

LEGAL PROTECTION OF MINORITY SHAREHOLDERS FROM ACQUISITION RISKS IN SAUDI LAW

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ABSTRACT

This study examines the legal protection afforded to minority shareholders against the risks associated with corporate acquisitions under Saudi law. Acquisitions, defined as the process through which one company gains control over another by purchasing its shares, often pose significant risks to minority shareholders, particularly in terms of fairness, transparency, and control. The central research question guiding this study is whether the current Saudi legal framework provides adequate protection for minority shareholders in the context of corporate acquisitions.

To address this question, the study analyses relevant legal provisions within the Saudi legal system, with a focus on regulatory texts and official guidelines. The research adopts a descriptive-analytical approach, examining both statutory regulations and practical implementation, and divides the analysis into two primary sections.

The study finds that while the Capital Market Authority (CMA) provides a structured regulatory framework for listed companies, there remains a notable gap in legal regulation for companies that fall outside the CMA's jurisdiction. Specifically, the Saudi legal system does not comprehensively regulate acquisition processes for unlisted companies or outline clear procedural requirements and protections in such cases. The study concludes with several recommendations aimed at enhancing minority shareholder protections and closing existing legislative gaps.

Keywords: Minority Shareholders, Saudi Company Law, Acquisition Risks in Saudi Law, Legal Protection of Shareholders, Acquisitions Jurisprudence.

INTRODUCTION

Companies are fundamentally based on the financial contributions of their partners, known as shareholders, whose investments determine their stake in ownership. Shareholders are generally classified into two categories: majority and minority shareholders. Majority shareholders typically hold a significant portion of a company's capital, which allows them substantial control over the company's decisions, including influence over the board of directors. In contrast, minority shareholders possess a smaller share of the capital, limiting their ability to influence corporate governance¹.

While there is a disparity in power and influence, both majority and minority shareholders enjoy a range of rights that are legally protected and may not be infringed upon. These include financial rights, such as the right to receive dividends, and administrative rights, including the right to review company documents, access meeting agendas, and attend general assembly meetings—whether ordinary or extraordinary². These protections are rooted in statutory regulations, particularly the Saudi Companies Law of 2015 (Altuwaijri, 2017), which outlines a broad framework of shareholder rights designed to promote transparency and accountability within corporations³. The Capital Market Authority (CMA) further

reinforces these rights through its governance regulations, especially for publicly listed companies⁴.

However, despite the presence of these legal guarantees, practical challenges persist—particularly for minority shareholders, who may struggle to assert their rights in cases of conflict with majority stakeholders⁵. This issue raises questions about the adequacy of current enforcement mechanisms and the need for stronger procedural safeguards within the Saudi legal system (Alsaleh, 2019).

The protection of minority shareholders is a subject of considerable legal significance, particularly in the context of modern corporate structures. Since companies are founded on the collective contribution of shareholders to the company's capital, it is essential that all shareholders—regardless of the size of their ownership—feel confident that their legal rights are fully protected⁶. This study focuses on the legal mechanisms safeguarding minority shareholders during corporate acquisitions, and more specifically, evaluates the adequacy of the regulatory framework governing such acquisitions under the Saudi legal system (Alabduljabbar, 2024).

Acquisition is commonly understood as a method by which one company gains actual control over another, typically through the purchase of shares. This control may be obtained either with the consent of the acquired company's shareholders or through more contentious means. The strategic objectives behind acquisitions vary but often include expanding the acquiring company's operational scope, consolidating market share, or entering new geographic markets⁷. While acquisitions may offer economic and competitive advantages, they can also produce a range of consequences—both positive and negative—for the acquired company, its shareholders, and its workforce (Li, 2021). For minority shareholders in particular, the risk of marginalization increases during such transactions, making legal protection especially critical.

Given the critical importance of corporate acquisitions and their significant implications for minority shareholders, this study investigates the legal protections afforded to minority shareholders in the context of acquisitions under the Saudi legal framework. The objective is to assess how Saudi company law addresses the status and treatment of minority shareholders during acquisition processes (Alfordy & Othman, 2022), and to what extent it safeguards their rights⁸. In particular, the study seeks to clarify the legal fate of minority shareholders when a company undergoes an acquisition, and whether the current legal and regulatory instruments in Saudi Arabia provide sufficient protection in line with international best practices⁹.

RESEARCH PROBLEM

The new Saudi Companies Law, promulgated in 2022, addresses the provisions governing mergers in Chapter Eight; however, it offers only minimal treatment of company acquisitions, limiting its discussion to a single article concerned with the obligation to buy and sell shares¹⁰. This raises concerns regarding the comprehensiveness and clarity of the legal framework governing acquisitions, especially given the significance of such transactions in affecting corporate control and shareholder rights.

While the Capital Market Authority (CMA) has issued specific Merger and Acquisition Regulations applicable to companies listed on the Saudi financial market, these rules do not extend to unlisted or privately held companies, thereby creating a potential regulatory gap. This situation brings to the forefront a critical legal inquiry:

To what extent does the Saudi legal system regulate corporate acquisitions, and is the existing legal framework adequate in providing regulatory protection for minority shareholders during such transactions?

The research seeks to explore the sufficiency of these legal provisions and evaluate whether they align with principles of fairness, transparency, and shareholder equity, particularly for those in a minority position who may be disproportionately affected by acquisition decisions.

