

**DEVELOPMENT OF MINORITY SHAREHOLDERS AS
CORPORATE OWNERS IN THE REPUBLIC OF UZBEKISTAN**

*Ormonov N. T.*¹
*Mahsudov J. A.*²
*Botaboev M. Sh.*³

Abstract

In strengthening corporate governance in the Joint-Stock Companies of Uzbekistan, it is necessary to improve legislation and corporate documents in order to protect the rights of minor shareholders.

Keywords: corporate governance, protection of the rights and interests of minor shareholders, shareholders



¹ Candidate of Economic Sciences, Associate Professor of Tashkent State University

² Student of the Banking and Finance Academy of the Republic of Uzbekistan

³ Candidate of Financial Sciences, Associate Professor Of BMA

Introduction

One of the main objectives of the current economic policy in the Republic of Uzbekistan is the promotion of investment flows that contribute to the revitalization of activity in the Real spheres of the economy. Therefore, one of the important tasks is the attraction of investments in the growth of the charter capital of our republic's Joint-Stock Companies. In the years of independence, the stock market was formed as a mechanism for attracting investments to our economy, and a legislative branch of corporate ownership was created, which allowed to attract investments in a public way. However, the scale and pace of attracting local foreign investment is not satisfactory, this is due to the fact that there are not enough conditions for economic interest of investors, serious shortcomings and omissions in the corporate governance system of the Joint-Stock Companies.

We can see that the stockholder community is attracting a wide range of investments from the stock market by increasing the number of its minor shareholders. The level of development of the world stock markets, especially the portfolio investment market, is determined precisely by the participation of a large number of minor shareholders. Since the package of shares owned by minor shareholders is very small, it will be difficult for them to defend their interests at general meetings, to enter a candidate for membership in the Supervisory Board of the JSC or the inspection commission. In particular, minor shareholders can not influence the laying down and resolution of the issue of dividends, which is important to them. Therefore, it is possible that the minor shareholders can only hope for an effective corporate governance system. Because, an effective corporate governance system will be aimed at adhering to the balance of interests of all parties. Therefore, a number of government decisions on strengthening the corporate governance system are being adopted in Uzbekistan. However, the fact that the number of minor shareholders in the Republic does not increase indicates that much work should be done in this area. Therefore, there is a need to theoretically study the effectiveness of management and control structures of joint stock companies of Uzbekistan, to find ways to introduce the necessary level of corporate governance practices in the activities of joint stock companies to ensure the protection of the rights and legitimate interests of minority shareholders.

Corporate governance represents and serves the interests of the corporation's shareholders. Therefore, the basis of corporate behavior should be based on respect for the rights and legitimate interests of the participants of the enterprise, to promote the effective functioning of society, including increasing the value of the company's assets, creating jobs, supporting the company's financial strength and competitiveness. For its formation, it is necessary to follow the principles of corporate behavior, which establish a mutually trusting relationship between shareholders related to the management of the company.

Corporate governance in the broadest sense - can be seen as a system of formal and informal relations of all persons involved (shareholders, managers, creditors, contractors, employees, government, etc.) involved in accordance with the concept of participants. Like other systems (regulation, management) there are elements in corporate governance, which can be divided into 3 groups: organizational-structural, normative-legal, functional. Accordingly, the protection of the rights and interests of minority shareholders should be normally strengthened, the organizational issues and procedures for the implementation of protection should be clearly defined, and the persons and positions responsible for their functional implementation should be clearly defined.

The principles of corporate behavior are generally expressed in the Principles of Corporate Governance of the Organization for Economic Co-operation and Development (OECD)¹. Although these principles do not emphasize the issue of minority shareholders:

1. Corporate conduct should enable shareholders to exercise their right to participate in the activities of the company.
2. Corporate conduct must ensure that shareholders owning equal amounts of shares of the same type (category) are treated equally. All shareholders must provide effective protection in the event of a violation of their rights.
3. Corporate behavior The board of directors must provide strategic guidance to the company and effective control over the activities of the executive bodies, as well as ensure that members of the board of directors are accountable to shareholders.
4. Corporate conduct must ensure that the executive body of the company is reasonable, honest and only in the interests of the company to effectively manage the current activities of the company and the accountability of the executive body to the board of directors and shareholders.
5. In order to ensure that the Company's shareholders and investors make sound decisions, corporate conduct must ensure the timely and complete disclosure of complete and reliable information about the Company, including its financial condition, economic performance, ownership and management structure.
6. In order to increase the value of the company's assets, shares and other securities, to create new jobs, corporate behavior should take into account the rights of stakeholders, including employees of the company, provided by law, encourage active cooperation between the company and stakeholders.
7. In order to protect the rights and legitimate interests of shareholders, corporate behavior must provide effective control over the financial and economic activities of the company, based on this methodological basis, we can interpret it for minority shareholders as follows.

