
THE NON-COMPLIANCE PROVISIONS OF CORPORATE GOVERNANCE CODES: A CRITICAL ANALYSIS OF THE LAWS OF MAURITIUS AND THE UNITED KINGDOM

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Abstract: Corporate governance codes in Mauritius and the United Kingdom rely on explanation-based disclosure to preserve flexibility while promoting accountability, yet persistent concern remains over whether weak or boilerplate explanations undermine that objective. This article examines the legal and regulatory treatment of poor-quality explanations for non-compliance with corporate governance codes, with particular focus on the Mauritian apply-and-explain framework and the UK comply-or-explain regime. Using a doctrinal black-letter methodology and comparative legal analysis, the paper analyses governance codes, statutory provisions, listing rules, regulatory guidance, and selected practical case materials, including the Tesco and Carillion scandals in the United Kingdom. The study draws on primary legal sources, supporting doctrinal and governance scholarship to evaluate whether existing frameworks provide meaningful standards or sanctions for inadequate explanations. The findings show that both jurisdictions depend heavily on disclosure as an accountability mechanism, but neither provides sufficiently robust, explanation-specific oversight. In the United Kingdom, enforcement remains largely indirect and market-driven, while in Mauritius, broad regulatory powers exist, but visible enforcement directed at explanation quality is limited. The article concludes that explanation quality should be treated as a matter of legal accountability, and it recommends clearer evaluative benchmarks, more explicit supervisory scrutiny, and a stronger enforcement architecture to enhance transparency, investor confidence, and the credibility of explanation-based governance.

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Keywords: Corporate governance; explanation quality; comply-or-explain; apply-and-explain; enforcement.

1. Introduction

Corporate Governance (CG) encompasses the systems, mechanisms, processes, and institutional structures through which corporations are directed and controlled (The Corporate Governance Institute, 2026). Consistent with this perspective, both the UK Cadbury Report (1992) and the South African King Report (1994) define CG as the framework through which companies are directed and governed. Beyond firm-level control, CG can be conceptualised as the configuration of power relationships among organisational stakeholders, structured around the purpose of the organisation and the mechanisms through which organisational objectives are pursued and achieved (Aguilera & Ruiz-Castillo, 2025). Jurisdictions differ markedly in their approaches to the application and enforcement of CG principles. In the United Kingdom (UK), CG is characteristically underpinned by the "comply or explain" approach, which has remained a cornerstone of the governance framework (FRC, 2012) since the introduction of the Cadbury Report. The comply-or-explain approach is intended to encourage the adoption of best governance practices, while also providing flexibility for firms to diverge from specific code provisions if they offer reasoned and transparent explanations for such departures (Lotze et al., 2025; UK Corporate Governance Code, 2024).

Under this regime, firms are expected to comply with the provisions of the governance code. However, where compliance is not achieved, they must explicitly disclose the non-compliance and justify the reasons for such deviation (Keay, 2014). Importantly, the objective of the CG code is not to impose rigid uniformity or compel compliance irrespective of firm-specific circumstances. Rather, it acknowledges that deviations may be justified if companies offer credible and informative explanations (Keay, 2014). Providing explanations for non-compliance can function as an effective governance tool, meaning that these explanations do not just justify non-compliance but also convey information about governance choices (Lotze et al., 2025). Consequently, the quality and substance of explanations accompanying non-compliance are of critical importance. Despite this, assessing the effectiveness of the "comply or explain" mechanism remains challenging. There is limited public scrutiny of non-compliance and little systematic evidence as to whether explanations provided are adequate, meaningful, or informative. Moreover, the absence of comprehensive empirical statistics further constrains evaluations of the practical effectiveness of this governance model (Gupta & Verma, 2025).

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In contrast, Mauritius has adopted an “apply and explain” framework. This approach reflects a principles-based conception of CG in which governance practices are adapted to national economic, institutional, and sociological contexts, in line with Tricker's (2019) conceptualisation of context-sensitive governance. Under this regime, firms are required to apply the core principles of CG in a manner appropriate to their specific circumstances and explain how their governance practices give effect to these principles (Asplund, 2020). In contrast to comply-or-explain and apply-or-explain frameworks, the apply-and-explain approach presumes adherence to the underlying principles of the code while requiring firms to demonstrate how these principles are implemented in a manner that reflects the spirit of the code and achieves the intended governance outcomes (Grant Thornton, 2017). Notwithstanding these structural differences, both governance regimes rely fundamentally on the provision of explanations as a key accountability mechanism. The effectiveness of each approach ultimately depends not on formal compliance alone, but on the clarity, depth, and credibility of the explanations disclosed to stakeholders.

A critical component of contemporary CG frameworks is the emphasis placed on the quality of explanations provided by organisations when they depart from the provisions of governance codes. The quality of these explanations is therefore directly linked to accountability, particularly in jurisdictions where enforcement relies predominantly on disclosure, market discipline, and self-regulation rather than prescriptive legal sanctions (Seidl et al., 2013). Where explanations are vague, boilerplate, or strategically evasive, the integrity of governance frameworks may be undermined, reducing disclosure to a symbolic exercise rather than a meaningful accountability mechanism. In such circumstances, poor-quality explanations risk facilitating superficial compliance while concealing substantive governance weaknesses. This raises normative concerns regarding the credibility of governance codes and suggests the necessity of sanctioning mechanisms capable of discouraging perfunctory disclosures or deliberate obfuscation. Notwithstanding these concerns, governance codes grounded in the “comply or explain” tradition generally do not vest regulatory authorities with explicit powers to evaluate the adequacy or substantive quality of explanations provided by companies (Keay, 2014). As a result, enforcement often remains indirect, diffuse, and contingent on market reactions or reputational pressures.

Against this backdrop, the purpose of this research is to conduct a critical examination of the legal and regulatory frameworks governing sanctions for poor-quality explanations in cases of deviation from CG codes. The analysis focuses

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specifically on Mauritius and the UK, exploring the extent to which existing legal provisions, regulatory mechanisms, and judicial interpretations address deficiencies in explanatory disclosures. To achieve this research objective, the study adopts a black-letter research methodology, comprising an analysis of the relevant laws, regulations, guidelines, and practice notes on the subject matter. Thereafter, the comparative legal approach is adopted by comparing the laws of both Mauritius and the UK on the non-compliance provisions of the respective Codes of CG. The UK is selected for the comparison due to the historical ties that Mauritius has with the country, since at some point in time, Mauritius was under the reign of the British sovereign back in 1810. The UK CG system is also relevant for this study since a critical contrast can be made between the “comply or explain” approach as opposed to the “apply and explain” concept adopted by Mauritius.