RESEARCH OBJECTIVE

The primary objective of this study is to analyse the legal framework governing corporate acquisitions in Saudi Arabia, with a specific focus on evaluating the extent to which this framework provides protection for minority shareholders. The research seeks to:

1. Examine the relevant provisions of the Saudi Companies Law and the Capital Market Authority's Merger and Acquisition Regulations to identify the legal mechanisms applicable to acquisitions.
2. Assess the sufficiency and effectiveness of these legal mechanisms in safeguarding the rights of minority shareholders during acquisition transactions.
3. Highlight legal and regulatory gaps, particularly with respect to companies not listed on the financial market.
4. Propose legal and regulatory reforms, where necessary, to enhance the protection of minority shareholders in accordance with international best practices in corporate governance.
- 5.

RESEARCH QUESTIONS

This study seeks to answer the following key research questions:

Q1- What are the legal provisions in Saudi Arabia that govern corporate acquisitions, particularly those related to the protection of minority shareholders?

This question aims to identify and analyze the relevant sections of the Saudi Companies Law and the Capital Market Authority's Merger and Acquisition Regulations to determine the legal mechanisms in place to protect minority shareholders during acquisitions.

Q2- To what extent do the existing legal provisions adequately protect the rights of minority shareholders during corporate acquisitions in Saudi Arabia?

This question evaluates the sufficiency and effectiveness of the current regulatory framework, assessing whether it ensures fair treatment for minority shareholders during acquisitions and whether the provisions align with international best practices.

Q3- What are the potential gaps or shortcomings in the Saudi legal system concerning the protection of minority shareholders during acquisitions, particularly with regard to companies not listed on the financial market?

This question explores the limitations of the current regulatory framework, focusing on companies that fall outside the purview of the Capital Market Authority and are not subject to the same acquisition regulations as publicly listed companies.

Q4- What legislative or regulatory reforms are necessary to enhance the protection of minority shareholders in corporate acquisitions under the Saudi legal system?

This question seeks to identify potential reforms or additions to Saudi corporate law to strengthen the protection of minority shareholders during acquisitions, focusing on areas such as shareholder approval (Liu, 2020), appraisal rights, disclosure, and dispute resolution.

RESEARCH METHODOLOGY

This study adopts a descriptive-analytical approach within the framework of doctrinal legal research, which focuses on the interpretation, analysis, and evaluation of existing legal

texts and regulations. The methodology involves a detailed examination of the Saudi Companies Law and the Capital Market Authority's Merger and Acquisition Regulations, with the aim of identifying and analyzing the legal provisions relevant to corporate acquisitions and the protection of minority shareholders.

Thus, a systematic review of the relevant articles in the Saudi Companies Law and CMA regulations will be conducted to understand the legal framework governing acquisitions and the rights of minority shareholders. Then, the study will analyse how these laws are structured, the extent of protection they offer, and whether they are consistent with broader principles of shareholder equity and corporate governance. Throughout the study, academic works, journal articles, and legal commentaries related to corporate law, acquisitions, and minority shareholder protection will be reviewed to provide context and support the analysis. Finally, based on the findings, the research will evaluate the sufficiency of current legal protections and propose regulatory and legislative reforms aimed at strengthening minority shareholder rights during acquisitions.

LITERATURE REVIEW

The issue of minority shareholder protection during corporate acquisitions has garnered significant attention in the legal literature, particularly with respect to the balance of power between majority and minority stakeholders. Scholars have long debated the adequacy of legal mechanisms to shield minority shareholders from unfair treatment, especially in jurisdictions where mergers and acquisitions (M&A) are an integral part of corporate life. This literature provides a useful framework for analyzing the effectiveness of the legal protections available to minority shareholders in Saudi Arabia.

In general, acquisitions are often viewed as a means for companies to expand their market reach or consolidate operations. However, as Coffee argues, acquisitions can also result in opportunistic behavior, where majority shareholders leverage their control to the detriment of minority shareholders, especially when it comes to pricing decisions or strategic directions. Such concerns have prompted calls for stronger regulatory oversight to ensure fair treatment for all shareholders, including minority owners. According to Langevoort, the lack of legal safeguards during acquisitions can lead to a "liquidity trap," where minority shareholders are unable to exit a company at fair value, thus exacerbating their vulnerability¹¹.

In the Saudi context, the Saudi Companies Law provides limited provisions on mergers, focusing primarily on the procedural aspects of acquisitions. However, scholars like Al-Qahtani note that the current regulatory framework does not offer comprehensive safeguards for minority shareholders. Specifically, the law's provisions on buyout rights and shareholder approval are often seen as insufficient in protecting the minority, particularly when there is an absence of clear guidelines on the valuation of shares in the event of a hostile takeover or forced sale. The Capital Market Authority's (CMA) regulations on mergers and acquisitions have expanded protections for listed companies, but this framework does not extend to unlisted firms, leaving a significant regulatory gap.

Moreover, international comparative studies highlight the shortcomings of the Saudi system in addressing minority shareholder concerns during acquisitions. For example, in the U.S. (Delaware), the legal landscape provides strong protections for minority shareholders, such as appraisal rights, which allow shareholders to demand the fair value of their shares if they object to a merger or acquisition¹². This right has been instrumental in safeguarding minority interests in corporate transactions (Grundfest, 2019), as noted by Gilson and Kraakman in their analysis of Delaware's corporate governance laws¹³. In contrast, Saudi

law's reliance on voluntary buyout agreements and lack of statutory provisions for appraisal rights creates a less robust protection framework for minority shareholders, particularly in private companies or when acquisitions are not subject to CMA regulations (Rizvi et al., 2022).