In particular:

1. The regulations of the corporation must not only ensure the participation of minority shareholders in the activities of the company within their rights, but also create for them additional mechanisms of influence, such as the committee of minority shareholders.
2. In addition to ensuring equal treatment of shareholders owning an equal number of shares of the same type, it may be appropriate to quota at least one member of the representative body of minority shareholders in the corporate governance bodies.
3. The Supervisory Board of the JSC must include at least a representative of the minority shareholders who participates in the deliberative vote.
4. The committee of minority shareholders or another body representing their interests shall have the right to apply to the executive body of the company for clarification on certain issues.
5. In addition to the legally binding information on the activities of the JSC, the corporate governing bodies of the JSC must ensure the disclosure of additional information at the request of the body representing the interests of minority shareholders.

¹www.oecd.org.

6. The body representing the interests of minority shareholders should be given the opportunity to participate in the development of the annual business plan of the JSC.
7. In order to protect the rights and legitimate interests of minority shareholders, it may be expedient to ensure the participation of representatives of minority shareholders in the corporate control bodies overseeing the financial and economic activities of the JSC.

Modern management science distinguishes seven factors on which the effectiveness of a corporation depends on it and the core values of corporate governance: the structure, management system, style, personnel, professionalism, core values and strategy². Given the protection of the interests of minority shareholders, it is proposed to supplement this list with another factor: "balance of interests."

Shareholders are the owners of the Company's shares and have general rights with respect to the joint-stock company, compliance with and protection of these rights is the responsibility of the Board of Directors, the Management Board and the President of the Company. The main stages of the management process of joint-stock companies are shown in Figure 1.

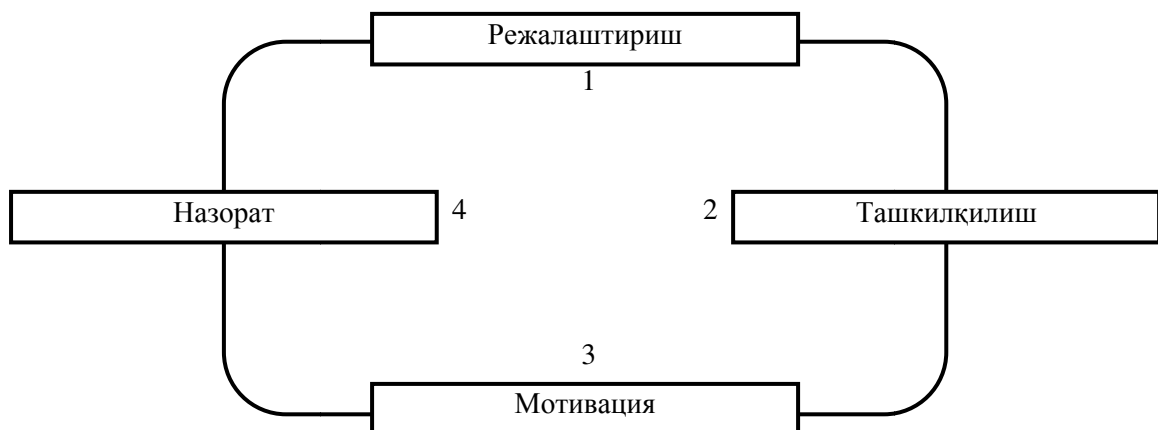


Figure 1. The main functions of managing the activities of a joint stock company³.

This figure shows all the features needed to manage a corporation, but such a leak has only been achieved in terms of corporate management. Given the presence of many stakeholders and the fundamental difference between corporate governance and corporate management, it may be appropriate to supplement this scheme with another concept: "communication".