Although both jurisdictions operate within explanation-based governance regimes, a significant gap persists in the literature concerning the regulatory consequences of inadequate explanations and the role of sanctions in reinforcing accountability. Prior research has largely focused on compliance behaviour and disclosure practices in CG reporting (Aluchna & Kuszewski, 2022; Lotze et al., 2025; Shrives & Brennan, 2015), whereas the legal and institutional responses to poor-quality explanations remain relatively underexamined in recent empirical research. This article makes an original contribution by shifting attention from general CG compliance toward the legal consequences of poor-quality explanations for non-compliance, an issue that remains underexplored in comparative CG scholarship. Its added value lies in examining explanation quality not merely as a matter of disclosure style, but as a question of legal accountability, enforcement design, and regulatory credibility. The scope of the research is limited to the legal and institutional frameworks governing explanation-based CG in Mauritius and the United Kingdom, with particular emphasis on the Mauritian Code of CG 2016 and the UK Code of CG 2024, together with the relevant statutory and listing rules that support these regimes. The article pursues three objectives: first, to identify the legal and regulatory mechanisms applicable to inadequate explanations in both jurisdictions; secondly, to assess the extent to which those mechanisms provide meaningful sanctions or oversight; and thirdly, to evaluate whether explanation-based governance frameworks are capable of promoting substantive accountability in practice. To achieve these aims, the article adopts a doctrinal and comparative legal methodology, supported by theoretical analysis and practical case illustrations. While the first part of the research has set out the background of the research, the objective and methods, the remaining

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sections of the paper are structured as follows: Part 2 reviews the relevant literature and sets out the theoretical framework. Part 3 examines the legal and regulatory frameworks of Mauritius and the United Kingdom. Part 4 provides a comparative analysis of both jurisdictions and advances recommendations for strengthening the implementation of CG principles. Part 5 concludes the article.

2. Literature Review

From an economic and agency-theoretic perspective, CG comprises the systems, mechanisms, and structures employed to control and direct firms (Aboagye & Otieku, 2010; Fama & Jensen, 1983; Jensen & Meckling, 1976). CG is increasingly discussed in legal scholarship as a framework linked to board accountability, risk management, stakeholder protection, and, in some contexts, minority shareholder protection (Ay, 2025; Richard, 2024). Monks and Minow (1995) characterise CG as the network of relationships among various actors who determine organisational direction and performance. Beyond firm-level efficiency, CG has also been framed as a broader societal mechanism through which business behaviour is regulated in the public interest (Parkinson, 2006). This normative dimension reflects the recognition that corporations operate within a wider social, legal, and economic environment, and that governance frameworks play a critical role in aligning corporate conduct with societal expectations.

The OECD (2004; 2015) further refines this understanding by defining CG as a set of relationships between a company's management, its board, its shareholders, and other stakeholders, emphasising principles such as equitable treatment of shareholders, recognition of stakeholder rights, transparency, disclosure, and the board's responsibility for strategic guidance and oversight. Complementing this view, the European Commission's Internal Market Directorate-General (2002) describes CG as the framework of laws, rules, and procedures that regulate relationships among owners, boards, senior management, and other decision-making participants. Contemporary governance scholarship, therefore, converges on the view that CG is inherently relational and multidimensional, requiring the balancing of competing interests among shareholders, management, customers, suppliers, creditors, regulators, and the wider community (Tricker, 2019). At its core, effective CG promotes accountability, transparency, and ethical behaviour, which are essential preconditions for long-term corporate sustainability, investor confidence, and economic stability (Tricker, 2019). Nevertheless, to achieve the positive elements of CG, a proper monitoring and reporting mechanism is imperative to ensure entities are in reality adopting the CG principles in the most appropriate and

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relevant manner. To this effect, CG reporting is categorised into the "apply and explain" approach or the "comply or explain" method.

2.1. The Reporting Mechanisms of CG

Disclosure obligations arising under explanation-based governance regimes are frequently characterised as a form of quasi-voluntary disclosure. Although firms are not legally compelled to comply with all provisions of governance codes, they are required to disclose their compliance status and provide explanations for any deviations (Andres & Theissen, 2008; Lotze et al., 2025). The "comply or explain" principle was first articulated by the Cadbury Committee in the UK as a mechanism for promoting high standards of CG while avoiding the rigidity of hard-law regulation and the inefficiencies associated with a "one-size-fits-all" approach (Seidl et al., 2013).

Under the comply-or-explain framework, governance codes are not legally binding. Instead, listed companies are required to publish an annual statement of compliance indicating the extent to which they have adhered to the code's provisions and, where applicable, to explain any departures. This approach reflects a regulatory philosophy that combines non-mandatory rules with mandatory disclosure, thereby seeking to harness market discipline and shareholder scrutiny as enforcement mechanisms (Andres & Theissen, 2008; Lotze et al., 2025). In its simplest form, the comply-or-explain principle requires firms either to comply with a prescribed governance recommendation or to provide a reasoned justification for non-compliance (Rose, 2016). Despite its widespread adoption, the comply-or-explain model has been criticised for permitting the provision of explanations that lack substantive content or are insufficiently justified (Aluchna & Kuszewski, 2022; Rose, 2016). In such cases, disclosure may become a formalistic exercise rather than a meaningful accountability mechanism, thereby weakening the effectiveness of the governance framework.

In contrast, jurisdictions adopting an "apply and explain" approach impose a more explicitly principle-based obligation on companies. Under this regime, firms are required not merely to state compliance or non-compliance, but to demonstrate how governance principles have been applied in light of their specific organisational circumstances and to justify the practices adopted (Asplund, 2020). Explanations under the apply-and-explain model are therefore not framed as admissions of deviation, but as elaborations that contextualise and substantiate the application of governance principles. For listed companies, both the UK comply-or-explain regime and the Mauritian apply-and-explain regime require that any deviation from the CG

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Code be accompanied by an explanation. Although expressed differently, both frameworks rely on disclosure-based accountability rather than mandatory compliance. This approach is intended to promote closer adherence to the spirit of the code and to encourage more thoughtful and tailored governance practices (Aluchna & Kuszewski, 2022; Institute of Directors Southern Africa, 2007). Notwithstanding these conceptual differences, both the comply-or-explain and apply-and-explain regimes share a common structural weakness. Neither framework is consistently supported by clearly defined disclosure obligations or evaluative standards specifying the content, quality, or adequacy of explanations. In the absence of such guidance, companies retain considerable discretion in how they apply governance provisions and articulate their explanations, potentially undermining transparency and accountability.

2.2. Issues with Explanation Quality

Principles-based CG frameworks, most notably the UK's "comply or explain" approach, are fundamentally dependent on disclosure and explanation as mechanisms of accountability. These frameworks afford companies a degree of flexibility in tailoring governance practices to firm-specific circumstances, while simultaneously requiring clear, substantive, and credible explanations where departures from code provisions occur (Seidl et al., 2013). The UK Financial Reporting Council (FRC) has consistently emphasised that explanations should be company-specific, relevant, and sufficiently detailed to enable informed evaluation by shareholders and other stakeholders (FRC, 2018). The effectiveness of the comply-or-explain model, therefore, hinges on the quality of explanatory disclosures, which are expected to be scrutinised by investors, regulators, and the market more broadly (Seidl et al., 2013).

High-quality explanations enhance transparency, foster trust, and allow stakeholders to assess whether deviations from governance norms are justified or indicative of governance weaknesses. Conversely, vague, generic, or poorly substantiated explanations undermine the legitimacy of explanation-based governance regimes and weaken stakeholder confidence in corporate disclosures (Arcot et al., 2010). Similar challenges arise in Mauritius, which has adopted a principles-based "apply and explain" framework that likewise emphasises disclosure. However, limitations in enforcement capacity and regulatory monitoring present persistent challenges in ensuring the adequacy, credibility, and consistency of explanations for non-compliance.

