> accessed 3 December 2025.

[90] Jack Jordan, ‘Oilmar Owner Arrested in Azerbaijan’ (Ship & Bunker, 24 September 2025) <https://shipandbunker.com/news/world/251456-oilmar-owner-arrested-in-azerbaijan> accessed 4 December 2025.

[91] Jamie Doward, ‘Children of Former Azeri Security Chief Acquired Luxury UK Properties’ (The Guardian, 31 May 2020) <https://www.theguardian.com/uk-news/2020/may/31/children-of-azerbaijan-minister-eldar-mahmudov-built-up-100m-property-and-business-empire> accessed 4 December 2025.

[92] Organized Crime and Corruption Reporting Project, ‘Luxury London Residence of Azerbaijan Official’s Son Purchased with Mysterious Payment to Shell Company’ (OCCRP, 3 November 2020).

The main legislative acts that ensure the protection of the rights of shareholders and investors are the Civil Code of Azerbaijan, the Law on the Securities Market, the Law on Investment Activities, and other relevant acts.

3.2.1 Civil Code of Azerbaijan

Due to the fact that Azerbaijan was part of the Soviet Union for over 70 years, it does not have the same deep history and experience with private corporations, free trade, and private property as the US and EU. For this reason, after the collapse of the Soviet Union, Azerbaijan drafted its civil legislation not based on the necessities arising from historical facts and experiences (such as the Enron scandal or the Wall Street scandal), but rather by translating and rewriting foreign codifications. For instance, the draft of the Civil Code of Azerbaijan was prepared mainly using the Pandect system of the German Civil Code, as well as the structure of the Model Civil Code, approved by the Interparliamentary Assembly of the CIS member states. Although the Civil Code of Azerbaijan is in many respects identical to the institutions of civil law relations of other CIS states, it mainly reflects the civil legislation of European countries, in particular, the German civil legislation of 1896 (German specialists also participated in the preparation of the Civil Code of Azerbaijan).[93]

According to Article 2.5 of the Constitutional Law of the Republic of Azerbaijan on Normative Legal Acts, if the Civil Code conflicts with other codes and laws reflecting civil law norms, the Civil Code of the Republic of Azerbaijan shall be applied.[94] This makes the Civil Code one of the main primary sources within the framework of civil law and makes it hierarchically superior.

According to Article 1 of the Civil Code of Azerbaijan, ensuring civil circulation, supporting entrepreneurial activity, and providing conditions for the development of a free-market economy are the duties of the civil code.[95] These general duties contain the vision that guided the codification of the articles related to the economy.

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[93] Constitutional Court of Azerbaijan, 'Legal System of the Republic of Azerbaijan (General Overview)' (*constcourt.gov.az*) <https://www.constcourt.gov.az/az/legislation/5> accessed 4 December 2025.
[94] Constitutional Law of the Republic of Azerbaijan 'On Normative Legal Acts' art 2.5.
[95] Civil Code of Azerbaijan Art 1.

The code defines who the shareholders are. According to Article 106-1.1 of the Code, a shareholder of a joint-stock company is a natural person and/or legal entity who is the owner of one or more shares of the company in accordance with the procedure established by this Code. It sets a limit for ownership that it must be in accordance with the procedure of the Code.

Since the Law on Securities Market was adopted, the provisions regarding the securities market were excluded.

Chapter 4 of the Code contains the main provisions on legal entities.[96] Article 49.4 of the Code stipulates that a person acting on behalf of a legal entity who fails to perform or improperly performs his duties in the interests of the legal entity shall be liable for damages caused to the legal entity or its shareholders in a number of cases.[97] One of the cases is the conclusion of unfair or detrimental contracts against shareholders. In this context, the civil code protects the rights of shareholders in the case of damage. On the other hand, the code limits shareholders' right to get information. According to the article 49.6, in the event of the occurrence of the circumstances provided for in Article 49.4 of this Code or if there are reasonable suspicions regarding the occurrence of these circumstances, a participant of a legal entity holding at least 10 percent of the shares may all documents or information held by the legal entity related to these circumstances in order to review those documents (information).[98] In this article, the code limits the scope of people who can receive information. Imposing such a limit without a reasonable explanation restricts minority shareholders' right to receive information.

The civil code establishes rules for limited liability companies in Chapter 4. According to the civil code, there is no minimum capital requirement for establishing a limited liability company in Azerbaijan.[99] Compared to a European Union country, in Austria, the company's share capital must be at least 25,000 euros, and 50% of it (12,500 euros) must be deposited upon registration.[100] No capital requirement for establishing a limited liability company attracts scammers to establish a legal entity and defraud people. In such cases, scammers pay 10 manat (5.01 euros) to establish a limited liability company and start to defraud people by hiding behind the company. Since the

[96] ibid Chapter 4.
[97] ibid Art 49.4.
[98] ibid Art 49.6.
[99] ibid Art 90.
[100] Act on Limited Liability Companies (Gesetz betreffend die Gesellschaften mit beschränkter Haftung) Sections 5(2), 7(1).

company's liability is limited and it has 10 manat (5.01 euros) share capital, the victims of fraud cannot get fair compensation.

Since the Law on Joint Stock Companies has been repealed, the Civil Code determines the rules for joint stock companies. According to Article 99.1 of the Code, an open joint-stock company is obliged to publish its annual report and financial statements, as well as other information (management structure, development policy, return on equity and dividend policy, volume and source of investments, volume and source of investments, etc.) every year for everyone to familiarize themselves with.[101] However, this contradicts the fact that the law does not give investors a right to access up-to-date information between annual reports. Additionally, Article 106-1 of the Code defines the concept of shareholders and lists the rights that shareholders have.[102] The fact of restriction of the right to receive information also appears here. Thus, according to Article 106-1.3.2, a shareholder has the right to receive information on the activities of the company in accordance with the procedure established by law, and to familiarize himself with its annual report and financial statements once a year.[103] The reason why the shareholder is limited to reviewing the annual report only once is not explained. It is most likely not worded correctly, although the right to information is still framed around annual reports.

According to Article 107-10.7, a shareholder who owns twenty percent of the company's shares may not be elected as a member of the executive body of a joint-stock company. [104]This article addresses the risk that the rights of minority shareholders may be violated by individuals or organizations who own at least 20 percent of the company's shares and serve on the executive body. Otherwise, in the case that minority shareholders tried to block a harmful decision, the majority shareholder in the executive body would bypass it.

To summarize, the protection of shareholders' rights is determined by the charter of the legal entity and the civil code. However, the fact that these rights are minimum rights or insufficient will be explained more clearly in the following chapters when comparing European and US legislation.

[101] Civil Code of Azerbaijan (n 9) Art 99.1.
[102] ibid Art 106-1.
[103] ibid Art 106-1.3.2.
[104] ibid 107-10.7.

3.2.2 Law of the Republic of Azerbaijan on Banks

This Law ensures the full alignment of the legal framework of banking activities in Azerbaijan with international standards and the increase in the role of banking services in the economy.[105] One of the main sources of corporate financing in Azerbaijan is banks. The corporations with the largest number of shares issued in the securities market are mainly banks.[106] Since the shares of banks constitute a majority in the securities market, the law also regulates the shareholders of banks. The law mainly explains who cannot be a shareholder rather than explaining who a shareholder is. For instance, according to the Article 5.4 of the law, since banks are established in the form of open joint-stock companies,[107] and the general meeting of shareholders is the supreme governing body of the bank,[108] "foreigners and foreign legal entities registered in offshore zones, the list of which is determined by the Central Bank, including foreign banks and foreign bank holding companies, cannot be founders or shareholders of local banks, nor can they establish local subsidiary banks, open local branches or representative offices."[109] Additionally, the law prohibits political parties, public associations, foundations, and other non-profit organizations from being shareholders.[110]

3.2.3 Law on Investment Activities

The preamble of the law states that the law determines the legal and economic foundations of investment activity in the Republic of Azerbaijan and guarantees the protection of the rights and legitimate interests of investors.[111] The law sets out broad provisions regarding investors and their rights. For instance, the law defines an investor as a local or foreign investor carrying out investment activities in the territory of the Republic of Azerbaijan.[112] To examine what is an

[105] Law of the Republic of Azerbaijan on Banks, Preamble
[106] Baku Stock Exchange (n 59).
[107] Law on Banks (n 105) Art 19.1.
[108] ibid, Art 23.
[109] ibid, Art 5.4.
[110] ibid, Art 19.2.
[111] Law of the Republic of Azerbaijan on Investment Activities, Preamble
[112] ibid Art 1.1.3.

"investment activity", it is the actions of investors related to investment in the territory of the Republic of Azerbaijan.[113]

Article 10 of the law lists the investors' rights. According to the Article 10 of the law, investors enjoy the rights to freely determine the form of investment activity, the volume of investment, the field and form of entrepreneurial activity, to suspend or terminate investment activity at any time, taking into account the requirements of this Law and the terms of the agreement on the implementation of investment activity, to obtain from state bodies (institutions), local self-government bodies information necessary for the implementation of investment activity and the disclosure of which is not prohibited by law, and other rights determined by the law.[114]

The law has limited the right to receive information only to state bodies (institutions) or local self-government bodies. However, generally, investment activities are not limited to only state bodies; there are enterprises, projects, or startups that are being invested in. The investor who is investing in such enterprises and startups has a right to get transparent, up-to-date information about the fate of the equity that he invested. The context of the law mainly explains the state policy of investment activity, emphasizes the guarantees provided by the state, and regulates the relationship between investors and government agencies.[115] Secondly, the phrase "not prohibited by law" is controversial and broad. State bodies (institutions) may easily classify the information or commercial data as a state secret or commercial secret to deny such requests. The law specifically defines the scope of insiders and the acts prohibited to them.[116] Additionally, the law requires issuers whose securities have been publicly offered and admitted to trading on a securities market to maintain an insider list of persons who have access to inside information.