Finally, recent works by Al-Dosari emphasize the need for a reform of Saudi corporate law to better align with international standards, particularly in the realm of disclosure, fair valuation, and dispute resolution. These suggestions resonate with the broader academic consensus that legal reforms are needed to strengthen shareholder protections, particularly in emerging markets like Saudi Arabia, where corporate governance norms are still evolving¹⁴.

THE LEGAL CONCEPT OF MINORITY SHAREHOLDERS IN SAUDI CORPORATE LAW

The term “minority” generally refers to a group that constitutes the smaller numerical proportion within a whole, in contrast to the majority. However, in the legal context—particularly within corporate law—the definition of minority shareholders is more nuanced and varies depending on the analytical perspective applied. For example, in joint-stock companies, minority shareholders are typically identified based on capital ownership. Legally, they are defined as shareholders who own less than 50% of the company's capital, which consequently excludes them from exercising direct control over corporate decisions. This financial threshold is crucial, as ownership of a majority of shares usually grants control over key company resolutions, including board appointments, mergers, and changes to the company's bylaws (Hansmann et al., 2017).

From another angle, particularly when assessing the number of shareholders rather than the capital they hold, minority shareholders may also be defined as those who represent a numerical minority among all partners, regardless of their capital stake¹⁵. This distinction becomes relevant in companies with disproportionate shareholdings, where a small number of partners may own a large portion of the capital.

A third perspective emerges when considering the functioning of shareholder assemblies. In this context, minority shareholders are understood as those shareholders who do not belong to the prevailing group during a general assembly meeting, i.e., those whose positions or votes are outnumbered by the majority present¹⁶. Their decisions and preferences may be overridden by the majority vote—even if they are physically present or actively participating—thus emphasizing the operational vulnerability of minority shareholders within corporate governance structures.

Each of these conceptualizations reveals different dimensions of minority status, all of which carry legal implications, especially in the context of acquisitions, where minority shareholders may be disproportionately affected by decisions made by the majority. The Saudi Companies Law and the Capital Market Authority regulations recognize these distinctions to varying degrees, yet the specific protection of minority rights remains inconsistent and often limited in scope.

LEGAL AND JURISPRUDENTIAL POSITION OF MINORITY SHAREHOLDERS IN SAUDI JOINT-STOCK COMPANIES

In corporate law, minority shareholders are typically defined as those who do not possess sufficient shares or voting power to control or significantly influence corporate decision-making. They occupy a unique legal and functional status within joint-stock

companies, especially given their vulnerability to majority rule in shareholder meetings and strategic corporate actions such as mergers, acquisitions, or capital restructuring. Importantly, not all shareholders without control are legally or functionally the same. A distinction has been drawn in legal literature between two classes of non-controlling shareholders: minority shareholders and passive shareholders (Gan et al., 2020). While both groups lack influence over company policy, their relationship with the company and level of engagement differ substantially.

Minority shareholders, in a substantive legal and functional sense, are those shareholders who may not hold a controlling interest but are actively engaged in the corporate governance process, motivated by a desire to protect their long-term interest in the company's success. Their fate is closely tied to the fate of the company, and they often demand transparency, accountability, and good governance because their interests go beyond mere speculation. This aligns with the view that minority shareholders are "partners in substance," even if not in voting power.

In contrast, **passive shareholders** are those who hold shares for speculative or investment purposes only, without any intention to engage in the company's governance. Jurisprudence often likens these shareholders to creditors or savers, whose sole concern is maximizing returns, rather than participating in or overseeing the company's strategic direction¹⁷. These shareholders do not attend general assembly meetings, do not vote, and rarely exercise their information rights unless required. As such, they acquiesce to the decisions of the majority, effectively becoming governed without participation.

Interestingly, passive shareholders can evolve into minority shareholders in the substantive sense, particularly if the financial outcome of their investment becomes closely tied to the company's performance or if governance issues begin to affect share value. In such cases, they may transition from passive observers to active participants seeking to assert their rights (Khoj et al., 2020).

INSTITUTIONAL RECOGNITION OF MINORITY SHAREHOLDERS IN SAUDI LAW

The Saudi Companies Law recognizes the special position of minority shareholders and attempts to offer mechanisms to balance the power disparity between them and controlling shareholders. Notably, Article 88 of the Law provides that one or more shareholders holding at least 10% of voting shares may request the convening of an ordinary general assembly, compelling the Board of Directors to issue an invitation within 30 days of the request¹⁸. If the Board fails to act, the auditor is authorized to issue the invitation, ensuring that minority voices are not entirely excluded from corporate deliberation.

Moreover, the law explicitly mandates that general and extraordinary assemblies be called according to the company's bylaws, but this right cannot be unreasonably withheld¹⁹. This reflects the Saudi legislator's intent to empower minority shareholders not only by ensuring their formal rights, but also by facilitating procedural access to the governance process. This recognition places minority shareholders at the center of shareholder protection efforts, especially in a legal culture historically dominated by majority or family-owned interests. As such, even though minority shareholders may not possess controlling power, their legal status and participatory rights form a crucial safeguard in maintaining balance and fairness in corporate decision-making.

THE ROLE OF MINORITY SHAREHOLDERS IN BALANCING CORPORATE POWER

The participation of minority shareholders in corporate governance plays a pivotal role in maintaining accountability and oversight within joint-stock companies. While decision-making power is predominantly exercised by the majority, the involvement of minority shareholders serves as a vital counterweight that helps prevent potential abuses of power and promotes more balanced and equitable governance structures.