In the UK, monitoring and enforcement under the comply-or-explain regime have traditionally been characterised as "light-touch." The UK Financial Services

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Authority (FSA), in its former role as Listing Authority, retained enforcement powers where companies failed to provide a compliance statement in the prescribed form, including the power to impose financial penalties. Compliance with disclosure requirements was monitored through routine sampling of annual reports (FRC, 2012). Notwithstanding this oversight, the FSA explicitly refrained from assessing the substantive accuracy or adequacy of explanations provided by listed companies, viewing such judgments as the responsibility of directors and shareholders rather than the regulator (FRC, 2012). This position was reaffirmed by the FRC in the preamble to the 2006 Combined Code, which stated that the evaluation of compliance statements rests with shareholders and other market participants (FRC, 2006).

Although the comply-or-explain approach has achieved widespread acceptance and institutional legitimacy, concerns persist regarding weaknesses in its practical implementation. These weaknesses are particularly evident in the inconsistent quality of explanations and the limited effectiveness of shareholder monitoring in holding companies to account for inadequate disclosures (FRC, 2012). In response, the FRC (2021) has sought to clarify what constitutes a meaningful explanation, indicating that companies should provide a full and contextualised justification that includes an explanation of relevant background circumstances, a clear and reasoned rationale for the deviation, and a description of mitigating actions taken to address associated risks and ensure alignment with the underlying governance principle. The 2021 FRC guidance represented a significant step in articulating what constitutes a high-quality explanation, addressing concerns relating to boilerplate disclosures and inadequate justification. Building on this foundation, the UK CG Code 2024 and its accompanying guidance further embed these expectations within an outcomes-focused reporting framework. Although the 2024 reforms do not introduce statutory sanctions or a new formal standard for explanations, they strengthen the normative and market-based framework governing disclosure quality by integrating explanation requirements into broader governance narratives relating to accountability, risk management, and board effectiveness. However, despite this guidance, the decision as to whether and how such explanations are provided remains largely within the discretion of corporate directors, with limited direct regulatory intervention (Keay, 2014).

Although the comply-or-explain approach has attracted substantial support and institutional legitimacy, persistent weaknesses remain in its practical implementation. These weaknesses are most evident in the limited effectiveness of

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shareholder monitoring and the inconsistent quality and informational value of explanations provided for deviations from governance code provisions (FRC, 2012). Such deficiencies raise fundamental questions as to whether the effectiveness of the comply-or-explain principle could be enhanced through the introduction of formal monitoring and enforcement responsibilities vested in a regulatory authority. The absence of an oversight body exacerbates the inherent subjectivity embedded within explanation-based governance regimes. In the current framework, companies retain considerable discretion in determining both the substance and presentation of explanations, while the lack of enforceable standards permits considerable variation in disclosure quality. Although the UK FRC has issued guidance outlining the characteristics of a meaningful explanation, enforcement remains largely dependent on shareholder scrutiny, which is effective primarily in cases of repeated or high-profile governance failures (Seidl et al., 2013). This reliance on market-based enforcement is complicated by the growing influence of institutional investors and proxy advisory firms, whose role in shaping disclosure practices may not always align with broader governance objectives and can give rise to latent conflicts of interest (Ertimur et al., 2013; Gillan & Starks, 2003).

The subjectivity surrounding explanation quality constitutes a central challenge to the comply-or-explain regime. Directors may be incentivised to justify limited disclosure on the basis of cost considerations or perceived informational sensitivity (Hooghiemstra, 2012). While shareholders may recognise such constraints, they nevertheless have a legitimate interest in receiving sufficiently detailed and transparent explanations to assess governance effectiveness. Under the current system, boards largely determine what is disclosed and how it is framed, thereby circumscribing the scope of accountability. This discretion is problematic in the absence of shared benchmarks or commonly accepted criteria defining what constitutes an adequate explanation. Consequently, disclosure practices exhibit significant heterogeneity, with some firms providing detailed, context-specific justifications and others relying on generic or boilerplate language that conveys little substantive information (Arcot et al., 2010).

These concerns are not unique to the UK. Many European Union Member States, including the UK, lack a designated regulator or monitoring authority tasked with assessing compliance with governance codes or evaluating the adequacy of explanations for non-compliance (Keay, 2014). This regulatory vacuum invites consideration of whether the introduction of a supervisory body could improve the operation of explanation-based governance regimes. A regulator with limited oversight responsibilities could enhance disclosure quality by encouraging greater

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particularisation and discouraging the routine use of perfunctory explanations. Although regulatory oversight cannot guarantee the detection of all instances of inadequate disclosure, it is arguably better positioned than dispersed shareholders to identify systemic weaknesses and patterns of non-compliance.

2.3. The Importance of Legislation in Strengthening Effective Implementation of CG

The effectiveness of CG reforms is contingent upon the existence of robust legal, regulatory, and institutional infrastructures that market participants can credibly rely upon in structuring and enforcing private contractual arrangements (OECD, 2023). The CG literature increasingly acknowledges that market discipline alone is often inadequate to ensure meaningful investor protection, particularly in contexts characterised by institutional fragility, informational asymmetries, and less sophisticated capital market participants, thereby necessitating regulatory oversight and enforcement mechanisms (La Porta et al., 2000a, 2000b; Piotroski & Wong, 2012). Yet, the manner in which regulatory frameworks translate into substantive investor protection in developing economies remains ambiguous. While disclosure-based regulatory models are widely adopted in advanced markets, their effectiveness may be constrained in developing jurisdictions where resource limitations, weak monitoring incentives, and structural barriers inhibit stakeholders from effectively processing and acting upon public information disclosures (Bourveau et al., 2025). Consequently, jurisdictions seeking to advance CG principles must engage in continuous monitoring and refinement of their governance ecosystems, with the objective of strengthening market integrity, improving access to capital, promoting economic efficiency, and sustaining transparent and well-functioning capital markets (OECD, 2023).

In parallel, CG and legal compliance represent interdependent pillars of organisational legitimacy, sustainability, and long-term value creation in contemporary business environments (Wattoo, 2025). Legal compliance functions as the indispensable foundation upon which sound governance systems are constructed, encompassing adherence to an extensive range of binding requirements, including laws, regulatory obligations, licensing conditions, and industry standards imposed by public authorities and supervisory bodies (Wattoo, 2025). Without such compliance, governance structures become largely symbolic, operating within a framework devoid of enforceable legitimacy; conversely, compliance initiatives risk becoming narrowly procedural and strategically fragmented in the absence of governance mechanisms that provide ethical orientation, oversight, and institutional

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authority (Alobaidi et al., 2025). Consistent with this perspective, Roncato, Medeiros, and Lerner (2025) report empirical findings indicating that regulatory obligation positively influences both the adoption of CG practices and the quality of governance-related explanations. Taken together, these insights reinforce the proposition that governance and compliance are inextricably interlinked components of corporate integrity and resilience, where governance provides strategic direction, accountability structures, and leadership authority, while compliance delivers implementation capacity, regulatory assurance, and operational discipline (Wattoo, 2025). Viewed through this lens, governance without compliance is substantively hollow, and compliance without governance is organisationally vulnerable and directionless (Wattoo, 2025).