The Resolution of the State Securities Committee of the Republic of Azerbaijan on Prevention of Abuses in the Securities Market establishes more stringent rules on insider information and further expands the list of prohibited cases.[117] In addition, the resolution also provides an example of an insider list.[118] The State Securities Committee on Prevention of Abuses

[113] ibid Art 1.1.1.
[114] ibid Art 10.1.1, 10.1.2, 10.1.8.
[115] ibid Art 12, 13,14,15,16.
[116] ibid Art 7.
[117] The Resolution of the State Securities Committee of the Republic of Azerbaijan on Prevention of Abuses in the Securities Market, Art 1-7.
[118] ibid, Appendix No.1.

in the Securities Market was an executive body that regulated the adoption of regulatory acts related to the regulation of the securities market, the issuance and circulation of securities, and other issues. Although the Committee was abolished, its resolution is still in effect.

3.2.4 Law on Securities Market

The Law on the Securities Market establishes the rules for the issuance, state registration, and public offering of investment securities, establishes the legal and economic foundations of relations in the field of protection of investor rights, as well as regulation and control in the securities market.[119] Despite the preamble of the law giving credit to the protection of investor rights, the main context is with regard to administrative procedures of state registration, issuance, and public offering of investment securities.[120] On the other hand, the law provides specific regulations on information disclosure, insider trading, and enforcement mechanisms.

According to Article 75, issuers must disclose the reports required by the Law to the public by submitting them to the Central Bank.[121] For instance, issuers must disclose financial statements and the external auditor's opinion on the financial statement, as well as the management report, in their annual report.[122] As discussed, the Civil Code of Azerbaijan only provides annual report disclosure; however, the Law on the Securities Market requires disclosure of a semi-annual report, which provides an interim financial report and an interim management report. [123]The semi-annual report is required to be publicly available for a period of five years.

The law considers insider trading and manipulation as abuse in the securities market. It refers to transactions and manipulations in the securities market using inside information and is prohibited by law.[124] As the executive body, the Central Bank determines the procedure for identifying and preventing abuse in the securities market.[125]

[119] Law of the Republic of Azerbaijan on the Securities Market, Preamble.
[120] ibid Art 3-74.
[121] ibid Art 75.
[122] ibid Art 75.3.
[123] ibid Arts 75.4, 75.8.
[124] ibid Arts 78.1,78.3.
[125] ibid Art 78.5.

3.3 Administrative and criminal sanctions under the Criminal Code and Code of Administrative Offenses of Azerbaijan

The Code of Administrative Offenses of the Republic of Azerbaijan defines administrative offenses against the rules of economic activity and their sanctions, while the Criminal Code defines crimes against economic activity and their sanctions. The Code of Administrative Offenses establishes administrative sanctions for violations of investors' rights in the securities market, violations of shareholder rights, manipulation of the securities market, illegal use of inside information by an insider, refusal or evasion of reporting or information by issuers in the securities market, or provision of distorted information.[126]

The Criminal Code establishes criminal liability for causing significant damage by an insider through the illegal use of inside information, and for manipulations in the securities market that result in significant damage or significant profits.[127] These violations are mainly subject to monetary fines.

3.4 Case law examples

Although shareholders' and investors' rights are defined by legislation, case law is also important in assessing their effectiveness. Since shareholding and investment are emerging sectors with less public participation in the securities market, there are few case law examples in Azerbaijan.

The Constitutional Court of Azerbaijan adopted a decision on share ownership and the protection of the rights of minority shareholders on December 16, 2011, and this decision shaped judicial practice in this direction. According to the fact of the case, at the extraordinary general meeting of "X" Open Joint-Stock Company (hereby – "X" OJSC) held on October 22, 2009, attended by 25 out of 188 shareholders of the company (79.47 percent of voting shareholders), decisions were made to conversion of "X" OJSC into a limited liability company, to accept the shareholders of the joint-stock company as members in that limited liability company in accordance with their shares, and to withdraw the shares of "X" OJSC from circulation in this

[126] The Code of Administrative Offenses of the Republic of Azerbaijan, Arts 414, 419, 420, 421, 426.
[127] The Criminal Code of Azerbaijan, Arts 202-2, 203-1.

regard. Minority shareholders appealed to the court and demanded that the protocol of the meeting be annulled. As it is seen from the facts of the case, despite 25 shareholders being a minority in number, they hold major voting shares.[128] The court explains in its decision:

> *"A shareholder has certain rights in the management of the affairs of the company of which he is a member. These rights are specified in Article 106-1 of the Civil Code. However, it should be taken into account that the rights of shareholders in the management of the company are exercised based on the majority principle. Since a joint-stock company is, by its nature, a multi-partner commercial organization and is founded solely on capital, it is necessary to manage it based on this principle. In civil legislation, the majority principle is reflected in the form of "one voting share is one vote" (Article 107-3.5 of the Civil Code). According to this principle, the majority is determined not by the numerical majority of shareholders, but by the size of their share in the authorized capital. In other words, rights in a joint-stock company are determined not by the person, but by the invested capital. The failure of shareholders to participate in the adoption of decisions on amending the company's charter or converting the company, or to vote against these decisions, does not in itself violate their property rights."*[129]

Thus, the court ruled that the shareholders' property rights were not violated. Regarding the voting rights of minority shareholders, the court explains that according to Article 107-2.1 of the Civil Code, the general meeting of shareholders is authorized when sixty percent of the voting shares are present. At the same time, according to the content of Article 107-5.1 of the same Code, the decision of the general meeting of shareholders is adopted by a simple majority of the shareholders participating in the general meeting, taking into account the provision "one voting share is one vote". Decisions on the reorganization, liquidation of the company, amendments, and additions to the charter are adopted by a two-thirds majority of the shareholders who have the right to vote at the general meeting of shareholders.

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[128] Decision of the Plenum of the Constitutional Court of the Republic of Azerbaijan 'On the Interpretation of Articles 107-2.1 and 107-5.1 of the Civil Code of the Republic of Azerbaijan' (16 December 2011) 2-3.
[129] ibid; 14-17.

The court bases its decision on the fact that the establishment of such limits is fully consistent with the corporate governance practice of foreign countries. Thus, both in countries that are part of the continental (Roman-German) legal system (German Joint Stock Company Law, Article 179; Swiss Civil Code, Articles 647, 703; Italian Civil Code, Article 2368), and in Anglo-Saxon legal systems (English Companies Law, Article 378; Delaware Corporation Law, Article 216), the authority to make decisions on the legal destiny of a joint stock company is given to shareholders who have a majority share in the authorized capital of the joint stock company (shareholders who have invested more).[130]

Since the court based on the Swiss Civil Code in one of its examples, the rules for converting the organizational form of a legal entity are primarily found in the Swiss Merger Act, rather than the Swiss Civil Code.

Since conversion is a fundamental change, a simple majority is not sufficient. According to Article 64 (a) of the Swiss Merger Act, there is a need for at least two-thirds of the votes represented at the general shareholders meeting and the absolute majority of the nominal value of the shares represented by them; if, in the case of the conversion into a limited liability company, an obligation to make a supplementary capital contribution or other personal obligations have been introduced, the approval of all shareholders who are affected by it.[131]

The Companies Act 2006 states the conditions of re-registration of a public company as a private limited company in the UK.[132] According to Article 97 (1), a public company may be re-registered as a private limited company if there is no application for cancellation of the resolution. According to Article 98 (1), minority shareholders, the holders of not less than 5% in nominal value of the company's issued share capital or any class of the company's issued share capital, have a right to apply to the court for the cancellation of the resolution.[133]

To summarize, the Constitutional Court of Azerbaijan does not specify the kind of majority, such as a simple or qualified majority, in the event of re-registration or conversion of the company.

[130] ibid; 23.
[131] Bundesgesetz über Fusion, Spaltung, Umwandlung und Vermögensübertragung (Swiss Merger Act), Art 64 (a).
[132] Companies Act 2006 UK, Arts 97(1), 97(2).
[133] ibid; Art 98 (1(a)).

The issue is explained in detail, as there is a specific requirement in the legislative acts cited by the court.

3.5 Overall assessment of the legislative framework and the economic spirit of Azerbaijan

The legislative framework of Azerbaijan contains formal elements for investor and shareholder protection, such as disclosure rules, basic governance rights, and enforcement mechanisms. However, this legislative framework operates within an economic and political environment that limits its effectiveness. While the Civil Code, Law on Investment Activities, Law on Securities Market, and Law on Banks provide clear rules on company formation, share issuance, information disclosure, shareholders' and investors' rights, and insider trading, the practical impact of these rules is limited by institutional weaknesses and a political economy dominated by state-linked interests.

Equity investment and share ownership are a progressive way for society to participate in the economy. Individuals own shares in various companies and invest in startups and businesses rather than relying on state-controlled sectors or traditional investments such as real estate and foreign currency. Owning company shares and investing in various companies, businesses, and startups is a form of public participation. It organizes society and makes its structure more complex. Public participation in the economy not only distributes income and wealth but also political power to a wider audience. Shareholders and investors enjoy the right to vote in business, the freedom to demand accountability from businesses, and the right to criticize them if things are not going well. When the economic spirit of society shifts from passive income investment or reliance on state-distributed oil revenues to active participation in the securities market, the country's social structure also changes. However, such public participation through share ownership and investment remains undeveloped due to the ruling political elites' control of power and resources, and resists the public participation that shareholding and investment would bring.[134] While corporations aligned with political elites' interests prosper, politically disfavored firms face

[134] Daron Acemoglu and James A Robinson, 'Why Nations Fail: The Origins of Power, Prosperity, and Poverty' (Crown Business 2012) 148-155.

arbitrary obstacles in getting a license, issuing stocks, registration, and other cases that need approval by the authority.

Public participation in the economy and its impact on the diversification of democracy are obstacles to governments that seek centralized control. A strong securities market creates a generation with legal and financial literacy that demands transparency and deep accountability not only from corporations but also from the state itself.