In joint-stock companies, it is a legal reality that the majority of shareholders exercise control over critical decisions made in general assemblies²⁰. These assemblies serve as the formal venue for adopting resolutions on corporate policy, approving financial statements, electing board members, and making strategic decisions—including those related to mergers and acquisitions. Because these decisions are binding on all shareholders, the principle of majority rule is foundational to corporate functioning. However, two conflicting principles emerge in the context of corporate decision-making, each requiring careful legal and regulatory calibration.

The **first principle** emphasizes that minority shareholders should not possess the power to obstruct or paralyze the decision-making process. To preserve efficiency and operational coherence, Saudi corporate law—like most legal systems—requires that resolutions be adopted based on the majority of votes cast at a properly convened general assembly²¹. This framework ensures that corporate governance is not held hostage to dissenting minorities, and reflects the democratic logic underpinning collective decision-making. Thus, minority shareholders are bound by the decisions of the majority and generally cannot compel the majority to accept their views²². In this respect, the majority's decisions are given force not merely because they are numerically superior but because they are procedurally authorized by law.

Conversely, the **second principle** seeks to prevent the tyranny or oppression of the minority by the majority. Majority rule does not grant an unrestricted license to act without regard for minority interests. The potential for abuse arises when decisions, though adopted in accordance with procedural norms, substantively harm the interests of the minority or the company as a whole²³. For example, a majority might approve an acquisition that unfairly dilutes minority shareholdings, or elect directors aligned only with majority interests. In such cases, legal systems—including Saudi law—impose fiduciary duties and procedural safeguards to protect minority shareholders from decisions that are abusive, fraudulent, or made in bad faith²⁴. The activation of minority shareholder rights is thus not merely a defensive mechanism but also a proactive instrument to defend the integrity of the corporate entity.

THE OVERSIGHT ROLE OF MINORITY SHAREHOLDERS

The role of minority shareholders is particularly important in publicly held corporations with broad shareholder bases. Here, minority shareholders often act as representatives of dispersed or uninformed investors, ensuring that managerial power is exercised in a manner that is transparent, equitable, and accountable²⁵. Moreover, their interventions are not always limited to private interest. By exercising their rights to demand disclosures, vote on resolutions, or challenge unlawful decisions, minority shareholders indirectly enhance protection for all shareholders, contributing to a broader culture of corporate compliance and responsible governance.

Importantly, the Saudi Companies Law provides certain procedural mechanisms to safeguard minority interests. Among these is the right of shareholders representing at least 10% of voting shares to request the convening of a general assembly, thus allowing them to bring concerns formally before the broader shareholder body (Saastamoinen et al., 2021).

While the legal system delineates powers and protections for both majority and minority shareholders, corporate governance does not operate on adversarial lines. Rather, it calls for cooperation between both blocs to ensure the company is managed efficiently and fairly. The power of the majority is not meant to be absolute or unilateral, but rather conditioned on considerations of fairness, transparency, and accountability. As such, the majority rule must be tempered by legal safeguards that recognize the participatory and oversight functions of minority shareholders. This balanced approach—between the necessity of centralized decision-making and the protection of vulnerable shareholder groups is essential for the long-term health of the corporate sector²⁶.

LEGAL ANALYSIS OF MINORITY SHAREHOLDER PROTECTION IN SAUDI CORPORATE ACQUISITIONS

Regulatory Protection by the Saudi Capital Market Authority (CMA)

Saudi Arabia's regulatory framework for corporate acquisitions is designed to protect minority shareholders through a combination of mandatory purchase offers, lock-up periods, equal treatment principles, squeeze-out rights, and robust corporate governance. These measures collectively foster a fair and transparent market environment, aligning with international best practices and enhancing investor confidence in the Saudi capital market.

For example, according to the Merger and Acquisition Regulations issued by the CMA, any person acquiring 50% or more of a company's voting shares listed on the Saudi market is obligated to make a **mandatory purchase offer** to acquire the remaining shares held by minority shareholders. This ensures that all shareholders, regardless of the size of their holdings, are treated equally and have the opportunity to exit the company on fair terms. The offer must be made at a price not less than the highest price paid by the acquirer during the preceding twelve months²⁷. This regulation protects minority shareholders from control being acquired through discreet or staggered transactions at varying prices, which could otherwise result in unequal treatment²⁸. Moreover, the regulation grants the CMA discretion to compel a purchase offer when it deems it necessary to preserve market fairness and investor protection²⁹.

In addition, there are **lock-up and deal restrictions** during the offer period, where the offeror and anyone acting in agreement with them are prohibited from dealing in the securities of the target company unless they receive prior approval from the CMA³⁰. This includes a prohibition against selling at a value lower than the offer price. Such restrictions are designed to prevent market manipulation or insider advantage (Burunciuc et al., 2020). Additionally, Article 17 of the Merger and Acquisition Regulations obliges the offeror to immediately announce their intent to make an offer once the threshold is crossed, even if complete information is not yet available. This public disclosure increases transparency and allows the market to respond efficiently³¹.

Again, although the Companies Law does not use the term "acquisition" directly, Article 113 provides for **squeeze-out rights**, allowing shareholders with 90% of voting shares to compel minority shareholders to sell their shares, provided such provisions are included in the company's articles of association³². This clause aligns with international practices, enabling efficient restructuring while still offering fair compensation to minority shareholders.