Furthermore, a well-developed governance model, anchored by an effective board of directors and committed senior management, plays a decisive role in establishing an organisational "tone at the top" that prioritises ethical conduct, lawful behaviour, and responsible decision-making (Wattoo, 2025). The failure to integrate strong governance with a rigorous compliance culture generates severe and multidimensional consequences. From a legal and regulatory standpoint, non-compliance may expose firms to significant sanctions, substantial financial penalties, and protracted litigation. For instance, breaches of competition law or financial reporting standards have been associated with sanctions reaching billions of dollars, alongside remedial interventions such as restrictions on operations or the forced divestiture of business units. Beyond direct monetary liabilities, compliance failures can inflict lasting damage on corporate reputation, undermining stakeholder trust, eroding brand equity, and reducing market competitiveness. Additionally, regulatory breaches may lead to the suspension or withdrawal of operational licences, disruptions in supply chain continuity, and heightened barriers to market access. From a governance perspective, such failures signal deficiencies in oversight, internal control, and accountability mechanisms, thereby triggering investor scepticism, diminishing market valuation, and increasing exposure to shareholder derivative actions against directors and officers for alleged breaches of fiduciary duties (Wattoo, 2025)

2.4. Theoretical Framework

2.4.1. Agency Theory

Agency theory offers a foundational framework for analysing CG arrangements and the regulatory treatment of disclosure and accountability. Jensen and Meckling (1976) conceptualise the agency relationship as a contractual arrangement in which one or more principals delegate decision-making authority to an agent, who is

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expected to act on their behalf. This separation of ownership and control gives rise to agency problems, primarily due to information asymmetry and divergent interests between principals and agents. There is a greater possibility that directors may exploit their position to advance personal interests that are inconsistent with those of shareholders, particularly where monitoring is weak or disclosure is inadequate (Richard, 2024).

CG mechanisms, including board oversight, monitoring structures, and disclosure requirements, are designed to mitigate these agency costs. From an agency-theoretic perspective, transparency and disclosure play a critical role in reducing information asymmetry and enabling principals to assess whether agents are acting in their best interests. The "comply or explain" and "apply and explain" approaches are closely aligned with this logic, as they rely on disclosure and explanation as tools through which shareholders can hold directors accountable for governance choices (Seidl et al., 2013).

Analysing the legal frameworks governing explanations for non-compliance is therefore particularly relevant to agency theory. Poor-quality explanations, characterised by vagueness, boilerplate language, or strategic omission, signal a potential failure of agents to act transparently and in good faith. Such deficiencies weaken the monitoring function of disclosure and exacerbate agency problems by obscuring governance risks and managerial opportunism. Legal and regulatory frameworks governing explanation quality, including enforcement mechanisms and sanctions, seek to realign managerial behaviour with shareholder interests by compelling meaningful, firm-specific explanations. The regulatory frameworks aim to reduce information asymmetry and ensure that deviations from governance norms are justified rather than concealed, thereby protecting principals from opportunistic behaviour by agents.

2.4.2. Institutional Theory

Institutional theory offers a complementary lens through which to examine corporate behaviour under explanation-based governance frameworks. Rooted in the work of DiMaggio and Powell (1983) and further developed by Mizruchi and Fein (1999), institutional theory emphasises the role of social norms, rules, and regulatory structures in shaping organisational conduct. Firms are viewed as operating within institutional environments that exert coercive, normative, and mimetic pressures, encouraging conformity as a strategy for legitimacy and survival.

Within the context of CG codes, institutional pressures may produce several behavioural responses. First, firms may feel compelled to comply fully with

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governance provisions to avoid scrutiny, thereby reducing the incidence of explanation altogether. DiMaggio and Powell (1983) suggest that periods of heightened uncertainty, such as the introduction or revision of governance codes, can trigger rapid isomorphic convergence, resulting in widespread formal compliance that may be more symbolic than substantive. Such behaviour risks undermining the foundational logic of the comply-or-explain model, particularly where compliance is driven by legitimacy concerns rather than genuine governance improvement (Oliver, 1991).

Second, institutional theory predicts that firms may engage in mimetic behaviour by replicating the non-compliance practices or explanations of peer organisations, especially where uncertainty exists regarding acceptable disclosure standards. In such circumstances, managers may copy explanations from other firms' reports or adopt standardised language perceived to be institutionally legitimate (DiMaggio & Powell, 1983). This tendency is amplified where firms lack clear guidance on how to formulate effective explanations, leading to the widespread use of boilerplate disclosures.

Third, the concept of decoupling further illuminates how firms may symbolically conform to governance expectations while maintaining divergent internal practices (Dillard et al., 2004; Meyer & Rowan, 1977). Decoupling occurs where formal disclosures, such as explanations for non-compliance, bear little relation to underlying organisational realities. This may take the form of explanations that are generic, partially truthful, or entirely disconnected from firm-specific conditions. In more extreme cases, firms may remain silent, failing altogether to provide explanations for non-compliance.

Institutional theory thus highlights how explanation-based governance regimes may inadvertently encourage symbolic conformity rather than substantive accountability. However, legal frameworks and enforcement mechanisms governing explanation quality serve to counteract these tendencies by reinforcing institutional norms and signaling that legitimacy is contingent upon credible, transparent disclosure. In jurisdictions such as Mauritius and the United Kingdom, CG codes establish shared expectations regarding acceptable governance behaviour. Regulatory scrutiny, reputational sanctions, and market penalties for inadequate explanations function as institutional constraints, discouraging imitation, decoupling, and superficial compliance.

2.4.3. Legitimacy Theory

Legitimacy theory provides a powerful explanatory framework for understanding why corporations are required to disclose governance information and justify

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deviations from accepted norms, including through mechanisms such as the “comply or explain” and “apply and explain” approaches. Maurer (1971) conceptualises legitimacy as the process through which organisations seek to justify their existence and actions before society, regulatory authorities, and other relevant audiences. Within this framework, organisational survival is contingent upon alignment with prevailing social values, norms, and expectations (DiMaggio & Powell, 1983).

In contemporary corporate environments, firms cannot operate in isolation from societal scrutiny. Transparency, therefore, becomes a critical mechanism through which firms demonstrate conformity with governance expectations. The annual report, in particular, is regarded as a highly credible medium for legitimacy-seeking disclosure, surpassing other forms of corporate communication due to its formal, audited, and regulated nature (Neu et al., 1998).

Legitimacy theory also explains the historical development and continued relevance of CG disclosure regimes. In the aftermath of major corporate scandals, firms adopted governance frameworks such as “comply or explain” as symbolic and substantive tools to restore confidence and reaffirm their legitimacy. By providing explanations for non-compliance, companies seek to signal that governance deviations are controlled, justified, and consistent with broader societal expectations. This legitimising function remains central today, as stakeholders increasingly demand transparency, ethical conduct, and accountability.

From this perspective, poor-quality or absent explanations for non-compliance threaten organisational legitimacy by creating perceptions of concealment, irresponsibility, or governance failure. Legal frameworks governing non-compliance explanations, therefore, play a critical role in sustaining the legitimacy of CG systems. By requiring firms to provide credible and reasoned justifications for deviations, and by sanctioning inadequate disclosure where necessary, regulators reinforce societal trust in governance arrangements and ensure that corporate legitimacy is maintained in the eyes of shareholders, regulators, and the wider public.

3. Legal Analysis and Discussion

3.1. Non-Compliance Legal Provisions on CG in Mauritius

The Mauritius Code of CG was first introduced in 2004 and has since undergone periodic revisions to reflect both international best practice and the evolving needs of the domestic market. The most recent iteration, issued by the National Committee on CG in 2016, adopts a principles-based “apply and explain” approach, underpinned by the core governance values of accountability, transparency, and sustainability.