This tension between formal legislation and the economic spirit of society is the thesis's core focus. The rights of shareholders and investors are protected not only by legislative provisions but also by the impartial enforcement of those laws and a political environment tolerant of economic pluralism. Without impartial enforcement and political tolerance, even well-drafted laws cannot be effective.

CHAPTER 4

Legal Framework of Protection of Shareholder and Investor Rights in the EU and the US

4.1 Why the EU and the US are used as benchmark jurisdictions

This chapter examines how the European Union and the United States provide legal protection to shareholders and investors through major legislative acts, securities regulations, and enforcement institutions.

This thesis compares the United States (US) and the European Union (EU) with Azerbaijan's legislation as benchmarks since they play leading roles in the global financial system and have important approaches to corporate governance and securities regulation. The US and the EU economies and their corporations are of global importance and are of interest to everyone. These jurisdictions have been reformed many times in response to major economic crises and scandals, including the Wall Street Crash of 1929, Enron, and the global financial crisis. Because of this, the EU and US frameworks are often considered as a reference for judging how well a legal system protects investors and shareholders and supports strong, active capital markets. As Azerbaijan is shifting from an oil-based to a non-oil economy and aims to grow its non-oil sectors and capital markets, studying these two regions offers a clear guide for legal reform. By comparing both jurisdictions, it becomes possible to find gaps in Azerbaijan's legislation that are hindering the growth of a reliable and active securities market.

4.2 European Union framework

4.2.1 Shareholder rights and corporate governance

The primary European Union legislation governing shareholder rights in listed companies is Directive 2007/36/EC, subsequently amended by Directive (EU) 2017/828 (SRD II). The 2007 Directive established minimum standards to enable shareholders of companies with shares traded on EU-regulated markets to exercise their rights across borders, particularly regarding participation in and voting at general meetings.

Directive 2007/36/EC provides minimum requirements for member states regarding information rights, voting rights, and the exercise of them, the right to put items on the agenda of the general meeting, participation in the general meeting by electronic means, and the right to ask questions.

According to Article 8 of the Directive, member States shall permit companies to offer to their shareholders any form of participation in the general meeting by electronic means. The article allows shareholders to enjoy their voting rights across borders. Shareholders have the right to exercise their voting rights electronically from a distance. In today's world, it is possible to acquire shares of hundreds of companies through online stock trading websites. Additionally, the directive set a minimum requirement for the right to ask questions. According to Article 9 of the directive, every shareholder shall have the right to ask questions related to items on the agenda of the general meeting. The company shall answer the questions put to it by shareholders. The directive establishes the right of shareholders to freely ask questions, in parallel with their rights to obtain information. This not only allows shareholders to exercise their voting rights in a simple manner but also provides a basis for exercising those voting rights through active participation and discussion.

The directive established rules regarding proxy voting, which states that “every shareholder shall have the right to appoint any other natural or legal person as a proxy holder to attend and vote at a general meeting in his name.”

SRD II builds on the existing framework by more closely connecting shareholder rights with corporate governance goals, such as long-term engagement, transparency, and managing conflicts of interest. It establishes rules for identifying shareholders, sharing information through complex chains of intermediaries, and facilitating the exercise of rights, including electronic participation and voting. These changes are designed to enable cross-border and institutional investors to more effectively monitor and influence management. SRD II also requires institutional investors, asset managers, and proxy advisers to be more open about their engagement policies and voting actions.

Moreover, SRD II establishes measures and penalties that apply in cases of infringements. According to Article 14b of the SRD II, the measures and penalties provided for shall be effective, proportionate, and dissuasive.

The EU framework extends beyond establishing voting rules by safeguarding minority shareholders from the expropriation of company assets through Related-Party Transactions (RPTs). When a company engages in transactions with its directors or controlling shareholders, there is a significant risk that assets may be transferred out of the company at prices below market value. To address this concern, the Directive mandates that Member States ensure material RPTs are subject to approval by shareholders or the administrative body. This requirement prevents insiders from authorizing transactions that serve their own interests. Additionally, companies must publicly disclose these transactions upon occurrence, thereby providing the market with essential information regarding the fairness of the deal.

The Shareholder Rights Directive and its SRD II amendments together set a basic, unified framework for shareholder participation, information, and oversight in EU-listed companies. National company law then adds rules about board structures, directors’ duties, and remedies. The EU aims to protect minority shareholders and encourage more active, long-term corporate governance by making meeting information available on time, supporting cross-border and intermediary-held voting, and increasing transparency for institutional investors and proxy advisers.

4.2.2 Prospectus, transparency and market abuse rules

While the Shareholder Rights Directive focuses on internal corporate governance, the European Union has also established rules to regulate the disclosure of information to the market. These rules are based on three main laws: the Prospectus Regulation, the Transparency Directive, and the Market Abuse Regulation. Together, these laws aim to ensure issuers and investors have equal access to information, helping capital flow more efficiently and reliably.

Regulation (EU) 2017/1129 establishes the framework for the EU prospectus regime. It mandates that companies publish a prospectus containing all necessary information for investors when securities are offered to the public or admitted to trading on a regulated market.[135] The primary objective is to protect investors and promote market efficiency by ensuring issuers provide clear and comprehensive information within a single document. Additionally, the regulation introduces simplified disclosure requirements and specific exemptions, particularly for smaller companies. It specifies the required content, format, and procedures for the approval and publication of prospectuses. For secondary issuances, the regulation permits simplified disclosure to streamline the process while ensuring sufficient, clear, and objective information is provided to investors.[136] The regulation specifies the types of securities to which it is applicable. For instance, the regulation is not applicable to securities such as non-equity securities issued by a Member State or by one of a Member State's regional or local authorities, or shares in the capital of the central banks of the Member States, etc.[137] To summarize, the regulation sets rules and requirements for the publication of a prospectus of shares when securities are offered to the public.

Following a prospectus's publication, the Transparency Directive (2004/109/EC) governs the ongoing disclosure of information to ensure continuity. The Transparency Directive 2004/109/EC, as amended by Directive 2013/50/EU, operates alongside the prospectus regime. It establishes uniform ongoing and periodic disclosure requirements for issuers whose securities are admitted to trading on a regulated market within the European Union.[138] The directive requires the publication of annual and half-yearly financial reports as periodic information. Annual financial reports are required to be published within four months following the end of the financial year.

[135] Prospectus Regulation (EU) 2017/1129 (n 10).
[136] ibid; arts 1-3, 6-7, 14-15.
[137] ibid; arts 1.2(a), 1.2(c).
[138] Directive 2004/109/EC (n 10).

Half-yearly financial reports must be submitted within 2 months of the relevant period ending. Additionally, specific interim management statements are mandated. All reports must comply with international accounting standards and remain publicly accessible for at least 5 years.[139] The directive requires shareholders to notify issuers and the market when their voting rights reach, exceed, or fall below specified thresholds, typically 5%, 10%, 15%, 20%, 25%, 30%, 50%, and 75%. This requirement increases market transparency concerning control structures and potential shifts in corporate control. This rule promotes market transparency by preventing investors from gradually acquiring control of a company without disclosure, and also ensures minority shareholders are informed of potential changes in company leadership. The regular reporting cycle helps investors to evaluate the financial health of their investments and ensures management accountability.

Directive 2013/50/EU (amendment to the Transparency Directive 2004/109/EC) establishes sanctions in the event of breaches such as failure by the issuer to make public, within the required time limit, information required; or failure by the natural or the legal person to notify, within the required time limit, the acquisition or disposal of a major holding.[140] Article 28b of the amended Directive authorizes authorities to enforce transparency requirements by imposing administrative measures and sanctions for violations. These measures include issuing public statements that identify the responsible person or company and describe the breach, as well as ordering the cessation and prevention of further misconduct.[141] The Directive also prescribes substantial financial penalties to deter non-compliance: companies may be fined up to EUR 10,000,000 or 5% of their annual turnover, while individuals may be fined up to EUR 2,000,000.[142]

Finally, to promote fair market operations and ensure that prices accurately reflect supply and demand rather than manipulation, the European Union enforces the Market Abuse Regulation. Regulation (EU) No 596/2014 on market abuse, commonly referred to as the Market Abuse Regulation (MAR), safeguards market integrity and ensures the effective operation of EU securities markets. The Market Abuse Regulation (MAR) defines key concepts such as inside information, insider dealing, unlawful disclosure, and market manipulation, and establishes core

139 ibid; Arts 4-5.
140 Directive 2013/50/EU, Art 28(a).
141 ibid; Arts 28b 1(a),1(b).
142 ibid; Art 28b 1(c).

prohibitions against these practices.[143] According to Article 7 of the Regulation, inside information refers to non-public, precise details about one or more issuers or financial instruments that, if disclosed, would likely have a significant impact on the prices of those instruments or related derivatives.[144] Accordingly, the Market Abuse Regulation (MAR) prohibits individuals possessing inside information from using it to acquire, dispose of, cancel, or amend orders for related financial instruments, either for themselves or on behalf of others.[145]

Article 10 defines unlawful disclosure as the act of possessing inside information and disclosing it to another individual, unless such disclosure occurs in the ordinary procedure of employment, professional activities, or official duties.[146] Article 12 of the Regulation addresses "market manipulation," which contains a wide range of behaviors beyond the misuse of information. It includes transactions or orders that create false or misleading signals about the supply, demand, or price of a financial instrument, or that secure prices at abnormal or artificial levels.[147]

The Market Abuse Regulation (MAR) also requires issuers to maintain "insider lists," comprehensive records of all individuals with access to inside information.[148] Regulatory authorities use these lists to track how information is shared during investigations into potential suspicious trading.

Together, the Prospectus Regulation, the Transparency Directive, and the Market Abuse Regulation establish a comprehensive framework for disclosure and conduct. This framework ensures that investors in EU capital markets receive reliable information during offerings and on an ongoing basis, and that trading occurs without unfair informational advantages or manipulative behavior.