Shareholders who are voting shareholders have the right to participate in the general meeting of shareholders with the right to vote on all issues within its competence. In order to properly observe and protect this right, the general meeting of shareholders should be held in such a way that the participation of shareholders in the general meeting should not be associated with inappropriate material and time costs for them, especially for minority shareholders. At the same time, the meeting should ensure that all shareholders are treated equally, and that full information is provided in a timely manner and to the extent that allows a reasonable decision to be made on all issues.

²А.С.Бегматов, М.Б.Хамидулин, М.Ш.Бўтабоев. Корпоратив маданият ва корпоратив бошқарув.- Т: «Академия» нашриёти, 2007 й., 224 б.

³Юлдашев Ш.Ф., Суёнов Д.Х., Хамидулин М.Б. Акциядорлик жамиятларида корпоратив бошқарув: Ўқув қўлланма. –Т.: «Академия», 2005.

Minority shareholders have the right to receive timely complete and objective information on:

- Large and interest-bearing transactions in the company,
- the occurrence of liabilities to third parties, the non-performance of which may lead to a decrease in the value of the company's shares,
- increase or decrease of the company's authorized capital. Shareholders have the right to participate in the decision-making on these transactions in the prescribed manner.

The purpose of applying corporate standards of conduct is to reach a compromise in protecting the interests of all shareholders, regardless of the number of shares held. To the extent that the protection of not only the rights but also the interests of shareholders is achieved, it can be hoped that joint-stock companies will receive a larger amount of investment, which will have a positive impact on the development of the real sector of the economy.

Effective protection of the interests of minority shareholders is difficult to ensure by law alone, as the legislation does not and cannot address all private and specific issues related to the management of the activities of the same JSC. This is because the legislation only sets general rules, and the legislation does not have the ability to change rapidly in line with changes in corporate governance practices.

In 2015, the Regulation "On the Procedure for the Activities of the Committee of Minority Shareholders in a Joint Stock Company" was approved in the Republic of Uzbekistan⁴. This Regulation is based on the Law of the Republic of Uzbekistan "On Joint Stock Companies and Protection of Shareholders' Rights" and the Regulations of the Cabinet of Ministers of the Republic of Uzbekistan dated August 7, 2019 No. 650 "On Capital Market Development Agency determines the order of activity of the committee of minority shareholders in the joint-stock company according to the resolution "About approval". This Regulation defines "minority shareholders - owners of shares whose participation and voting at the general meeting of shareholders does not affect the results of voting on issues on the agenda of the meeting."

This norm has been implemented by some joint stock companies. For example, the issue of the minority shareholders' committee of JSC "Gulistan extract oil" is included in the charter of the company⁵. According to the regulations⁶:

- In order to protect the rights and legitimate interests of minority shareholders, the company will establish a committee of minority shareholders, consisting of 3 members;
- In the election of members of the Minority Shareholders Committee shareholders present at the general meeting of shareholders and not nominated candidates to the Supervisory Board of the Company or not nominated to the Supervisory Board at the current general meeting of shareholders;
- The composition of the Committee of Minority Shareholders may not include the Chairman of the Management Board, members of the Management Board, as well as persons elected to the Supervisory Board and the Audit Commission of the Company.

⁴“Акциядорлик жамиятида миноритар акциядорлар кўмитасининг фаолият кўрсатиши тартиби тўғрисидаги” Низом. Ўзбекистон Республикаси Давлат рақобат кўмитаси ҳузуридаги Қимматли қоғозлар бозорини мувофиқлаштириш ва ривожлантириш маркази Бош директорининг 2015 йил 10 августдаги 2015-09-сон буйруғига Илова билан тасдиқланган.

⁵<http://gulistonyog.uz/korporativnoe-upravlenie/vnutrennie-dokumenty/ustav>.

⁶“Гулистон экстракт еғ” АЖ Низоми (Устави).

- The powers of the Committee of Minority Shareholders include: participate in the preparation of proposals on major transactions and agreements with affiliates submitted for consideration by the general meeting of shareholders or the company's supervisory board;

consideration of appeals of minority shareholders related to the protection of their rights and legitimate interests;

to submit appeals to the authorized state body for regulation of the securities market on protection of the rights and legitimate interests of minority shareholders.

Among the most significant contradictions that reduce the role of minority shareholders in the management of joint-stock companies are:

- A. the preservation of command-and-control methods of management of the economy (monopoly, etc.);
- B. the polarization of the population in a society that divides people into rich and poor as a result of improper privatization;
- C. the contradiction between the policy of economic liberalization and the poor social status of the majority of the population;
- D. the contradiction between the declared goals of economic reforms and the ways to achieve them;
- E. the backwardness of the institutional restructuring process with the establishment of new economic relations.