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The Code applies broadly to listed companies, public interest entities, and certain categories of organisations, including state-owned enterprises, thereby extending its reach beyond the listed sector in recognition of Mauritius' economic structure and public interest considerations.

As in the UK, the "explain" component of the Mauritian apply-and-explain framework constitutes a central pillar of governance accountability. CG oversight in Mauritius is exercised primarily by the Financial Services Commission (FSC), which is mandated under the Financial Services Act 2007 to supervise compliance with CG standards among licensees operating in regulated sectors. The National Committee on CG is responsible for the development, revision, and promotion of the Code, ensuring that governance principles remain aligned with international norms while remaining sensitive to local institutional realities. The 2016 Code reflects Mauritius' strategic objective of positioning itself as a credible and well-regulated international financial centre within a relatively small market.

Under the apply-and-explain regime, regulated and listed entities are required to apply the governance principles set out in the Code and, where application is not possible, to provide a clear and reasoned explanation for any deviation. Such explanations are expected to articulate the rationale for non-compliance, identify the practical or structural constraints encountered, and demonstrate how the alternative arrangements remain consistent with the spirit of the Code. The Financial Services Act 2007, notably sections 7, 46, and 53, confers upon the FSC wide supervisory and enforcement powers, including the issuance of directions, warnings, public censures, administrative penalties, and, in serious cases, the suspension or revocation of licences where governance breaches threaten financial integrity or regulatory objectives.

CG obligations in Mauritius are further reinforced through the Financial Reporting Act 2004 (FRA). Section 39(3) of the FRA requires licensed auditors to report on the extent of compliance with the Code and to assess whether governance disclosures are consistent with statutory and regulatory requirements. Section 75 of the FRA further mandates Public Interest Entities (PIEs) to adhere to the National Code of CG, while section 79 of the FRA empowers regulators to impose financial penalties of up to one million Mauritian rupees and to require restatement of financial statements in cases of governance violations. The list of PIEs is mentioned in the First Schedule of the FRA, such as listed entities on the Stock Exchange of Mauritius, entities licensed by the FSC and Bank of Mauritius, among others. Oversight responsibilities are shared with the Mauritius FRC, whose statutory

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functions include monitoring compliance with reporting and disclosure obligations arising under the Code and related governance guidelines.

The Mauritius Code of CG (2016) is organised around eight interrelated principles designed to promote ethical leadership, organisational accountability, and sustainable value creation. The Code places the board at the centre of the governance system, emphasising effective governance structures, clear accountability lines, and robust oversight arrangements. It underscores the importance of board composition, independence, and competence, supported by transparent and merit-based appointment processes, as well as formalised director duties, performance evaluation, and remuneration practices aligned with long-term organisational interests.

The framework further integrates risk governance, disclosure integrity, and assurance functions as core governance pillars. It calls for comprehensive risk management and internal control systems, high-quality and balanced financial and non-financial reporting, and strong internal and external audit mechanisms to reinforce credibility and control effectiveness. The Code also highlights constructive engagement with shareholders and broader stakeholders, recognising that sustainable corporate performance and legitimacy depend on transparent communication, stakeholder responsiveness, and responsible corporate citizenship. The Companies Act 2001 provides the general corporate law framework governing directors' duties, reporting obligations, and corporate accountability in Mauritius. Section 221 requires annual reports to include a CG statement consistent with the FRA, while Section 143 codifies directors' duties to act in good faith and in the best interests of the company. These provisions imply that directors bear responsibility for explaining non-compliance with governance principles, such that inadequate or absent explanations may constitute a breach of fiduciary and care-based duties. Section 341 further criminalises contraventions of regulations made under the Act, imposing fines of up to Rs 200,000 for governance-related breaches, including deficiencies in reporting.

Listed companies are also subject to the Listing Rules of the Stock Exchange of Mauritius (SEM). Section 11.42C requires issuers to disclose compliance with the Code in their annual reports, while sections 3.1 and 3.5 empower the SEM to censure issuers, require corrective explanations, mandate public disclosure of breaches, refer matters to the FSC, and, in serious cases, suspend trading or delist securities with the approval of the Listing Executive Committee. These provisions create an additional layer of market-based enforcement designed to complement regulatory oversight.

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The Securities Act 2005 further strengthens the disclosure and enforcement architecture. It establishes the FSC as the regulator for non-banking financial services and securities markets, mandates transparency and fair-trading obligations, and authorises enforcement action for governance-related violations. Sections 13(2)(d), 20(1)(a), and 155 empower securities exchanges and the FSC to prescribe rules governing disclosure, disciplinary procedures, and sanctions, including requirements for annual reporting on CG practices. However, at present, there are no published rules issued by the FSC concerning the non-compliance sanctions of CG. Notwithstanding this comprehensive legal and regulatory framework, there remains a conspicuous absence of publicly documented cases in which Mauritian regulators have sanctioned listed companies specifically for failing to provide adequate explanations for non-compliance with CG principles. While empirical studies and regulatory reports have identified recurring deficiencies—such as inadequate disclosure of directors' remuneration or governance practices—these findings have not consistently translated into visible enforcement actions or published sanctions. This enforcement opacity suggests that, although formal powers exist, their application in relation to explanation quality may be limited or insufficiently transparent.

In practice, the Mauritius Code of CG continues to operate predominantly through soft-law mechanisms, with regulatory supervision and market discipline playing complementary roles. While both the Mauritius FRC and the FSC possess the authority to impose sanctions, including fines and licence revocation, resource constraints and the relatively small scale of the Mauritian market may restrict enforcement capacity. In contrast to the UK, where institutional investors are widely recognised as playing a significant CG monitoring role (Arcot et al., 2010; FRC, 2018), shareholder activism in Mauritius appears more limited (Beebeejaun and Koobloll, 2018; Beebeejaun and Bissessur, 2023; Beebeejaun, 2024), potentially reducing the disciplining effect of market forces.

3.2. Non-Compliance Legal Provisions on CG in the United Kingdom

The UK CG Code 2024, issued and periodically revised by the UK FRC, constitutes the central instrument of CG regulation in the UK. The Code applies to companies with a premium listing on the London Stock Exchange and provides the normative foundation of the UK's governance framework. It addresses core governance domains, including board leadership and purpose, division of responsibilities, board composition, succession and evaluation, audit, risk management and internal control, and executive remuneration. Particular emphasis is placed on the role of the board

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of directors in promoting long-term corporate success while safeguarding the interests of shareholders and other stakeholders (Tricker, 2019).

According to the UK CG Code 2024, explanations should set out the background to the departure; provide a clear rationale for the departure; explain the impact of the action taken; indicate when conformity is expected, if the departure is temporary; be clear and avoid boilerplate language, focusing on how governance practices contribute to long-term success. The UK CG Code 2024 continues the principles-based "comply or explain" regime and explicitly emphasises the importance of providing clear, contextual, and outcome-focused explanations for non-compliance as part of high-quality CG reporting. These expectations are embedded within Principle C and the Reporting provisions of the Code itself, reinforcing, though not legally mandating, higher standards for explanation quality. Originally introduced through the Cadbury Report in 1992, the Code has evolved in response to changing market conditions and governance challenges.