However, **equal treatment** between all shareholders categories is maintained by the Corporate Governance Regulations which ensures minority shareholder rights through requirements for independent board members, audit committees, and transparency in related-

party transactions. These mechanisms are critical for preventing self-dealing and ensuring that decisions during acquisitions reflect the best interests of all shareholders³³. Also, the fairness in relationship is ensured during corporate acquisition cases through the *rights and obligations related to the sale of shares*, the *mandatory purchase offer requirements*, *restrictions on acquirers of 40% or more of voting rights*, and *corporate governance regulations*³⁴.

Legal Framework under the Saudi Companies Law

The Saudi Companies Law, enacted by Royal Decree No. M/132 and implemented on January 19, 2023, represents a major shift in Saudi Arabia's corporate legal landscape, aiming to modernize corporate governance in line with Vision 2030. While the Law comprehensively addresses various company structures and shareholder rights, its treatment of corporate acquisitions, particularly regarding minority shareholder protection, remains limited and fragmented. For instance, the Law provides a foundational structure for shareholder participation in corporate governance. Minority shareholders, regardless of their ownership percentage, are entitled to essential rights such as: voting in general assemblies (Articles 81–88), receiving profits and dividends (Article 80), accessing company documents, including financial statements and meeting minutes (Article 84), and calling for an extraordinary general assembly if their ownership reaches the threshold specified by law - typically 5% of share capital (Article 88). These rights are fundamental but are not tailored specifically to acquisition scenarios, where minority shareholders face the risk of marginalization or forced divestiture³⁵.

This law contains detailed provisions on mergers in Chapter Eight, but it offers only limited guidance regarding acquisitions. It does not define or comprehensively regulate acquisitions, despite acquisitions having unique dynamics that differ substantially from mergers (Stewart, 2023). The absence of a standalone legal framework for acquisitions creates uncertainty, especially for minority shareholders who may not be afforded sufficient legal remedies if they object to a takeover or disagree with the transaction's terms. The only direct reference to acquisition-like scenarios appears in Article 230, titled “*Obligation to Sell Shares*.” This provision enables a controlling shareholder (holding 90% or more of the company's shares) to compel the minority to sell their shares at a price determined by a certified valuer. Conversely, minority shareholders have a parallel right to compel the majority to purchase their shares under similar conditions³⁶. While this resembles “squeeze-out” and “sell-out” rights found in jurisdictions like the UK, its application is narrow, and the valuation mechanism lacks detailed procedural safeguards—such as clear appraisal rights, objection procedures (Boshnak, 2021), or recourse to independent judicial review³⁷.

This compulsory transaction mechanism raises multiple legal concerns:

- Is the valuation fair and transparent?
- Do minority shareholders have adequate opportunities to contest the sale price?
- What standards are used by the certified valuer?
- Is there a dispute resolution mechanism in the event of a disagreement over pricing or procedural fairness?

The law does not explicitly answer these questions, leaving interpretation and enforcement largely to judicial discretion or contractual arrangement.

Unlike merger procedures, acquisitions under the Companies Law are not subject to specific approval thresholds, mandatory disclosures, or supervisory oversight from a regulatory authority (except when the transaction involves a listed company (Althagafi & Alalyani, 2023), in which case the CMA regulations apply). For private or closed joint-stock companies, majority shareholders can negotiate acquisitions with limited transparency or involvement from minority shareholders (Meteb, 2015). This exposes minority shareholders

to the risk of: exclusion from decision-making processes, receiving unfair terms, and being pressured to sell at below-market values³⁸.

Moreover, the Law lacks statutory appraisal rights, which are common in other jurisdictions to allow dissenting shareholders to receive judicially determined “fair value” for their shares if they object to a major corporate action³⁹. This places Saudi minority shareholders at a disadvantage when compared to their counterparts in countries such as the United States (Delaware) and the United Kingdom, where the law provides detailed procedures for contesting mergers and acquisitions (Alharbi & Alharbi, 2021).

The Companies Law gives significant authority to the board of directors and general assembly in determining the company’s strategic direction, including approval of mergers and other significant structural changes (Articles 88, 225). However, the law does not provide specific minority veto rights or supermajority requirements in acquisition contexts, which limits the influence of small shareholders over transformative decisions⁴⁰. While this may streamline business operations and encourage investment, it also diminishes minority influence, particularly in acquisitions that involve fundamental changes in ownership, control, or management strategy.

Capital Market Authority Regulations for Listed Companies

In contrast to the general corporate framework laid out in the Saudi Companies Law, the Capital Market Authority (CMA) provides a more specific and detailed legal framework for mergers and acquisitions involving publicly listed companies. The CMA, established by the Capital Market Law (2003), is the regulatory body responsible for supervising capital markets in Saudi Arabia and plays a central role in protecting investor interests and ensuring market integrity⁴¹. The CMA’s Merger and Acquisition Regulations, first issued in 2007 and most recently updated in 2021, are particularly significant in offering procedural safeguards and disclosure obligations that aim to protect all shareholders—including minority shareholders—during takeover bids and acquisitions involving companies listed on the Saudi Stock Exchange (Tadāwul).

However, the CMA Regulations apply strictly to listed joint-stock companies, meaning their protections do not extend to private or closely held companies, which make up a large portion of the corporate sector in Saudi Arabia. This leaves minority shareholders in unlisted companies under the more limited framework of the Companies Law, with little recourse to regulatory protection (Guo et al., 2023).