4.2.3 Public and private enforcement

[143] Market Abuse Regulation (EU) 596/2014 (n 10) ch 2.
[144] ibid; Art 7(1).
[145] ibid; Art 8(1).
[146] ibid; Art 10(1).
[147] ibid Art 12(1)(a).
[148] ibid Art 18.

Within the European Union, national competent authorities (NCAs) in each Member State, such as BaFin in Germany, the AMF in France, and CONSOB in Italy, are primarily responsible for enforcing securities regulations. These authorities possess extensive supervisory and sanctioning powers under the Prospectus Regulation, the Transparency Directive, and the Market Abuse Regulation (MAR).[149] Such powers include approving prospectuses, supervising ongoing disclosures and market conduct, conducting investigations, imposing administrative sanctions, suspending trading, and withdrawing authorizations from market participants.[150] The Market Abuse Regulation (MAR) requires national competent authorities (NCAs) to establish effective mechanisms to detect market abuse. These mechanisms include systems to analyze suspicious transactions and orders. NCAs must also publish all administrative measures and sanctions, typically identifying the responsible individual, to deter future violations through public disclosure.[151] The European Securities and Markets Authority (ESMA) serves as a coordinating and supervisory body, issuing technical standards and guidelines and conducting peer reviews. ESMA also exercises direct authority over specific entities, including credit rating agencies and data reporting service providers. However, day-to-day enforcement responsibilities remain decentralized at the national level.[152][153] Given ESMA's pivotal role in supporting supervisory convergence, NCAs are required to cooperate with ESMA for the purposes of the Regulation. NCAs must, without any delay, provide ESMA with all information necessary for ESMA to fulfill its duties in accordance with the ESMA Regulation.[154] In other words, ESMA primarily functions as a supervisor of supervisors.

Public enforcement in the European Union is well harmonized, but private enforcement through civil liability is less developed and varies across Member States. European legislation generally requires a civil liability regime. For instance, the Prospectus Regulation obliges Member States to ensure civil liability for those responsible for information in a prospectus. However, the

[149] Prospectus Regulation (EU) 2017/1129 (n 10) arts 32, 38-42; Transparency Directive 2004/109/EC (n 10) art 24; Market Abuse Regulation (n 10) arts 22-23.
[150] Market Abuse Regulation (n 10) art 30(1)-(2).
[151] Market Abuse Regulation (n 10) arts 16, 23-25, 34.
[152] European Securities and Markets Authority, 'Credit Rating Agencies' <https://www.esma.europa.eu/esmas-activities/investors-and-issuers/credit-rating-agencies> accessed 6 December 2025.
[153] European Securities and Markets Authority, 'Data Reporting Services Providers' <https://www.esma.europa.eu/esmas-activities/markets-and-infrastructure/data-reporting-services-providers> accessed 6 December 2025.
[154] Prospectus Regulation (EU) 2017/1129 (n 10) art 34; Market Abuse Regulation (n 10) art 24.

European Union does not define procedural rules, burden of proof, or methods for calculating damages. These matters are determined by each Member State's national law under the principle of procedural autonomy.

As Moloney concludes, EU enforcement relies on strong public administrative sanctions through NCAs and private litigation.[155] The EU emphasizes ex ante regulatory approval and deterrence through fines and naming-and-shaming, rather than compensation for harmed investors. In contrast, the US model described in Chapter 4.3 relies on private direct or derivative lawsuits, as well as on public SEC enforcement.[156]

4.2.4 Case law examples in the European Union framework

The "Daily Mail Case" at the Court of Justice of the European Union (CJEU), formally M. A. v Autorité des marchés financiers (Case C-302/20), addressed whether a financial journalist's pre-publication disclosure of insider information about takeover rumors is lawful. The court held that such disclosure is permitted only when strictly necessary and proportionate for journalistic purposes, such as fact verification, and not simply to inform third parties. The Court of Justice of the European Union (CJEU) ruled that market abuse rules still apply, but journalist activities may be justified by press freedom if their actions are proportionate, such as when verifying rumors. However, sharing the timing or specific details of a publication could cross the line, so national courts must carefully balance these rights.[157][158]

The other interesting case, on 12 May 2021, was the Court of Justice of the European Union (CJEU) decision on transparency. In this case, the Vereniging van Effectenbezitters (VEB), a Dutch shareholders' association, sued British Petroleum (BP) in Amsterdam.[159] They claimed that BP published inaccurate and misleading information in Germany and the United Kingdom about the April 2010 Gulf of Mexico oil spill. The VEB said this led to a decline in BP's share price, harming

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[155] Moloney (n 8) ch 1, s 1.5 and ch 2, s 2.5.10.2.
[156] ibid; section 4.3.3 below on US enforcement.
[157] Case C-302/20 *Mr A v Autorité des marchés financiers* [2022] ECLI:EU:C:2022:190.
[158] Paul Oudin, 'Insider Trading, Market Efficiency and Journalism: A Discussion of the CJEU's Daily Mail Case' (Oxford Business Law Blog, 23 March 2022) <https://blogs.law.ox.ac.uk/business-law-blog/blog/2022/03/insider-trading-market-efficiency-and-journalism-discussion-cjeus> accessed 7 December 2025.
[159] Case C-709/19 *Vereniging van Effectenbezitters v BP plc* [2021] ECLI:EU:C:2021:377.

VEB investors who bought shares between 2007 and 2010 through Dutch investment accounts. The CJEU held that Dutch courts lacked jurisdiction. BP was not required to disclose information in the Netherlands, so it could not have expected to be sued there.[160]

4.3 United States framework

4.3.1 Corporate law and shareholder rights

The European Union has adopted a harmonized "single rulebook" for shareholder rights, while the United States possesses a dual system. In the United States, corporate law is governed primarily by state law. Delaware holds a prominent position because of its specialized Court of Chancery, its comprehensive body of case law, and the business-friendly, investor-aware statute, the Delaware General Corporation Law (DGCL). Federal law, enforced by the Securities and Exchange Commission (SEC), protects investors' rights through disclosure requirements and fraud prevention measures. In contrast, shareholder rights such as voting, the right to sue for breach of duty, and access to records are governed by the laws of the state of incorporation. Therefore, understanding US shareholder protection requires analyzing state corporate law, particularly in Delaware, which is the preferred jurisdiction for over 66% of Fortune 500 companies.[161]

Delaware corporate law established the fiduciary duties, which are the duties of care and loyalty that directors are obligated to obey to the corporation and its shareholders.[162] The duty of care requires directors to make informed decisions based on all reasonably available information, while the duty of loyalty requires directors to act in good faith, prioritize the corporation's best interests, and refrain from self-dealing or conflicts of interest that injure the corporation.[163] These duties are enforced by the business judgment rule, which protects directors by presuming they made decisions with the information available to them in good faith and that their actions were in the best interests of the company. Courts will not question these decisions unless someone can

[160] Adeline Michoud, 'CJEU limits forum shopping for investor actions' (Centre de droit bancaire et financier, 6 August 2021) <https://cdbf.ch/en/1192/> accessed 7 December 2025.
[161] Delaware Division of Corporations, 'About the Division of Corporations' <https://corp.delaware.gov/aboutagency/> accessed 8 December 2025.
[162] State of Delaware, 'The Delaware Way: Deference to the Business Judgment of Directors Who Act Loyally and Carefully' <https://corplaw.delaware.gov/delaware-way-business-judgment/> accessed 8 December 2025.
[163] ibid.

prove gross negligence, bad faith, or a serious conflict of interest. In other words, the common law system provides a degree of protection that statutory law alone does not ensure. In the notable case of Revlon v. MacAndrews & Forbes, the Delaware court held that, during a sale of a company, the board's responsibility shifts from preserving the company to securing the highest possible price for shareholders.[164] This "Revlon duty" obliges directors to act as auctioneers, thereby offering shareholders a distinct safeguard during takeovers that is not explicitly addressed by EU Directives.[165]

Shareholders have several key rights and remedies under the Delaware General Corporation Law. The Delaware General Corporation Law (DGCL) provides shareholders with significant rights and remedies. Section 211 mandates an annual meeting for the election of directors. Section 109 grants shareholders, and in some cases the board, the authority to adopt and amend bylaws, thereby enabling shareholders to influence governance structures.[166] Furthermore, section 220 of the Delaware General Corporation Law (DGCL) grants shareholders the right to inspect a corporation's books and records for a proper purpose. Shareholders are permitted to inspect and copy the corporation's stock ledger, the list of shareholders entitled to vote, and other corporate books and records for a proper purpose, including the investigation of mismanagement, waste, or potential breaches of fiduciary duty. Delaware courts recognize this provision as a significant mechanism for monitoring management and obtaining information prior to initiating litigation.[167]

According to Section 327 of the Delaware General Corporation Law (DGCL), Shareholders have a right to initiate derivative actions on behalf of the corporation to enforce directors' fiduciary duties when the board either wrongfully refuses to pursue litigation or when a demand is considered ineffective.[168] A stockholder's derivative action, or shareholder derivative suit, is a legal proceeding brought by a shareholder on the corporation's behalf. These actions are usually filed against directors, officers, or others accused of harming the company through a breach

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[164] *Revlon, Inc v MacAndrews & Forbes Holdings, Inc* 506 A2d 173 (Del 1986).
[165] Lauren K Hirsh, 'Rethinking the Limits of Revlon's General Prohibition: Exploring Interference in Corporate Auctions for Shareholder Value Maximization' (2023) U Chi Bus L Rev Online <https://businesslawreview.uchicago.edu/online-archive/rethinking-limits-revlons-general-prohibition-exploring-interference-corporate> accessed 9 December 2025.
[166] Delaware General Corporation Law (n 11) Sections 109, 211.
[167] Delaware General Corporation Law (n 11) Section 220.
[168] Delaware General Corporation Law (n 11) Section 327.

of duty. The claim belongs to the corporation, not the individual shareholder. This mechanism allows shareholders to seek a remedy when management declines to act. As a result, any monetary recovery goes to the corporation, benefiting all shareholders. The DGCL framework balances broad board discretion with strong statutory shareholder rights, including voting, inspection rights, litigation rights, and derivative remedies. These rights offer real protection, especially for minority shareholders in conflict situations. The existence of both federal and state legislation in corporate law, as well as case law applying common law, strengthens the protection of shareholder rights, while also creating conditions for rapid intervention in the event of any conflict.