The most recent iteration, issued in 2024, reinforces principles of accountability, transparency, and sustainable value creation, while preserving the flexibility inherent in a principles-based regime. The Code operates through the "comply or explain" mechanism, under which companies are not legally required to adhere to every provision but must disclose their level of compliance and provide explanations for any departures. In the UK, the FRC does not have direct sanctioning powers over the substantive quality of CG disclosures; enforcement depends largely on market discipline, shareholder scrutiny, and reputational incentives, reflecting the soft-law nature of the comply-or-explain regime (Keay, 2014; OECD, 2023; Seidl et al., 2013). The UK Code of CG 2024 emphasizes that investors are expected to engage constructively with companies and enter into dialogue regarding any departures from recommended governance practices. The UK Code of CG 2024 2024 does not alter the foundational logic of the comply-or-explain system. The responsibility for disciplining departures from recommended practice continues to rest primarily with investors, through engagement and stewardship, as in earlier versions of the Code. This reliance has attracted sustained criticism, particularly on the grounds that the absence of coercive enforcement limits the FRC's ability to address persistently poor-quality explanations (Keay, 2014).

From a regulatory perspective, disclosure obligations are reinforced through statutory and listing requirements. Section 6.6.6 of the UK Listing Rules Instrument 2024 requires listed companies to disclose whether they have complied with all provisions of the UK CG Code and, where non-compliance occurs, to identify the

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relevant provisions and provide reasons for departure. This disclosure-based approach seeks to balance adaptability with accountability by allowing companies to tailor governance practices to their circumstances while maintaining comparability and transparency (Seidl et al., 2013). The integrity of this system, however, is contingent on the quality of explanations, as vague or superficial disclosures risk eroding trust and undermining accountability (Arcot et al., 2010). Statutory duties imposed under the Companies Act 2006 further contextualise directors' responsibilities in relation to governance disclosures. Section 414C requires quoted companies to include a CG statement within their annual reports, including an explanation of compliance with the Code. Directors are also subject to fiduciary and care-based duties under sections 172 and 174 of the Act. While these provisions do not explicitly mandate compliance with governance codes, failures to provide adequate explanations for non-compliance may, in certain circumstances, be interpreted as evidence of a breach of the duty to act in good faith, or the duty to exercise reasonable care, skill, and diligence—particularly where deficient disclosure obscures material governance risks.

Additional enforcement capacity exists under financial regulation. Section 91 of the Financial Services and Markets Act 2000 empowers the Financial Conduct Authority (FCA) to impose financial penalties for breaches of listing obligations, including failures related to transparency and disclosure. According to section 14.3.11 of the UK Listing Rules Instrument 2024, a listed company whose shares are admitted to trading on a regulated market is required to have due regard to its obligations under the Disclosure Requirements and Transparency Rules. Section 21.1.1 of the UK Listing Rules Instrument 2024, the FCA may also suspend or cancel the listing of securities where necessary to protect investors or ensure the orderly operation of markets. Recent legislative developments, including the Economic Crime and Corporate Transparency Act 2023, have further strengthened regulatory oversight by enhancing the investigatory and enforcement powers of Companies House and related authorities. Nevertheless, these mechanisms are not specifically directed at sanctioning poor-quality governance explanations, leaving enforcement largely indirect and fragmented.

Despite the sophisticated legal and regulatory architecture surrounding CG disclosure in the UK, the quality of explanations remains uneven. A persistent reliance on vague or boilerplate language continues to characterise non-compliance statements, reflecting the absence of a uniform and enforceable definition of what constitutes a "high-quality" explanation (Seidl et al., 2013). Despite the existence of a legal and regulatory framework governing explanations for non-compliance, the

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UK CG landscape continues to exhibit a persistent problem of low-quality disclosures, frequently characterised by vague, generic, or boilerplate language. In some jurisdictions, inadequate explanations may attract market-based sanctions, which operate through reputational mechanisms rather than formal legal enforcement. Such market discipline is particularly relevant for shareholders and institutional investors, who play a critical role in scrutinising governance disclosures and holding boards accountable. Where disclosures are deficient or misleading, firms may face reputational damage, a loss of investor confidence, and a consequent erosion of shareholder value (Arcot et al., 2010).

Legal Analysis through the Tesco and Carillion Scandals in the United Kingdom

The Tesco and Carillion scandals provide strong practical evidence of the structural weaknesses inherent in the United Kingdom's explanation-based CG regime. In both cases, serious failures in board oversight, internal controls, financial reporting, and risk management coexisted with formal governance disclosure practices, thereby exposing the limits of a framework that relies heavily on explanation without imposing a robust legal standard for assessing explanation quality. In Tesco, the overstatement of profits by approximately £263 million revealed substantial deficiencies in internal control and governance oversight, raising concerns under sections 172, 174, and potentially 175 of the Companies Act 2006 in relation to directors' duties to promote the success of the company, exercise reasonable care, skill, and diligence, and manage conflicts of interest appropriately. In Carillion, aggressive accounting practices, misleading financial guidance, weak risk management, and the continued approval of dividends and executive rewards despite growing financial distress pointed to possible breaches of sections 171, 172, 174, and 175 of the same Act. More broadly, both scandals demonstrate that formally compliant disclosure may coexist with serious substantive governance failure, particularly where explanations for non-compliance are absent, generic, or insufficiently informative. These cases, therefore, reinforce the argument that the effectiveness of the comply-or-explain model is significantly weakened where explanation quality is left largely to managerial discretion and where regulatory intervention remains indirect, fragmented, and reactive.

4. Comparative Study and Recommendations

4.1. Comparative Study

Comparative legal research refers to the systematic study of legal rules, institutions, and procedures, together with their practical operation in one or more legal systems

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or sub-systems, in order to conduct an objective assessment of similarities, differences, and their legal implications (Ali, 2020). This section provides a comparative analysis of the enforcement mechanisms governing explanations for non-compliance in Mauritius and the United Kingdom. To facilitate a clear and structured understanding of the similarities and differences between the two jurisdictions, Table 1 below presents a comparative synthesis of their respective governance frameworks, enforcement approaches, and institutional characteristics.

Table 1. Comparative Synthesis of Similarities and Differences in Enforcement of Non-Compliance Explanations (UK vs Mauritius)

Key Aspect	United Kingdom (UK)	Mauritius
Core similarity	Both jurisdictions rely on explanation-based CG frameworks.	Both jurisdictions rely on explanation-based CG frameworks
Governance approach	Comply-or-Explain model	Apply-and-Explain model
Primary enforcement mechanism	Market-driven enforcement (investors, voting, proxy advisors, reputational pressure)	Regulator-centred enforcement (FSC + Financial Reporting Council + statutory reporting framework)
Regulatory guidance on explanations	FRC provides detailed guidance requiring explanations to be clear, specific, and contextual	NCCG encourages meaningful explanations, but guidance is less structured on benchmarks for "adequacy."
Assessment of explanation adequacy	No statutory/external mechanism to judge explanation quality formally → high reliance on board discretion	No clear regulatory benchmark defining a "satisfactory explanation" → inconsistent enforcement and disclosure discretion
Deterrence effect	Reputational consequences exist, but tolerance of weak explanations persists.	Sanctions exist in law, but weak explanation quality is not strongly deterred in practice.
Role of shareholder activism	Stronger due to institutional investors and a developed capital market	Weaker and contested—shareholders may lack expertise/resources; enforcement through activism is limited
Regulatory sanctions available	Indirect sanctions possible (e.g., reputational damage; potential listing	More formal sanctions available, including fines and possible licence suspension; Section 79 of the

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	consequences under Listing Rules)	Financial Reporting Act allows penalties up to Rs 1 million
Institutional capacity	Higher monitoring ability due to mature institutions and a strong disclosure infrastructure	Constrained by resource limitations, small market size, and reduced monitoring capacity
Consistency of enforcement	Inconsistent due to the subjective interpretation of "high-quality" explanations	Inconsistent due to the absence of an evaluative framework and limited enforcement capacity
Overall enforcement culture	Reactive and often self-regulatory; strong reliance on market discipline	More rule-supported in theory, but practical enforcement is constrained by institutional and market realities

Source: Authors' Self-Generated.