In world practice, the concept of minority shareholders and mechanisms to protect their interests are well studied. According to popular belief, corporate governance and regulation is practical experience and research on how to improve relationships between different stakeholders of a corporation. The key issue is to create a mechanism for outsiders (usually minority shareholders) to control insiders. British academic Paul Davies defines minority shareholders as “shareholders who do not have enough shares to ensure independent decision-making”⁷.

In the American reference literature, a minority shareholder is understood to be a minority shareholder who does not have the ability to control the management of the corporation with his or her shares or to elect its directors⁸.

Russian scholars define minority shareholders as shareholders who do not have enough shares in the controlling stake⁹. According to another approach, a minority shareholder is a shareholder who does not vote to prevent a particular decision from being made, or whose shares have a significant impact on the life of the company.¹⁰

In the Internet glossaries on corporate governance, a minority shareholder is defined as a shareholder whose shares are less than 50% of the charter capital¹¹.

⁷Paul Davies. Introduction to Company Law. – Oxford, 2010. – P. 216.

⁸Black's Law Dictionary / 6th ed. St. Paul. – Minn., 1990. – P. 997.

⁹Долинская В. В., Фалеев В. В. Миноритарные акционеры: статус, права и их осуществление. – М., 2010. – С. 65.

¹⁰Габов А. В., Забитов К. С. Роль Конституционного Суда в защите прав миноритарных акционеров //Закон. – 2012. – № 1. – С. 108.

¹¹URL: <http://www.corp-gov.ru/glossary.php3>.

There are three main ways to protect the rights of minority shareholders¹²:

- internal corporate (out of court);
- administrative (for violations in the securities market);
- through the courts.

There is a special conciliation commission to find a compromise between the minority shareholder and the joint-stock company in the internal corporate method. V.V. Dolinskaya distinguishes two types of internal corporate law enforcement¹³:

- independent action of a minority shareholder (for example, requiring the acquisition of its own shares);
- by compromise¹⁴.

On the example of the Russian Federation, the existing opportunities for minority shareholders to protect their rights and interests in the national legal system have been studied in detail by EV Solomonov¹⁵.

How important is the topic of this article for Uzbekistan? Does the minority group of shareholders in our country have a mass character as an electoral force? Maybe we have a minority number of minority shareholders, and this problem does not exist in Uzbekistan at all? We can turn to official statistics to determine this aspect of the issue. According to him, there are now more than nine hundred thousand shareholders in the country:

Table 1 General information on shareholders of JSCs of the Republic of Uzbekistan¹⁶.

	Number of Joint Stock Companies	Number of shareholders	Foreigners of them	Legal entities	Foreigners of them	Individuals	Foreigners of them	The average number of shareholders in a Joint Stock Company
2018	603	960 420	2 629	67 003	338	893 417	2 291	1 593
2019	593	957 363	2 964	66 873	327	890 490	2 637	1 614
2020	599	926 330	2 908	66 667	310	859 663	2 598	1 546

So what part of them can be considered a minority shareholder? As can be seen from Table 1, on average, one AJ has about one and a half thousand shareholders. That is, the shareholding that each shareholder can own is only 0.07 percent of the charter capital. This means that in the case

¹²Носов С. И. О защите прав акционеров // Законодательство. – 2001. – № 1. – С. 21.

¹³Долинская В. В. Акционерное право: основные положения и тенденции. – М., 2006.

¹⁴Долинская В. В. Понятие корпоративных конфликтов // Законы России: опыт, анализ, практика. – 2010. – № 6. – С. 8.

¹⁵Соломонов Е.В. Заўита прав миноритарнкх акционероў // Вестник Омского университета. Серия “Право”. 2015. №2 (43). С.153-156.

¹⁶Ўзбекистон Республикаси Давлат қимматли қоғозлар марказий депозитарийсининг маълумотларига биноан тузилган.

of Uzbekistan, shareholders make up a significant part of the population, and the decisive part of them in terms of numbers are minority shareholders.

For a more in-depth analysis of this aspect, let us consider the distribution of the number of shareholders in a Joint Stock Company (Figure 2). As can be seen from the picture, 599 Joint Stock Companies include:

- The number of shareholders in only 16 Joint Stock Companies exceeds 10,000,
- 122 Joint Stock Companies have from 10000 to 1000 shareholders,
- 303 The number of shareholders in a joint-stock company ranges from 1,000 to 100.