4.3.2 Federal securities law and disclosure

Investor protection laws in the United States are not combined in a single code. Instead, they are composed of several federal statutes, each enacted in response to different market crises. To understand how the US system works today, it is important to examine the main laws that define shareholders' rights and issuers' responsibilities. This section reviews the seven key laws that form the foundation of this system: the Securities Act of 1933 and the Exchange Act of 1934, which created the disclosure rules; the Williams Act of 1968 and the Securities Investor Protection Act (SIPA) of 1970, which deal with takeovers and broker failures; the Sarbanes-Oxley Act (2002) and Dodd-Frank Act (2010), which improved governance after major financial problems.

4.3.2.1 Securities Act of 1933

As discussed in Chapter 2, the Securities Act of 1933 was adopted after the devastating financial crisis known as the Wall Street Crash of 1929. The Securities Act of 1933, also known as "truth in securities" law, sets the rules for initial public offerings and primary sales of securities. It requires full disclosure and truthful information about securities to protect investors from fraud.[169] According to the act, the issuers must provide information about the securities, including a description of the company's properties and business, a description of the security to be offered for sale, information about the company's management, and financial statements certified by

[169] CRS Report IF11256, 'SEC Securities Disclosure'.

independent accountants. [170] According to the Section 11, in the case of any untrue statement of a material fact or missing information in the prospectus, any person acquiring such security has a right to sue every person who signed the registration statement; every person who was a director of (or person performing similar functions) or partner in, the issuer at the time of the filing of the part of the registration statement with respect to which his liability is asserted; every person who, with his consent, is named in the registration statement as being or about to become a director, person performing similar functions or partner; and every accountant, engineer, appraiser, or any person whose profession gives authority to a statement made by him.[171] In this section, the law does not state that these individuals are liable for any violation, but rather that they may be held accountable in court. According to Section 12, sellers shall also be liable for sales without registration or for sales with misleading prospectuses.[172]

4.3.2.2 Securities Exchange Act of 1934

The Securities Act of 1933 regulates the initial issuance of securities. In contrast, the Securities Exchange Act of 1934 governs the secondary market, which involves trading securities after their issuance. A significant outcome of this act was the establishment of the Securities and Exchange Commission (SEC) under Section 4 of the Securities Exchange Act of 1934, which serves as the federal agency responsible for enforcing securities laws.[173]

Under Section 13(a) of the Exchange Act, companies with registered publicly held securities and companies of a certain size are classified as "reporting companies." These entities are obligated to make periodic disclosures by filing annual and quarterly reports. Reporting companies must also disclose significant events by filing a Form 8-K when an event occurs, such as a change of CEO, a change of auditing firm, or the destruction of company assets. These periodic reports contain information relevant to investors' decision-making, such as details about the company's officers and directors, the nature of its business, audited financial statements, and the

[170] U.S. Securities and Exchange Commission, 'Registration Under the Securities Act of 1933' <https://www.investor.gov/introduction-investing/investing-basics/glossary/registration-under-securities-act-1933> accessed 10 December 2025.
[171] Securities Act (n 11) 15 USC Section 77k.
[172] ibid; Section 77l.
[173] Securities Exchange Act of 1934 (n 11) 15 USC Section 78d.

management discussion and analysis section.[174] This is a type of current report parallel to annual and quarterly reports that keeps information regarding securities up to date. The act regulates the use of manipulative and deceptive devices to protect investors from fraud, manipulation, and insider trading. According to Section 10(b), "it shall be unlawful for any person, directly or indirectly, by the use of any means or instrumentality of interstate commerce or of the mails, or of any facility of any national securities exchange to use or employ, in connection with the purchase or sale of any security registered on a national securities exchange or any security not so registered, or any securities-based swap agreement any manipulative or deceptive device or contrivance in contravention of such rules and regulations as the Commission may prescribe as necessary or appropriate in the public interest or for the protection of investors."[175]Furthermore, the act established rules for civil penalties for insider trading in Section 21A. The Commission may bring an action in a district court to seek a civil penalty to be paid by the person who committed such a violation.[176] This act was a response to the significant level of shareholder and investor rights violations. The act mainly focuses on shareholder and investors' rights protection.

4.3.2.3 Williams Act of 1968

The Williams Act, enacted in 1968, amended the Securities Exchange Act of 1934 to enhance shareholder protection during corporate takeovers. The Act requires that any party initiating a tender offer or acquiring a substantial amount of stock must fully disclose their intentions and background to both the Securities and Exchange Commission (SEC) and the target company.[177] The Williams Act requires these disclosures to prevent unexpected takeovers and ensure that all shareholders, not just insiders, are informed about possible changes in who controls the company. Before the act was implemented, shareholders often had to make quick decisions about offers without enough time to review the terms or consider the company's future. The act protected shareholders from false, incomplete, or misleading statements that acquirers might have made without regulation.

[174] ibid, Section 78m
[175] Ibid; Section 78j.
[176] Ibid; Section 78u-1.
[177] Williams Act of 1968 (n 11).

4.3.2.4 Securities Investor Protection Act of 1970 (SIPA)

The Securities Investor Protection Act of 1970 is a United States federal law that established the Securities Investor Protection Corporation (SIPC). The Securities Investor Protection Corporation (SIPC) maintains a fund to protect investors against the loss or misuse of their assets and most securities in the event a broker fails. According to Section 9, "in order to provide for prompt payment and satisfaction of net equity claims of customers of the debtor," SIPC provides up to $500,000 in coverage for each customer, with a $250,000 limit for cash.[178] Many people assume SIPC protects against all investment losses, but it only covers losses resulting from broker-dealer failure, not market fluctuations. Overall, SIPC is an important component of the investor protection system in the United States.

4.3.2.5 Sarbanes-Oxley Act of 2002 (SOX)

The Sarbanes-Oxley Act of 2002 was enacted after major accounting scandals at Enron, WorldCom, and Tyco. It strengthened financial reporting integrity and corporate accountability by requiring enhanced disclosure and internal controls. On July 30, 2002, President Bush signed into law the Sarbanes-Oxley Act of 2002, which he characterized as "the most far-reaching reforms of American business practices since the time of Franklin Delano Roosevelt."[179] The act established rules for auditor independence, corporate responsibility, enhanced financial disclosures, and corporate and criminal fraud accountability. According to Title III of the Act, senior executives are directly responsible for ensuring the accuracy and completeness of corporate financial reports. Section 404 of the act requires an internal control report that states management's responsibility for establishing and maintaining adequate internal controls and procedures for financial reporting, as well as an assessment of their effectiveness.

4.3.2.6 Dodd-Frank Wall Street Reform and Consumer Protection Act of 2010

[178] ibid; Section 9.
[179] SEC, 'Laws Governing Securities Industry'.

The Dodd–Frank Wall Street Reform and Consumer Protection Act, commonly known as Dodd–Frank, is a United States federal law enacted on July 21, 2010. The act was enacted in response to the 2008 global financial crisis and represents the most significant update to U.S. financial regulation since the Great Depression. The Dodd–Frank Act is widely considered one of the most significant pieces of legislation enacted during the presidency of Barack Obama.[180] Furthermore, regarding the protection of investors and shareholders' rights, Title IX of the Act established rules for investor protection and improvements to the regulation of securities. [181] The Dodd-Frank Act aims to reduce systemic risk in the financial system and prevent crises such as the 2008 crisis. It achieves this by enforcing stricter capital requirements for banks, regulating derivatives trading, and creating consumer protection agencies to enhance transparency and accountability on Wall Street.

4.3.3 Enforcement mechanisms

The Securities and Exchange Commission (SEC) is mainly responsible for enforcing federal securities laws. The SEC can investigate potential violations, take civil enforcement actions, and impose various remedies. The SEC enforces securities laws through administrative proceedings and civil actions in courts. It may initiate informal inquiries or formal investigations, request documents and testimony. If it finds violations, the SEC seeks court action such as stopping certain activities, recovering illegal profits, imposing fines, banning individuals from serving as officers or directors, suspending trading, and imposing other penalties.[182] SEC statistics report several hundred enforcement actions each year, addressing issuer disclosure, insider trading, and market manipulation. These actions highlight the agency's central role in regulating U.S. securities markets.[183]

One of the key elements of the US system is the whistleblower programme established by the Securities Exchange Act. According to this "bounty" program, the Commission may grant

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[180] Victoria Guida and Zachary Warmbrodt, 'Trump Wounds but Can't Kill Obama's Wall Street Rules' (Politico, 21 May 2018) <https://www.politico.com/story/2018/05/21/trump-obama-wall-street-rules-555048> 11 December 2025.

[181] Dodd-Frank Wall Street Reform and Consumer Protection Act (n 11) 15 USC Sections 911-991.

[182] Winston & Strawn, 'SEC Investigations: A Primer' (2025) (describing SEC powers to seek injunctions, disgorgement, penalties, and officer/director bars).

[183] SEC Press Release 2023-234, 'SEC Announces Enforcement Results for Fiscal Year 2023' (13 November 2023).

monetary awards to individuals who share valuable original information that leads to an SEC enforcement action with sanctions of over $1 million. The awards range from 10% to 30% of the money collected.[184] For instance, by the end of fiscal year 2023, the SEC's whistleblower award program had awarded nearly $2 billion to almost 400 whistleblowers.[185] Additionally, the agency has the authority to pursue enforcement actions against companies that retaliate against whistleblowers. Such programs or initiatives strengthen the detection of hidden fraud, and such a tool is absent in the Azerbaijani framework.