As illustrated in Table 1, both jurisdictions adopt explanation-based governance frameworks, yet differ significantly in their enforcement structures, institutional capacity, and effectiveness in ensuring high-quality explanations. Both the UK and Mauritius have embraced principles-based CG frameworks premised on flexibility, proportionality, and firm-specific adaptation. Central to this shared philosophy is the recognition that rigid, prescriptive rules may not be suitable for all organisations, thereby necessitating reliance on explanations in instances of non-compliance (Seidl et al., 2013). However, despite this conceptual convergence, persistent deficiencies in the quality and enforcement of non-compliance explanations undermine the effectiveness and credibility of both regimes.

Essentially, the UK FRC has issued detailed guidance emphasizing that explanations for non-compliance should be clear, specific, and tailored to the company's particular circumstances (FRC, 2018). Despite regulatory guidance and enhanced expectations under the UK CG Code 2024 as well, explanations for non-compliance frequently lack several elements required for very high-quality disclosure. These include explicit board-level accountability, articulation of governance trade-offs, identification of alternative safeguards, evidence-based justification, forward-looking commitments, and consistent updating over time. Moreover, explanations often remain weakly connected to strategic outcomes and stakeholder impacts. The absence of any external or statutory mechanism for assessing explanation adequacy further entrenches reliance on director discretion and market discipline, leaving scope for symbolic or boilerplate compliance to persist. The comply-or-explain model operates within a mature regulatory environment characterised by

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sophisticated capital markets, strong institutional investor presence, and extensive disclosure infrastructure. Nevertheless, the effectiveness of the regime is frequently weakened by the subjectivity inherent in assessing what constitutes a "high-quality" explanation, resulting in inconsistent application and tolerance of boilerplate disclosures (Arcot et al., 2010; Keay, 2014). Consequently, the credibility of the comply-or-explain principle is undermined, particularly where formal compliance masks substantive governance weaknesses (Keay, 2014).

In Mauritius, the national code of CG has similarly encouraged companies to provide substantive and contextual explanations when departing from the Code, while also promoting proactive engagement with the practical dimensions of governance improvement. Despite these efforts, variability in explanation quality remains a persistent concern. As in the UK, the Mauritian framework relies predominantly on soft-law mechanisms, which prioritise flexibility and adaptability to firm-specific circumstances. Such an approach can foster shareholder engagement, reduce regulatory burdens, and support innovation and competitiveness. However, the absence of robust statutory enforcement mechanisms to address repeated poor-quality explanations significantly limits the deterrent effect of the regime.

While both jurisdictions rely on principles-based governance to promote responsiveness and innovation, their enforcement architectures diverge significantly. In the UK, enforcement is overwhelmingly market-driven, with institutional investors, proxy advisory firms, and shareholder voting serving as the primary mechanisms of accountability. Regulatory intervention is generally indirect, focusing on market integrity and reputational consequences, including potential suspension of listing rights under the Listing Rules. Although this self-regulatory model benefits from a strong culture of investor oversight, it remains vulnerable to pro-forma compliance and reactive enforcement (Keay, 2014).

By contrast, enforcement in Mauritius is more regulator-centered, with oversight exercised primarily by bodies such as the FSC and the Mauritius FRC. The Mauritian framework provides for structured sanctions, including fines and licence suspension, with section 79 of the FRA authorising penalties of up to one million rupees for non-compliance with reporting standards. Moreover, the apply-and-explain model requires companies to first apply governance principles before justifying deviations, arguably setting a higher formal threshold for compliance. However, the absence of clear regulatory benchmarks defining a "satisfactory explanation" in Mauritius weakens enforcement consistency and allows considerable discretion in disclosure practices. A more structured evaluative framework for explanation adequacy, coupled with targeted sanctions, would therefore enhance regulatory effectiveness.

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Institutional capacity further differentiates between the two systems. In Mauritius, enforcement is constrained by resource limitations, market size, and institutional capacity, which restrict the FSC's ability to conduct comprehensive monitoring across the corporate sector. Shareholder activism remains relatively underdeveloped, and market-based accountability mechanisms are limited. Although the FSC's mandate is broad, its capacity to enforce sanctions consistently is diminished when compared to its UK counterparts. These structural constraints are exacerbated by the relatively small size of the Mauritian corporate market, which limits reputational and market-based deterrence.

Cultural and economic contexts also play a significant role in shaping governance outcomes. The UK's CG framework has evolved within a highly developed financial system characterised by dispersed ownership, strong institutional investors, and a regulatory culture that prioritises shareholder rights and market transparency (Tricker, 2019). In contrast to more developed markets with dispersed ownership and active institutional oversight, the CG environment in Mauritius has been characterised in the literature by limited shareholder activism and minority investor engagement, reflecting contextual institutional features that may temper the enforcement of transparency and accountability (Beebeejaun and Koobloll, 2018; Beebeejaun and Bissessur, 2023). Directors may therefore face tension between adhering strictly to governance standards and maintaining established social and commercial relationships. These contextual factors, combined with resource constraints, hinder the development of a robust enforcement infrastructure.

4.2. Recommendations

The UK governance framework offers valuable lessons for Mauritius, particularly in relation to shareholder engagement and investor-led accountability. Institutional investors in the UK play an active role in monitoring governance disclosures and are more willing to challenge boards where companies fail to meet their governance obligations or broader economic responsibilities. This culture of engagement, underpinned by voting rights, dialogue with boards, and public opposition to poor governance practices, has strengthened the credibility of the comply-or-explain regime. Mauritius could benefit from fostering a similar culture by promoting capacity-building initiatives for institutional investors, enhancing investor education, and introducing mechanisms that encourage meaningful shareholder participation in governance processes (Keay, 2014). Furthermore, the UK's emphasis on the quality of explanations provides an important benchmark for reform. The UK FRC's guidance on what constitutes a meaningful explanation—namely, specificity,

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relevance, and contextual justification offers a practical framework that could be adapted to the Mauritian context. At present, Mauritius lacks standardised benchmarks or templates to guide explanation quality, resulting in considerable variability in disclosure practices. Adoption of minimum qualitative standards, informed by the UK experience, would enhance transparency and reduce reliance on generic or boilerplate explanations.

The UK's governance framework also benefits from a well-developed regulatory infrastructure that operates in close coordination with market participants. The UK FRC's ability to engage constructively with institutional investors, proxy advisory firms, and listed companies reinforces the effectiveness of soft-law governance without resorting to excessive regulatory intervention. While Mauritius operates under more constrained institutional and financial resources, incremental enhancement of regulatory capacity, tailored to the scale and complexity of its market, could significantly improve oversight of explanation quality. Strengthening Mauritius' CG framework may further be achieved through international cooperation and alignment with global best practices. Engagement with international standard-setting bodies, participation in cross-border regulatory networks, and adoption of internationally recognised governance benchmarks would enhance both regulatory credibility and market confidence. Such measures would complement domestic reforms aimed at improving shareholder engagement, regulatory effectiveness, and disclosure quality.