If we recognize a minority shareholder as a person who has a shareholding of not more than 1%, then the number of minority shareholders is very high in 441 joint stock companies (73.6% of the total number of joint stock companies).

Rather than using the total number of shareholders, a graph of the number of shareholders in a joint stock company, expressed as a percentage of the total number of shareholders, and made up of a growing total, may provide more interesting information. As can be seen from Figure 3, the first and second ten joint stock companies contain more than half of the number of shareholders in Uzbekistan. This means that the number of minority shareholders in the republic's joint-stock companies is very uneven.

The "record-breaker" in the number of shareholders In the first twelve of joint-stock companies are about 50% of total shareholders (Table 2):

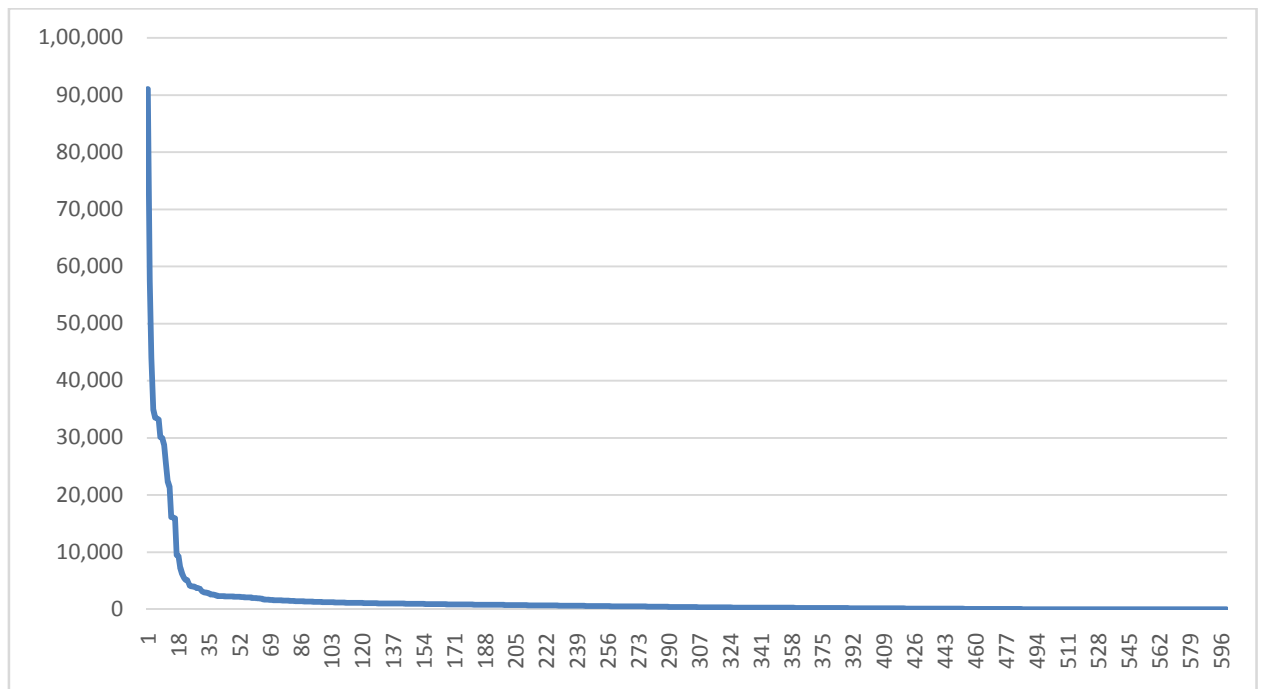


Figure 2. Distribution of the total number of shareholders in 599 JOINT STOCK COMPANIES as of the end of 2020. The first number is the largest number of shareholders, and the next number is the number of shareholders of the joint-stock

company in descending order¹⁷.