For listed companies, the CMA requires that all acquisition offers be made available to all shareholders equally, thereby prohibiting selective or discriminatory offers that benefit only majority or insider shareholders⁴². This principle of equal treatment is a cornerstone of minority protection during acquisition transactions.

Again, one of the most significant protections under the CMA Regulations is the requirement for comprehensive disclosures. Under Article 11 of the Regulations, companies involved in an acquisition must disclose: terms of the offer, identities of the offer or and offered, valuation methods and financial impacts, the board’s opinion regarding the offer, and any conflicts of interest or related party transactions⁴³. These disclosure requirements ensure that minority shareholders are provided with sufficient information to make informed decisions, thus reducing the information asymmetry that often characterizes acquisition scenarios. Moreover, the offer or must submit a formal acquisition plan and appoint an independent financial advisor to assess the fairness of the transaction⁴⁴. This advisor must provide an evaluation report that is shared with all shareholders, offering a neutral analysis of whether the offer represents fair market value—a key safeguard for minorities.

The CMA Regulations impose strict board neutrality rules, particularly during the offer period. Under Article 15, the board of the offeree company is prohibited from taking any action that might frustrate a takeover bid—such as issuing new shares, disposing of significant assets, or entering into competing transactions—without prior shareholder approval⁴⁵. This ensures that corporate control decisions remain in the hands of shareholders, not the board, and aligns with international best practices in M&A governance. This rule is especially important for minority shareholders, who may otherwise be excluded from key decision-making processes if the board acts unilaterally. By requiring shareholder approval for defensive tactics, the CMA enhances the participatory role of minority shareholders in deciding the company's future.

While Saudi law does not formally include appraisal rights—as found in jurisdictions like Delaware—the CMA Regulations mandate fair valuation processes that serve a similar function. The use of independent valuers and the obligation to disclose valuation methodology provide some level of assurance that the offer price is not artificially deflated. However, the lack of statutory recourse to a judicial valuation process or to challenge the offer price through formal appraisal rights still leaves minority shareholders somewhat exposed if they disagree with the terms of the acquisition⁴⁶. This is a notable limitation when compared with more developed legal systems (Al Awadhi, 2023).

Finally, the CMA possesses broad enforcement powers under the Capital Market Law. It may impose penalties for non-compliance, suspend trading, or refer cases to the Committee for the Resolution of Securities Disputes (CRSD)⁴⁷. This enforcement mechanism provides an added layer of protection for minority shareholders by ensuring that offers and target boards comply with the regulatory framework. Nonetheless, enforcement remains reactive rather than proactive, and minority shareholders still bear the burden of initiating complaints or legal action, which can be daunting given procedural and cost barriers.

Judicial Oversight and Enforcement Challenges

While statutory and regulatory provisions form the legal backbone of shareholder protection in Saudi Arabia, the efficacy of these protections ultimately depends on the judicial system's ability to enforce them. In practice, minority shareholders often encounter significant legal and institutional barriers when attempting to challenge acquisitions or assert their rights in court.

The **judicial enforcement** of shareholder rights in Saudi Arabia is still developing, and there is currently a scarcity of published case law addressing acquisition-related disputes. The Commercial Courts Law (2020) established a framework for adjudicating commercial disputes, including corporate governance issues, but jurisprudence on minority protection in acquisitions remains limited⁴⁸. This absence of legal precedent creates uncertainty regarding how courts might interpret key provisions of the Companies Law or CMA Regulations—such as Article 230 (Obligation to Sell Shares) or rules on disclosure under the CMA's M&A framework. Without a consistent judicial record, minority shareholders may be reluctant to initiate legal proceedings, fearing unfavourable outcomes or procedural ambiguities. In other words, the legal system lacks specialized commercial courts with expertise in complex acquisition disputes (Rhee, 2022), and litigation can be both time-consuming and costly. Minority shareholders may also face difficulties accessing remedies due to limited standing or procedural hurdles, particularly in cases where acquisition decisions are supported by the majority.

Minority shareholders also face **procedural challenges** in accessing the courts. Under Saudi legal tradition, litigation has often been reserved for major contractual or financial

disputes, and corporate governance matters were historically underdeveloped in litigation. Although the Commercial Courts have improved access to justice in business-related matters, shareholders—especially those in private or family-owned companies—often find themselves excluded from internal company decision-making and unaware of their rights or remedies. Furthermore, court procedures may be time-consuming and costly, especially for minority shareholders who lack the resources or legal expertise to pursue litigation. Unlike jurisdictions where class action suits or derivative actions are common, Saudi Arabia does not yet have a well-developed framework for collective shareholder actions, limiting the ability of dispersed shareholders to band together in legal challenges.

For disputes involving listed companies, the **Committee for the Resolution of Securities Disputes (CRSD)**—established under the Capital Market Law—has jurisdiction over violations of CMA rules, including those related to acquisitions and shareholder disclosures⁴⁹. The CRSD has the authority to impose penalties, order corrective action, and grant compensation for harmed investors. However, the effectiveness of the CRSD in practice is constrained by its reactive nature: it typically intervenes only after a complaint is filed, rather than through proactive regulatory enforcement. Moreover, access to the CRSD requires shareholders to have standing and often involves navigating complex procedural requirements, which can discourage minority investors from pursuing claims.