On the other side, in contrast to the UK's CG framework, which is predominantly oriented toward shareholder primacy, the Mauritian governance regime places comparatively greater emphasis on social and environmental considerations in the application of governance principles. The Mauritius Code of CG explicitly recognises the importance of corporate social responsibility and sustainable development, reflecting a broader understanding of corporate accountability that extends beyond narrow financial performance. This normative orientation positions Mauritius as an instructive reference point for jurisdictions seeking to address the growing global emphasis on sustainability and stakeholder inclusivity. While the UK has developed a robust governance framework grounded in accountability to shareholders, it may benefit from incorporating elements that more explicitly acknowledge social and environmental contexts as legitimate grounds for deviation from governance norms. Recognising contextual factors within non-compliance explanations can enhance the substantive quality of disclosures by discouraging symbolic or formulaic compliance and fostering more meaningful engagement with governance principles (Lotze et al., 2025; Seidl et al., 2013; Shrikes & Brennan,

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2015). By legitimising contextual justifications grounded in sustainability and societal impact, the UK's comply-or-explain framework could evolve toward a more nuanced and forward-looking model of governance accountability.

Moreover, the Mauritian business environment, characterised by relational governance, consensus-building, and collaborative decision-making, offers further insights for the UK. Although the UK governance framework is largely rule-oriented and market-driven, incorporating relational governance elements could foster a more inclusive approach to board decision-making. Such an approach may be particularly valuable in addressing complex governance challenges that require balancing the interests of diverse stakeholders, including employees, communities, and the environment (Mayer, 2018; OECD, 2023). A relational governance culture, grounded in trust, reputation, and contextual judgement, has the potential to improve the quality and credibility of non-compliance explanations. Rather than functioning as defensive or compliance-driven disclosures, explanations could be reframed as genuine governance communications that articulate how deviations serve the long-term interests of both the firm and its stakeholders. In this respect, Mauritius demonstrates that embedding relational and sustainability-oriented considerations within CG frameworks can strengthen substantive accountability while maintaining flexibility. Accordingly, the UK may draw valuable lessons from the Mauritian experience by integrating social and environmental considerations and relational governance practices into its existing framework. Such an evolution would not undermine the principles-based nature of the comply-or-explain regime; rather, it would enhance its legitimacy, responsiveness, and capacity to address contemporary governance challenges in an increasingly complex and stakeholder-oriented corporate environment.

5. Conclusions

This article has critically examined the legal and regulatory treatment of poor-quality explanations for non-compliance with CG codes in Mauritius and the United Kingdom. Its principal added value lies in reframing explanation quality as a matter of legal accountability rather than merely a question of disclosure style or reporting preference. While existing scholarship has often focused on compliance rates and disclosure practices, this article has shown that a more important issue lies in the absence of effective mechanisms to assess and sanction explanations that are vague, boilerplate, evasive, or substantively weak. Through doctrinal analysis, theoretical discussion, and practical case illustrations, the article demonstrates that both the

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Mauritian apply-and-explain framework and the UK comply-or-explain regime remain vulnerable to symbolic compliance where explanation quality is not subject to meaningful oversight.

The comparative study developed in this article may also be relevant to other jurisdictions that rely on explanation-based governance regimes. Many countries have adopted principles-based CG systems that permit flexibility while relying on disclosure as the principal mechanism of accountability. The challenges identified in Mauritius and the United Kingdom, such as weak evaluative standards, indirect enforcement, and an overreliance on market discipline, are therefore not unique. As such, the findings of this article may assist regulators, scholars, and policymakers in other jurisdictions seeking to strengthen the credibility and effectiveness of soft-law governance frameworks.

Notwithstanding its contributions, the research is subject to certain limitations. First, the doctrinal approach adopted in this article focuses primarily on legal texts, regulatory structures, and governance frameworks, and therefore does not provide empirical evidence on how investors, regulators, or firms actually interpret explanation quality in practice. Secondly, while the Tesco and Carillion scandals offer valuable practical illustrations, they are UK-based case studies and cannot alone represent the full range of governance failures that may arise in smaller or differently structured markets such as Mauritius. Thirdly, the study is limited to two jurisdictions and does not extend to a wider global sample of apply-and-explain or comply-or-explain systems. These limitations suggest that future research should combine doctrinal analysis with empirical investigation, including interviews, content analysis, or comparative enforcement data, in order to test more directly how explanation quality is monitored and how it affects governance outcomes.

The impact of this research on the law community lies in its attempt to bridge CG scholarship and legal accountability analysis. It contributes to legal debates by showing that explanation quality should not remain an under-theorised soft-law concern, but should be treated as a regulatory issue with implications for investor protection, board accountability, market confidence, and the legitimacy of governance systems. More broadly, the article encourages legal scholars and regulators to reconsider whether explanation-based governance can remain credible without clearer standards of adequacy and more visible forms of oversight. In doing so, it opens a path for further scholarship on the relationship between disclosure quality, enforcement, and CG law in both developed and developing jurisdictions.

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6. Recommendations and Future Research Directions

Building on these findings, the study advances several recommendations aimed at strengthening the effectiveness of explanation-based CG regimes. Both jurisdictions would benefit from the articulation of clearer qualitative benchmarks defining what constitutes an adequate or high-quality explanation. While such benchmarks need not be legally binding, their formalisation, through regulatory guidance, illustrative templates, or best-practice exemplars, would reduce interpretive ambiguity and discourage perfunctory disclosures. In Mauritius, adapting the UK FRC's guidance on explanation quality to local institutional realities could enhance consistency and comparability of governance reporting.

Moreover, the study argues for a more explicit, albeit proportionate, role for regulators in monitoring explanation quality. This need not entail full substantive adjudication of governance choices, but rather a limited oversight function focused on identifying persistent patterns of boilerplate disclosure or manifestly inadequate explanations. Even modest supervisory intervention, such as public feedback letters or thematic reviews, could strengthen accountability without undermining the flexibility inherent in principles-based governance.

Additionally, enhancing shareholder engagement remains critical. Mauritius, in particular, could benefit from capacity-building initiatives aimed at empowering institutional and minority shareholders to scrutinise governance disclosures more effectively. Conversely, the UK may draw lessons from the Mauritian emphasis on sustainability and relational governance by more explicitly recognising social and environmental context as legitimate elements of non-compliance explanations, thereby enriching the substantive quality of disclosure.

In terms of future research, several avenues warrant exploration. Empirical studies examining the relationship between explanation quality and firm-level outcomes, such as market valuation, investor trust, or long-term performance, would provide valuable evidence on the practical consequences of disclosure quality. Further comparative research extending beyond Mauritius and the UK to include other apply-and-explain or comply-or-explain jurisdictions could deepen understanding of how institutional context shapes enforcement effectiveness. Finally, qualitative analyses of regulatory decision-making and board-level disclosure practices would offer important insights into the behavioural dynamics underpinning explanation-based governance. Collectively, such research would contribute to the refinement of CG frameworks that balance flexibility with meaningful accountability in an increasingly complex corporate environment.

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