Private enforcement is a crucial element of the enforcement mechanism. While the SEC enforces federal securities laws as a regulatory body, individuals have a right to seek a remedy when their rights have been violated. Litigation mechanisms include both derivative and direct lawsuits. For example, shareholders may initiate derivative actions on behalf of the corporation against directors or pursue direct claims for breaches committed against them. Within corporate governance and internal mechanisms, shareholders enjoy voting rights, including the power to elect or remove directors, approve mergers, and amend bylaws. Another private enforcement mechanism is the use of shareholder agreements. In private companies, a shareholder agreement is a contract among shareholders that defines their rights, obligations, and company operations. The US enforcement system has distinctive elements from the EU's regulator-focused approach and Azerbaijan's weaker enforcement. In the US, federal and state enforcement, along with private lawsuits, work together to protect investors and hold issuers accountable.[186]

4.3.4 Case law examples in the United States framework

Extensive case law in the United States has historically clarified shareholder rights through decisions of both state and federal courts.

Smith v. Van Gorkom (488 A.2d 858), a landmark Delaware Supreme Court case, addressed director oversight during the sale of Trans Union Corporation. The CEO, Jerome Van Gorkom, negotiated a $55-per-share merger price without consulting financial experts to determine

[184] SEC Office of the Whistleblower (n 38), programme overview.
[185] ibid.
[186] Amanda M. Rose, 'Reforming Securities Litigation Reform: Restructuring the Relationship between Public and Private Enforcement of Rule 10B-5' (2008) 108 Colum L Rev 1301.

whether it was the best price or the company's fair value.[187] Then he presented the proposal to the board in a two-hour meeting. The board approved the merger based primarily on his oral presentation, without reviewing documents or requesting a valuation study.

Shareholders filed a lawsuit, alleging the directors breached their duty of care. The directors defend that they acted in good faith and were protected by the "business judgment rule," which presumes directors act in the company's best interest. The Court disagreed, finding the board grossly negligent for failing to consider all material information reasonably available before making a critical decision.[188] This ruling clarified the corporate world by holding directors personally liable for the difference between the sale price and the "fair" value. This decision shows that the rules set out in the legislation are not just on paper. They are strictly enforced.

Moreover, statutes require companies to share "material" information, but what does count as "material" information? A US Supreme Court case answered this question and set the standard for transparency.

In the case of TSC Industries, Inc. v. Northway, Inc., Northway, a shareholder of TSC Industries, filed a lawsuit claiming that the proxy statement sent to shareholders about a merger was incomplete and misleading.[189] Northway claimed the proxy statement was misleading because National omitted information about the extent of its control over TSC and misrepresented whether or not the merger was a good deal for TSC shareholders. The lower court sided with the shareholder, but there was disagreement over what counts as a "material fact." The Supreme Court set the rule that an omitted fact is material if there is "a substantial likelihood that a reasonable shareholder would consider it important in deciding how to vote." The Court also explained that transparency does not mean giving shareholders too much trivial information. Disclosure is only needed if the missing fact would have changed the "total mix" of information available.[190]

To summarize, US judicial practice has developed a substantial body of case law on the protection of shareholder and investor rights.

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[187] *Smith v. Van Gorkom* 488 A.2d 858 (Del. 1985).
[188] ibid.
[189] *TSC Industries, Inc. v. Northway, Inc*., 426 U.S. 438 (1976).
[190] ibid.

CHAPTER 5

Comparative Analysis of Shareholder and Investor Rights Protection

5.1 Introduction

The previous chapters have established the theoretical foundations of shareholder and investor protection and analyzed the legal frameworks of Azerbaijan, the European Union, and the United States within this matter. Chapter 2 identified three essential elements of effective investor protection. First, legislation should provide clear, precise provisions on shareholder and investor rights. Second, shareholders and investors should have access to adequate, timely, and reliable information. Third, reliable enforcement mechanisms must be established and operate effectively to detect violations and provide remedies.

Chapters 3 and 4 analyzed the approaches of Azerbaijan, the European Union, and the United States to these elements. Each jurisdiction has enacted legislation to protect investor rights. However, legislation by itself does not guarantee effective protection. The degree of protection depends on institutional quality, regulatory independence, and the country's effective political and economic environment.

This chapter examines the implementation of investor protection across three core elements in Azerbaijan, the European Union, and the United States. The analysis has two purposes. First, it identifies differences between Azerbaijani legislation and the models of the European Union and the United States regarding the clarity of rights and duties, access to transparent information, and the reliability of enforcement mechanisms. Second, it evaluates the influence of Azerbaijan's political system, economic conditions, and institutional capacity on the practical effectiveness of these laws.

The analysis reveals that Azerbaijan has enacted several laws protecting investors and shareholders. However, these laws are not always effective or reliable due to factors beyond the laws. Regulatory agencies often lack sufficient resources or independence. Enforcement can be influenced by politics. The effectiveness of legal protection in Azerbaijan heavily depends on the country's political, democratic, and economic conditions. Shareholder protection in the US and EU has grown with strong capital markets and democratic systems that require accountability. In Azerbaijan, however, the market faces significant state interference, limited independent courts, and control by political elites. As discussed in previous chapters, shareholding is a part of public participation in the economy, as well as a contribution to democracy. These kinds of institutional and political challenges are as significant as legal gaps.

5.2 Detailed Comparison by Elements

The legal systems of Azerbaijan, the European Union, and the United States share a common vocabulary. Each jurisdiction legally recognizes the concepts of "shareholder" and "investor," and its laws aim to protect the rights of shareholders and investors who provide capital in financial markets. However, despite these similarities, the systems differ significantly in their legal traditions, regulatory philosophies, and, most importantly, their approaches to enforcement.

The US and EU frameworks are "organic" because they developed over time to solve real market problems and have a strong historical and institutional background. Azerbaijani legislation, on the other hand, is mostly based on codifications translated from other jurisdictions, creating an "artificial" atmosphere. This analysis examines three key components from Chapter 2: clarity and scope of rights, standards for information disclosure, and reliability of enforcement mechanisms.

5.2.1 Clarity and Scope of Shareholder and Investor Rights

Azerbaijan's Civil Code defines minority shareholders' rights and the core structure of corporate governance, including voting, dividend rights, liquidation, and information rights, similar to the US and EU frameworks.

However, several provisions in the Azerbaijani Civil Code create misunderstandings and unnecessary restrictions compared to the EU and US frameworks. First, Article 106-1.3.2 provides shareholders with the right to review company information “once per year”. Based on the context of this provision, shareholders can only request annual information once per year. This phrase is most likely a translation error; otherwise, this restriction is unnecessary. Shareholders should not be limited in their access to information; they should be able to access as much updated information about the company as they want between annual reports. In contrast, EU law requires semi-annual reports, and US law allows shareholders to inspect company records upon request for legitimate purposes. For example, Section 220 of the DGCL provides shareholders with the right to inspect a corporation's books and records for a "proper purpose," such as investigation of potential mismanagement. The annual-only reporting requirement in Azerbaijan restricts shareholders' ability to monitor company performance.

Second, Article 49.6 of the Civil Code allows only shareholders who hold at least 10 percent of the authorized capital to access company documents for documentary review. Shareholders with less than 10 percent are not entitled to request documents for investigative purposes. In contrast, European Union and United States regulations do not impose such a limitation. All shareholders, regardless of the number of shares they own, may access the company's information and records. Consequently, the 10 percent rule in Azerbaijan may constitute a violation of minority shareholders' rights. Such restrictions in Azerbaijani legislation are unnecessary, and it is unclear why they are imposed.

Third, since the traditional Azerbaijani stock market is small and distrusted, investors are likely to "put money" in unregulated markets such as crypto. However, this area is not comprehensively regulated in Azerbaijan. As mentioned in Chapter 2, this unregulated market has a huge potential to commit fraud. For instance, M. Guseinov was detained on allegations of scamming people for over 1,000,000 AZN (600,000 USD) with crypto in Azerbaijan.[191] The Ministry of Internal Affairs of Azerbaijan made a statement that "be careful when conducting financial transactions with strangers on social networks, and do not invest in crypto projects that promise high profits."[192]

In contrast to the US and the EU, there is no minimum capital requirement for the establishment of a company in Azerbaijan. This creates a loophole for fraudulent activities, such as Ponzi schemes, as discussed in Chapter 1. Individuals can easily establish a company, attract investors, collect assets, and run away. Due to the lack of a minimum capital requirement, investors cannot receive fair compensation when their rights are violated. For instance, Germany is a member state of the European Union. According to Section 5(1) of the German Gesellschaft mit beschränkter Haftung (GmbH), the company's share capital must amount to at least 25,000

[191] 'International operation: 1 million manat cryptocurrency scam exposed' (Sfera.az, 25 December 2025) <https://sfera.az/kriminal/318440/beynelxalq-emeliyyat-1-milyon-manatliq-kriptovalyuta-firildai-ifsa-edildi-video> accessed 15 December 2025.
[192] ibid.

euros.[193] As required by Section 7 (2), half of the minimum share capital (12,500 euros) must be deposited for the registration of the GmbH.[194] One of the main reasons investors do not trust corporations or make capital investments is that Azerbaijan has experience with scam companies that defraud people.

Additionally, Azerbaijan's Civil Code does not clearly allow shareholder derivative actions. This means shareholders cannot directly sue directors for breaching their duties on behalf of the company. The methods of resolving disputes between shareholders and company directors, the right of shareholders to file a lawsuit, and the fiduciary duties of directors are not covered by Azerbaijani legislation. The Code requires directors to comply with the law and the company charter. However, the duties of care and loyalty are among the best practices that Delaware corporate law established and should be implemented in Azerbaijan. Azerbaijani courts may establish fiduciary duty standards through case law. However, case law development on shareholder rights in Azerbaijan is minimal. The Constitutional Court's 2011 decision on minority shareholder protection is among the few precedents. This lack of judicial experience leads to legal uncertainty about what constitutes a fiduciary duty violation and the remedies available to shareholders. Furthermore, Azerbaijani legislation does not cover proxy voting.