A key limitation in the Saudi legal system is the **absence of statutory appraisal rights**—a mechanism that allows dissenting shareholders to challenge the valuation of their shares in court if they oppose an acquisition or merger⁵⁰. In many jurisdictions, such as Delaware in the United States, shareholders can request a judicial determination of the “fair value” of their shares (David, 2024), offering a crucial layer of protection against coercive or unfair offers⁵¹. In Saudi Arabia, Article 230 of the Companies Law allows majority shareholders to compel a minority buyout and vice versa, but it provides only that a “certified valuer” must determine the share price⁵². There is no clear statutory right to contest the valuation in court or to require an independent judicial review of the price. This places minority shareholders in a vulnerable position, especially in closely held companies - if they believe the valuation is unfair or lacks transparency.

In addition to legal and procedural limitations, cultural and structural factors influence shareholder behavior in Saudi Arabia. Many Saudi companies—especially private and family-owned ones—are dominated by controlling shareholders or founding families, making it socially and commercially difficult for minority shareholders to pursue legal claims, even when they are justified⁵³. Fear of damaging business relationships or reputational concerns often deters shareholders from taking formal action, especially in close-knit business communities.

As such, while the Saudi legal system provides formal avenues for resolving shareholder disputes, the practical enforcement of these rights—particularly in acquisition contexts—remains a significant challenge. Therefore, scholars and practitioners have advocated for the strengthening of minority shareholder remedies, including the introduction of derivative action mechanisms (Skeel, 2016), enhanced whistleblower protections, and stronger regulatory oversight of informal shareholder agreements⁵⁴. Until such reforms are widely implemented and judicially entrenched, the gap between formal rights and their practical enforcement in Saudi acquisition cases will likely persist.

THE LEGAL AND ECONOMIC EFFECTS OF PROTECTING MINORITY SHAREHOLDERS IN CORPORATE ACQUISITIONS

Based on the above discussion, it can be argued that the legal framework established by the Saudi regulator to protect minority shareholders during acquisitions is not merely procedural - it serves as a strategic instrument for enhancing market credibility, managerial discipline, innovation, and investor confidence (Ray, 2022). The incorporation of these principles into corporate law contributes to solving persistent issues in joint-stock company governance and aligns with national objectives for sustainable economic development. As Saudi Arabia continues to liberalize and globalize its capital markets, the consistent and transparent enforcement of these protections will be instrumental in cultivating a stable, equitable, and competitive economic landscape.

The implications of legal protections for minority shareholders extend beyond legal formality and are deeply intertwined with the vitality of the financial market and the broader economy. For example, they play a crucial role in instilling confidence among existing and potential investors. When investors - especially those without controlling interests - are assured that their rights cannot be arbitrarily overridden in the event of an acquisition, they are more inclined to participate actively in the financial market (Buallay et al., 2017). This confidence reduces the perceived risks associated with equity investments, particularly in joint-stock companies where ownership is often fragmented. By mitigating fears of expropriation or unfair treatment, these legal protections help stabilize market behavior and prevent excessive volatility in stock prices during acquisition bids⁵⁵. Such regulatory assurance is vital in emerging markets like Saudi Arabia, where diversification under Vision 2030 hinges significantly on deepening capital markets and encouraging private sector participation⁵⁶. Investor trust, supported by statutory mechanisms like mandatory offers and equal treatment clauses, contributes to the development of resilient capital markets capable of absorbing shocks without systemic disruption⁵⁷.

Again, when minority shareholders are confident in their right to information and participation, they are more likely to challenge managerial decisions, demand clarity in financial reporting, and **call for ethical corporate behavior**⁵⁸. These dynamics act as internal compliance mechanisms, thereby reducing the likelihood of managerial opportunism or covert transactions that benefit majority shareholders at the expense of others. In this sense, the legal empowerment of minority shareholders functions as a systemic check against corruption, mismanagement, and insider abuse within corporate structures⁵⁹.

In fact, protecting against hostile or opportunistic acquisitions creates an enables investors and employees to propose novel ideas and pursue long-term strategic initiatives. Insecure minority positions often deter participation in strategic decision-making, fearing that their interests may be overridden by majority blocs or acquisition maneuvers⁶⁰.

This is particularly important in knowledge-based and technology-driven sectors, where innovation cycles are fast and investment in intellectual capital must be protected from destabilizing ownership changes⁶¹.

On the other hand, foreign and domestic investment are attracted as the existence of effective, enforceable minority protections is an essential determinant of foreign direct investment (FDI)⁶². Such protections reduce legal uncertainty and investment risk, making Saudi Arabia a more attractive destination for institutional investors, sovereign wealth funds, and private equity entities. Thus, a corporate environment that respects and enforces minority rights signals regulatory maturity and investor readiness, thereby promoting capital inflows and accelerating economic growth⁶³.

RESEARCH FINDINGS

The Saudi regulator has incorporated mechanisms within both the Capital Market Law and the Merger and Acquisition Regulations to protect minority shareholders in listed companies from potential exploitation during acquisitions. The regulations require acquirers to make mandatory purchase offers for the remaining shares of the company, ensuring that minority shareholders have the opportunity to exit at a fair price. Furthermore, corporate governance principles stipulated in the Corporate Governance Regulations mandate that acquirers treat all shareholders equally, promoting fairness and equity in the acquisition process. In addition, a critical component of the CMA's regulatory framework is the requirement for companies applying corporate governance principles to provide shareholders with complete and accurate information. This information enables shareholders to make informed decisions about whether to remain in the company or exit during acquisition processes. Moreover, the CMA obligates offerors to treat all shareholders equally during acquisition, ensuring that information is not selectively provided to only certain shareholders, which could lead to unfair advantages for specific parties.

