

Calling all company secretaries and directors of London Stock Exchange listed companies – does your upcoming annual report and accounts implement the FRC's guidance on reporting non-compliance with UK Corporate Governance Code provisions?

The FRC issued its annual review of corporate governance reporting in November 2024, which highlighted a number of areas for improvement. This post focuses on the FRC's comments with respect to UK Corporate Governance Code ("Code") compliance.

Comply or explain

The FRC noted that despite previously defining what makes a good explanation for non-compliance with provisions of the Code, they saw the following examples of poor practice by companies during the year:

- Did not explain non-compliance.
- Provided an explanation for one of the provisions they did not comply with but no explanation for non-compliance with others.
- Acknowledged non-compliance and said that it had been rectified or would be rectified but did not explain the reasons behind it.
- Explanations were vague and lacked clear rationale as to why the company did not comply with the provision.
- It was difficult to determine how the departure from the provision was in the company's interests.

In its "Improving the quality of comply or explain reporting" the FRC stated explanations for non-compliance with a provision should:

- Set the context and background.
- Give a convincing rationale for the approach being taken.
- Consider any risks and describe mitigating actions.
- Set out when the company intends to comply.
- Explanations should be understandable and persuasive.

Period of non-compliance

The listing rules require companies to explain the period within which, if any, it did not comply with some or all of the provisions of the Code.

If a company has not complied with a provision it should:

- State the period it was not compliant.
- Give an indication as to when and under what circumstances the company will comply with the provision; or
- If non-compliance will be indefinite, state this when explaining the reasons.

Next steps for company secretaries and directors:

- Has the company's compliance with the provisions of the Code been mapped out and is it clear which provisions (if any) the company does not comply?
- Does the compliance statement in the annual report and accounts confirming the principles of the Code have been applied, clearly detail which provisions (if any) the company does not comply?
- Do the explanations given for non-compliance with a provision contain the different pieces of information as recommended by the FRC?

- Do the explanations for non-compliance with a provision clearly state the period of non-compliance and if compliance will be achieved in the near future or if non-compliance will be indefinite?

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