In contrast to the Azerbaijani 10 percent shareholding and “once per year” requirement, the EU law (Directive 2007/36/EC) established a right to ask questions regarding the agenda of the general meeting. Azerbaijani legislation should prioritize rules that encourage access to information, rather than impose restrictions.

Despite a 10 percent shareholding and a “once per year” quantitative requirement regarding access to information, Azerbaijan has codified minimum shareholder and investor rights standards.

5.2.2 Information Disclosure Standards

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193 Gesetz betreffend die Gesellschaften mit beschränkter Haftung [Limited Liability Companies Act] (GmbHG), § 5(1).
194 ibid, Section 7(2).

Transparency is essential for the effective functioning of financial markets, as investors require accurate information to make informed decisions. Azerbaijan's disclosure regime establishes comprehensive requirements for initial public offerings, ongoing disclosures, and the prevention of insider trading. The Law on Securities Market requires issuers to disclose prospectuses for share offerings, annual financial statements, semi-annual interim reports, and management reports. These requirements establish a legal framework comparable to those in the EU and the US.

The Civil Code requires the disclosure of annual reports as a minimum, but says nothing about semi-annual reports. Nevertheless, the Law on Securities Market separately requires both annual and semi-annual reports. As discussed in Chapter 4, annual, quarterly, and current-reporting requirements under US law are one of the best options to keep shareholders and investors up to date. The absence of a provision on semi-annual reporting in the Civil Code does not pose a problem, as the Law on Securities Market establishes such a requirement.

Furthermore, the Law on the Securities Market requires companies to provide investors with essential information before a public offering of shares. Prospectuses must include details about the company's business, management, financial condition, and risk factors. Although these requirements are not as detailed as those in the EU or the US, they establish a framework for material disclosure.

Insider trading regulations are established in the Law on Securities Market and the Resolution of the State Securities Committee on Prevention of Abuses in the Securities Market. These provisions prohibit trading based on inside information, require companies to maintain insider lists of individuals with access to material non-public information, and specify prohibited conduct. Additionally, there are administrative and criminal charges in the case of insider trading. The regulatory framework addresses insider trading directly through legislative and regulatory mechanisms.

The disclosure framework of Azerbaijan provides minimum standards comparable to the EU and the US practices. Companies are required to disclose prospectuses, annual reports, semi-annual interim reports, and insider information. There are no major gaps in the definition of disclosure requirements. The rules cover key areas such as IPO disclosure, regular reporting, insider lists, and trading restrictions. The disclosure method and time period are operational or institutional weaknesses rather than gaps in the law.

5.2.3 Enforcement mechanisms

The main difference between the jurisdictions is the reliability and structure of their enforcement systems. To protect rights effectively, there must be clear laws and strong institutions to enforce them. Enforcement remains the main weakness in Azerbaijan's investor protection framework. Although disclosure requirements and shareholder rights are codified, reliable enforcement mechanisms are lacking. The lack of a reliable enforcement mechanism, or the lack of a sense of its existence, is one of the biggest obstacles to holding shares and making investments in Azerbaijan.

The integration of securities regulation into the Central Bank in 2019 led to a loss of dedicated regulatory focus. Before this change, the Financial Market Supervision Chamber served as the primary authority responsible for enforcing securities laws. When the Chamber was abolished, all securities functions shifted to the Central Bank. The Central Bank now manages banking regulation, monetary policy, foreign exchange, and securities markets, but securities regulation has become a secondary priority. While there was an institution dedicated to supervising the securities market, the Central Bank currently performs this function, along with many others. A regulatory body performing in multiple financial sectors is unlikely to achieve the same level of expertise and effectiveness as a specialized securities authority.

Enforcement activity in Azerbaijan lacks transparency. The Central Bank shares only limited details about investigations, violations, or sanctions. As a result, investors and market participants cannot see enforcement trends or understand regulators' focus. Without this information, it is hard to judge the risk of enforcement. In contrast, the SEC in the US regularly publishes enforcement actions and statistics, and regulators in EU member states also make enforcement decisions public. In general, the Central Bank does not share detailed information on violations in the securities market, the penalties imposed, or appropriate approaches to addressing them. The Central Bank mainly shares sanctions measures against banks and non-bank credit institutions.

Furthermore, the Central Bank may face a conflict of interest while regulating the securities market. A Central Bank focuses on keeping the financial system stable. In contrast, a Securities Regulator aims for transparency and works to expose fraud. If a large bank is involved in securities fraud, the Central Bank may be reluctant to punish it too harshly because that could threaten the stability of the banking sector. The conflict of interest might support the idea of having a separate regulator.

Since the United States has a huge market potential, the whistleblower program has an important role in the American market. However, due to the low liquidity of the securities market in Azerbaijan, there has been no need to implement such programs. However, such methods increase participation in the securities market and strengthen corporate control.

Azerbaijan's courts also have limited experience with securities law and shareholder rights. There are a few case law examples, with only one major Constitutional Court decision in 2011 on minority shareholder protection. Shareholders often do not know which remedies courts will accept, and they have little confidence in judicial solutions.

The lack of a quality and honest enforcement mechanism, or its malfunctioning, is not a problem arising from legislation. It is more of a politically motivated problem. There are not enough initiatives by politicians.

5.3 Critical evaluation and shareholder rights as participation in a democratic system.

Protecting the rights of shareholders and investors is not simply a technical issue of company law or market efficiency. It is fundamentally linked with the principles of public participation and accountability in a democratic society.[195] When people own shares, they gain not only economic benefits but also governance rights. These include the right to vote, to request information, to challenge management decisions, and to remove or appoint directors. In other words, "shareholder meetings lie at the heart of corporate democracy in the same way as town meetings lie at the heart of New England's political democracy."[196] These rights help people

[195] William Irvine, 'Corporate Democracy and the Rights of Shareholders' (1988) J Bus Ethics 7, 99-108.
[196] ibid, 99.

organize and collectively influence large enterprises that can impact larger communities. These rights are micro-level expressions of democratic principles in a democratic society.

This connection between shareholder rights and democratic governance becomes clear when comparing democratic countries with authoritarian or semi-authoritarian regimes. In liberal democracies such as the US and EU member states, shareholder governance rights are part of political participation, freedom of information, and the rule of law. For instance, in these jurisdictions, citizens enjoy voting rights in corporate general meetings as shareholders at the micro-level of democracy and vote in nationwide political elections. The more a society participates in the securities and financial markets, the more it participates in the democratic governance of the state. The connection between shareholder rights and democratic governance ensures that capital markets in liberal democracies develop within systems that protect political and economic freedoms.

In contrast, in authoritarian or hybrid-regime states, political elites significantly restrict shareholder participation.[197] When political freedoms such as assembly, expression, and voting are restricted, legal rights to shareholder participation lose their substance. Shareholders may formally have legal voting rights, but they may hesitate to exercise them against state-linked or politically connected companies due to the risk of political pressure. In these circumstances, even well-codified legislation may remain only in form and lose practical significance during enforcement.

As mentioned in Chapter 3, Azerbaijan follows these dynamics. Although the Civil Code and securities laws formally grant shareholder rights, investors and shareholders believe that not all companies are treated equally in financial markets. The companies with government ties are treated with “special” treatment.

According to Acemoglu and Robinson's institutional framework, inclusive institutions distribute power broadly and promote participation, whereas extractive institutions concentrate power and primarily benefit elites.[198] In extractive political regimes, economic elites resist sharing power that would result from true shareholder governance and developed capital markets. Collective demands for accountability, transparency, or voting rights cannot be tolerated by anti-

[197] Acemoglu and Robinson (n 134).
[198] ibid.

democratic regimes. Thus, the regime either tolerates only nominal shareholder rights or uses state power to suppress their implementation. As a result, potential investors avoid shareholding or making investments in financial markets and instead prefer owning real estate or foreign assets, where control is direct and political risk is lower. At the same time, companies cannot increase their capital through the issuance of securities, but instead, they remain dependent on banks. In Azerbaijan, businesses act cautiously, take minimal risk, and adopt a wait-and-see position in the face of uncertain future conditions. Individuals are as cautious as possible and keep as much cash as they can.[199]

Azerbaijan's small, illiquid securities market is not simply a technical failure. Instead, it is a consequence of rational investor response to a political and institutional environment in which state power limits shareholder participation and accountability. Adopting the EU or the US legislative frameworks into Azerbaijani legislation cannot substitute for these bigger institutional changes.

On the contrary, improving the protection of real investor rights in Azerbaijan requires not only updating securities legislation, but also broader democratic reforms. Azerbaijan's democracy index is 2.8, and its media freedom index is 167 (worse than Belarus, Cuba, Iraq, and Venezuela).[200][201] Protecting the media's freedom, strengthening judicial independence so that courts can impartially safeguard shareholder rights, limiting state interference in private commerce, and increasing civil society's capacity to monitor and challenge corporate misconduct will breathe new life into financial markets.

Additionally, the differences between these jurisdictions can be understood by examining their historical development of the laws. In the USA and Europe, the protection of shareholder and investor rights is driven by political coalitions of employees, shareholders, and investors. They have historically pushed for stronger investor protections. In contrast, Azerbaijan's laws protecting shareholder and investor rights are not based on collective effort or a historic financial crisis, as seen in the US and EU. These laws provide "artificial protection."

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[199] BRI Economic Team, 'Post-Pandemic Economy: The End of Money-Powered Economic Growth for Azerbaijan' (Baku Research Institute, 10 January 2026).
[200] Reporters Without Borders, 'World Press Freedom Index' (Reporters Without Borders, 2025).
[201] Bastian Herre, Lucas Rodés-Guirao and Esteban Ortiz-Ospina, 'Democracy' (Our World in Data, 2013).

To summarize, shareholder rights and democratic governance are not separate areas, but are closely related to each other. In Azerbaijan, where the economy is driven by oil revenues distributed through the state budget, there is no active participation in corporations. As a result, the lack of democratic accountability in the political sphere leads to a lack of accountability in the corporate sphere, and the "economic spirit" of the nation is focused on passive dependence on the state rather than active participation in the market. Overall, Azerbaijani legislation provides basic codified rights and disclosure obligations, but lacks an institutional framework to ensure consistent enforcement.