However, despite the significant role acquisitions play in corporate restructuring and financial markets, the Saudi regulatory framework does not provide a specific **legal definition for the acquisition** process in general. Instead, the acquisition process is governed by the Merger and Acquisition Regulations issued by the Capital Market Authority (CMA). This regulatory approach leaves the process undefined in general terms, but operationalized through specific regulatory guidelines tailored for acquisitions, mergers, and other corporate transactions involving listed companies. While this approach provides flexibility, it also leads to potential ambiguities regarding the scope and application of these rules, particularly when it comes to acquisitions of non-listed companies.

Again, the Merger and Acquisition Regulations issued by the CMA specifically apply to companies listed on the financial markets, excluding unlisted entities. This limitation means that companies not subject to these regulations do not benefit from the same protections, nor are they required to adhere to the governance and regulatory procedures set forth by the CMA during acquisitions. Consequently, the lack of regulatory oversight in acquisitions involving unlisted companies creates potential gaps in legal protection for minority shareholders in such companies. According, for companies not governed by the Merger and Acquisition Regulations or those not listed on the financial markets, the Saudi regulator has not provided specific legal guidance on how acquisitions should be conducted. This omission allows for individual interpretations of the acquisition process, which could lead to inconsistent practices and risks for minority shareholders. In the absence of a clear regulatory framework for such transactions, minority shareholders in these companies may find their rights inadequately protected during acquisition processes.

The study has also identified that the protection of minority shareholders is a cornerstone for ensuring the stability and integrity of the financial market. By instituting regulations that prevent discriminatory practices in acquisitions, the Saudi regulatory framework fosters investor confidence, thus reducing risks and contributing to a more stable investment environment. The protections afforded to minority shareholders in the Saudi system serve to enhance market stability and attract both domestic and foreign investments.

RECOMMENDATIONS

A critical gap in the current Saudi regulatory framework is the lack of specific provisions for acquisitions involving companies that fall outside the jurisdiction of the CMA's Merger and Acquisition Regulations. The study recommends that the Saudi regulator address this regulatory vacuum by extending protections to minority shareholders in these companies.

A clear set of rules governing acquisitions for non-listed companies would provide greater legal certainty and ensure that minority shareholders' rights are consistently protected across all sectors.

Again, to ensure comprehensive protection for minority shareholders, the study proposes that the provisions currently applicable to listed companies under the Merger and Acquisition Regulations be extended to include non-listed companies. By doing so, the regulator would create a uniform regulatory framework that applies equally to all companies, regardless of their listing status. This extension would offer consistent legal protection to minority shareholders in both listed and non-listed companies undergoing acquisitions.

The Saudi Companies Law currently lacks a comprehensive chapter dedicated to the regulation of acquisitions, mergers, and company transformations. While the law does contain provisions relating to the obligation to buy and sell shares in certain acquisition scenarios, it does not provide a detailed legal framework for the full range of issues involved in acquisitions. The study recommends that the Companies Law be amended to include a dedicated chapter addressing the legal regulation of acquisitions, their types, effects, and associated legal processes. This would offer clearer guidance and increase legal certainty for stakeholders involved in acquisitions.

Moreover, under the Capital Market Law, the mandatory offer obligation is triggered when an acquirer reaches a 50% threshold of ownership in a company. However, the study notes that ownership of less than 50% of a company's shares can still afford an acquirer de facto control, especially in companies with dispersed shareholding structures. Thus, the study recommends that the regulator reconsider the 50% threshold, potentially lowering it to better reflect the reality of corporate control dynamics in Saudi companies. The current 90% threshold specified in the Companies Law for control acquisition is also considered overly high, as a shareholder with slightly less than 90% can exert significant influence over company decisions.

Finally, the Merger and Acquisition Regulations allow for potential exemptions from their provisions, but these exemptions are not clearly defined. The study recommends that the Saudi regulator specify the cases in which these exemptions may apply. For example, the Kuwaiti legal system outlines exemptions such as acquisitions made for public interest or where control is acquired without the intent to influence, such as through inheritance. Clarifying such exemptions would provide greater transparency and help prevent potential abuses or misunderstandings in the application of regulatory provisions.

CONCLUSION

The study highlights several strengths in the Saudi regulatory framework for protecting minority shareholders during corporate acquisitions, particularly with respect to the Capital Market Law and the Merger and Acquisition Regulations. These frameworks aim to ensure that minority shareholders are treated fairly and equitably during acquisition processes, thereby enhancing investor confidence and contributing to market stability.

However, significant gaps remain, particularly in terms of the regulatory protection of minority shareholders in non-listed companies and the broader scope of acquisition-related provisions within Companies Law. For example, the practical enforcement of these protections remains a significant challenge, with judicial oversight playing a crucial role in ensuring compliance. Addressing the enforcement challenges requires ongoing efforts to strengthen the judicial system, improve access to legal remedies for minority shareholders, and enhance the overall effectiveness of corporate governance mechanisms.

The study's recommendations call for addressing these gaps through regulatory reforms aimed at extending protections to all companies, ensuring that the legal framework governing acquisitions is comprehensive and consistent. Such reforms would not only enhance the protection of minority shareholders but also contribute to the overall growth and stability of the Saudi economy, aligning with the nation's broader objectives for economic diversification and sustainable development.

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