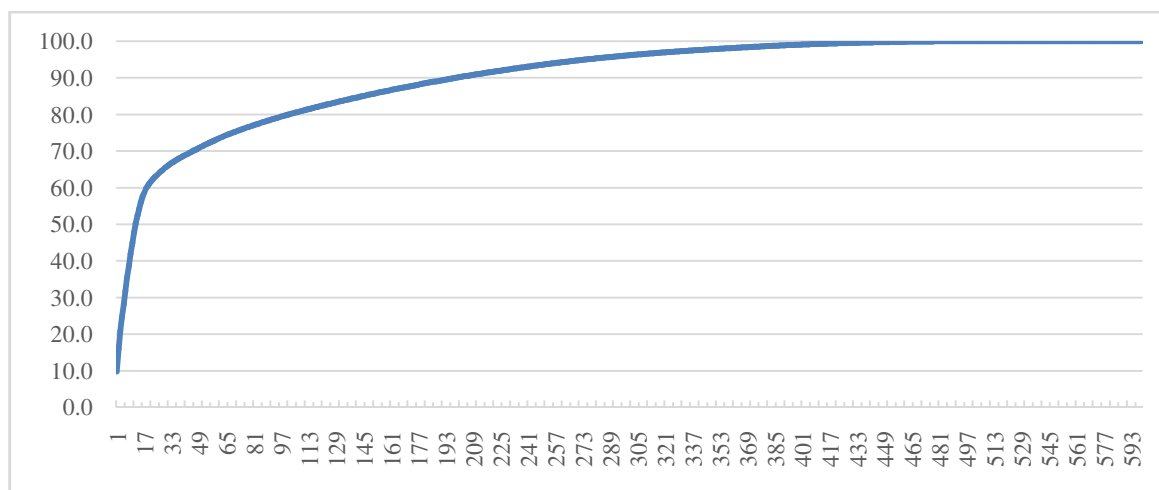


Figure 3. Distribution of the number of shareholders by 599 JOINT STOCK COMPANIES, expressed as a percentage of the total number of shareholders as of the end of 2020 and with a growing end¹⁸.

Table 2 The first twelve joint-stock companies with the largest number of shareholders in the Republic of Uzbekistan¹⁹.

NAME OF JOINT STOCK COMPANY	Number of shareholders	Share in the total number of shareholders	Share with a growing ending
Agrobank ATB	91 019	9,8	9,8
Uzbekneftegaz Joint Stock Company	57 503	6,2	16,0
Kamalak IF Joint Stock Company	44 053	4,8	20,8
Industrial and Construction Bank of Uzbekistan JSCB	34 973	3,8	24,6
Self-Railway Joint Stock Company	33 471	3,6	28,2
Tashkent Mechanical Plant Joint Stock Company	33 367	3,6	31,8
Mikrokreditbank ATB	33 165	3,6	35,4
Yolreftrans Joint Stock Company	30 111	3,3	38,6
Stone. passenger car. construction and repair. FACTORY Joint Stock Company	29 976	3,2	41,8
Uztemiryolkonteyner Joint Stock Company	28 752	3,1	45,0
O'zvagonta'mir Joint Stock Company	25 783	2,8	47,7
Almalyk Mining and Metallurgical Combine JOint Stock Company	22 409	2,4	50,2

¹⁷Ўзбекистон Республикаси Давлат қимматли қоғозлар марказий депозитарийсининг маълумотларига биноан тузилган.

¹⁸Ўзбекистон Республикаси Давлат қимматли қоғозлар марказий депозитарийсининг маълумотларига биноан тузилган.

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Total:	464 582	50,2	
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The first four of this list are a quarter of the total shareholders in the country: Agrobank JSCB - 9.8%, Uzbekneftegaz JSC - 6.25%, Kamalak IF JSC - 4.8% and Industrial and Construction Bank of Uzbekistan JSCB - 3.8%

Conclusions:

Based on the above considerations, the following conclusions can be drawn:

1. Minority shareholders have relatively few opportunities to protect their rights and interests.
2. As minority shareholders are an important group of investors in the portfolio investment market, the protection of their interests has a strong impact on the development of the national securities market.
3. The mechanisms provided by the current legislation weaken protection of interests of minority shareholders. Therefore, it may be appropriate to include in the legislation in the field of joint-stock companies rules that more strongly protect the interests of minority shareholders in the joint-stock company.
4. 2.7% of the total population of the Republic of Uzbekistan are shareholders and more than 99% of them are minority shareholders.
5. Joint Stock Companies In order to increase the capitalization of a joint-stock company, it is important to attract minority shareholders, and it may be expedient to introduce a large-scale joint-stock company of issuers such as JSCB "Agrobank".

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