CHAPTER 6

Conclusion and Recommendations

6.1 Summary of findings

This thesis evaluated the effectiveness of Azerbaijan's legal framework in protecting investors and shareholders compared to the European Union and the United States. Despite several legal reforms, Azerbaijan's securities market remains small and illiquid, and the extent of rights protection is uncertain. A comparative analysis of investor and shareholder protection in Azerbaijan, the European Union, and the United States reveals that formal legal recognition does not ensure practical protection. This thesis shows that while Azerbaijan has made significant progress in codifying shareholder rights, disclosure standards, and establishing enforcement institutions, these advances are in opposition to institutional and political weaknesses that limit the effectiveness of legal protections.

Azerbaijani corporate law establishes shareholders' basic rights in line with those of most modern market economies. The Civil Code and Securities Market Law guarantee voting, dividend, and information rights, which are similar to international standards. However, practical obstacles limit shareholders' ability to exercise these rights in Azerbaijan. For example, shareholders need at least 10 percent of the shares to access company documents, can inspect annual records only once a year, and lack effective ways to challenge management decisions. The European Union’s Shareholder Rights Directive ensures ongoing access to information and establishes clear procedures for shareholder engagement for all investors. In the United States, Delaware common law and federal securities rules provide strong remedies for breaches of fiduciary duty, supported by extensive case law that defines shareholder rights. In contrast, Azerbaijani shareholders face uncertainty. Although their rights are recognized in law, the mechanisms to exercise those rights are underdeveloped and unclear. This gap between legal rights and practical enforcement is the first major weakness in Azerbaijan's investor protection system.

Azerbaijan has made significant progress in disclosure, which requires companies to inform investors about their financial situation. Companies must publish annual and semi-annual reports detailing financial results, assets, debts, and management structure. These requirements are similar to EU standards, which also require half-yearly financial reporting. Furthermore, the US requires quarterly reports and current (8-K) filings for material events. Additionally, disclosure is effective only when investors can understand the information provided. In Azerbaijan, financial literacy is low among both investors and business owners. As a result, many investors are unable to interpret detailed financial reports or assess management's transparency. In contrast, the EU and US address this issue by relying on professional analysts, auditors, and institutional investors who are equipped to evaluate complex financial information and identify potential concerns.

The US enforces securities laws through both SEC public actions and private remedies. The SEC whistleblower program, which offers awards of 10 to 30 percent to individuals who inform the SEC about possible securities law violations. Furthermore, the EU enforces its securities regulation through national competent authorities and the ESMA. In contrast, one of Azerbaijan's most serious weaknesses in investor protection is the lack of reliable and effective enforcement. Until 2019, the Financial Market Supervision Chamber was the executive body in securities regulation. In 2019, the President dissolved this agency and transferred its responsibilities to the Central Bank. This shift is concerning because the Central Bank primarily focuses on monetary policy and banking stability, rather than stock market regulation. This change raises concerns because the Central Bank primarily focuses on monetary policy and banking stability, rather than stock market regulation. Securities regulation needs specific expertise that a general banking regulator typically lacks. In addition to government enforcement problems, private enforcement through the courts is weak. There are a few case law examples regarding securities law violations. The legislation does not provide a rule on derivative actions or collective lawsuits against shareholders' rights violations.

The EU and US have built extensive case law that clarifies shareholder rights through important decisions on issues such as controlling shareholder conduct, minority protection, prospectus liability, and disclosure of conflicts of interest. In contrast, Azerbaijan lacks similar judicial precedent in securities matters. Because of this, Azerbaijani courts and investors face real uncertainty about how legal protections work in practice.

Beyond these technical legal problems, a more fundamental issue is politics. Chapter 5 explained that Azerbaijan has what economists call "extractive institutions," which concentrate power and resources among political elites instead of applying rules fairly to all. In this environment, companies with government connections receive favorable treatment from regulators and courts, while independent firms face artificial challenges. This is devastating to investor confidence. If investors believe that rules are applied selectively based on political ties rather than law, they avoid stocks and instead invest in real estate, foreign currency, or bank deposits. This is exactly what happens in Azerbaijan. Most companies in Azerbaijan rely on bank loans instead of issuing stock. This shows that, despite adequate legal frameworks, investors and businesses do not trust the system.[202]

Moreover, there is heavy state interference in markets and business in Azerbaijan. As documented in Chapter 3, state-linked companies often receive preferential treatment, while independent companies face arbitrary regulatory and political barriers. Shareholders and investors cannot safely express their opinions for fear of political pressure. In this “dark” market atmosphere, shareholders and investors avoid risking their money in investing in projects that have no clear “future”. This means adopting shareholder rights, disclosure rules, and enforcement powers will not ensure real protection or market development without parallel reforms in political governance and the rule of law.

Even after 20 years of legal reforms, Azerbaijan’s securities market is still small and lacks liquidity. Equity financing plays only a minor role in corporate funding, and most investors prefer owning real estate or foreign currency investments. However, investors are not acting out of ignorance, but because they observe that the enforcement of legal protection rules is difficult when

[202] World Bank, Azerbaijan Economic Update 2025.

political power and the state heavily interfere in the economy. The legal framework regarding financial markets alone cannot build trust in markets.

6.2 Recommendations

The most important lesson from comparing these three countries is that effective laws require strong enforcement institutions. Although Azerbaijan has adopted laws similar to those in the EU and the US, weak institutions prevent these laws from achieving the same results as in the EU and the US.

Azerbaijan aims to reduce its reliance on oil revenue and develop its non-oil economy. A reliable stock market supports this objective. Azerbaijan has a minimum legal framework and strong potential for the reliable functioning of the securities market. This simply requires political initiative. Through several reforms, such as reducing state interference in financial markets and the economy, supporting corporations seeking to issue shares, and punishing the "dirty hands" of politics in the economy, this sector in Azerbaijan has the potential to be revived in an instant.

Several reforms are recommended to enhance investor and shareholder protection and increase public participation in Azerbaijan's securities market, based on comparative analysis and research findings.

First, an independent securities regulator should be re-established. The Financial Markets Supervisory Authority was abolished in 2019, and its powers were transferred to the Central Bank. There is a need to establish a dedicated Securities Regulatory Authority (similar to ESMA at the EU level or SEC at the US level) with legal independence, an independent budget, and a clear mandate to protect investors and maintain market integrity. There should be a legal framework that requires board members to serve for a fixed term, have relevant experience, and cannot be removed from office for executive decisions. With such a regulatory body, the companies may also attract foreign investments.

Second, the government should take the initiative and carry out sincere reforms. It is necessary to prevent political elites from favoring certain companies and allowing them to profit significantly in this way. These individuals should be held accountable, and these politically favored companies should be severely punished. This will also motivate other emerging companies with market potential and restore investor confidence. Additionally, it is necessary to gradually privatize state-owned enterprises and reduce the concentration of assets in state-owned entities.

Third, establishing and protecting media freedom and civil society are necessary. The state should strengthen the protection of independent journalism that covers corporate misconduct and financial markets. Journalists should be free to express their views, free from the pressure of both the government and government-related corporations. It is also important to support civil society organizations that monitor corporate governance and market integrity. An informed public and an active civil society complement regulatory action and increase the impact of legal regulations. Active participation of civil society and freedom of expression increase public participation.

Furthermore, Azerbaijan should amend the Law on Securities Market to require quarterly financial reports (equivalent to US 10-Q filings) and current event reports (equivalent to US 8-K filings) for all material announcements such as management changes, major acquisitions, and litigation. Since it limits minority shareholders' rights to access information, the current minimum 10 percent shareholding requirement for information access should be eliminated to allow broader shareholder participation in monitoring corporate conduct. Additionally, a standard, simple summary format should be created for all disclosures. This change would help address Azerbaijan's low financial literacy (mentioned in Chapter 2.4) and make annual reports easier for non-experts to understand.

Moreover, to prevent fraudulent schemes such as Ponzi operations, Azerbaijan should establish minimum capital requirements for corporations, especially those seeking public investment or listing. The lack of such requirements creates a loophole for violators to easily establish companies, commit fraud, and undermine public trust in financial markets (as documented in Chapter 1).

Among voting rights, proxy voting in general meetings might be recognized. This change would allow shareholders to participate remotely, similar to standard practices in the EU (SRD II) and the US (DGCL). Additionally, to strengthen remedies for breaches, Azerbaijan should codify derivative actions, fiduciary duties of loyalty and care for directors based on Delaware standards, and collective lawsuit rights similar to class actions. These mechanisms, currently absent in

Azerbaijani law, would strengthen minority shareholder rights, reduce self-dealing, and provide effective private enforcement.

6.3 Conclusion

This thesis examined how Azerbaijan protects investors and shareholders compared to the European Union and the United States. The main finding is that having laws written down does not guarantee they work effectively in real life. This thesis aims to determine why, despite 20 years of legal reforms and the adoption of modern corporate governance practices, Azerbaijan's capital market remains small, illiquid, and largely controlled by the state. Comparing the European Union and the United States, this research has demonstrated that the problem lies not in the definition of rights but in their enforcement.

This thesis concludes that effective investor protection requires a dedicated and independent enforcement structure. The United States and the European Union regulate their securities markets through public supervision (SEC/ESMA) and private litigation.

Azerbaijan’s securities market's current state is a consequence of its political and economic structure. This research demonstrates that shareholder activism represents democratic participation. In a system dominated by strong state control, essential investor protections such as transparency, accountability, and the ability to challenge authority are limited. Investors contribute not only capital but also governance, which is public participation. For Azerbaijan to shift from an oil-based to a non-oil economy, it must first implement political and institutional reforms to ensure investor protection and prevent arbitrary interference. Establishing this trust is essential for building a modern, sustainable economy.

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