# THE LONG VIEW

CRAIG BORTHWICK
Short selling and Tiger Global

> "WHILE SHORT SELLERS MIGHT HAVE BEEN A CATALYST TO A NUMBER OF COMPANIES' SHARE PRICES FALLING SUBSTANTIALLY, THE MORE LIKELY CAUSE OF THE FALL IN VALUE WAS POOR MANAGEMENT AND FINANCIAL IMPRUDENCE"

Tiger Global attracted attention recently for its short selling of various European stocks, including Nokia, Quindell and HMV.

Pursuant to EU legislation, investors are required to notify national regulators if a net short position exceeds 0.2% of the issued share capital of a company, with the relevant regulator making such disclosure public if the net position exceeds 0.5%. Disclosure was made in compliance with these rules.

However, particular attention was paid to the manner in which those short positions were held. Tiger funds held these positions through offshore companies which it beneficially owned, meaning that its beneficial ownership did not need to be disclosed. This caused some contestation and it is hard to understand why.

Is short selling wrong? Did the anonymity of these holdings cause the companies' share prices to fall? If the answer to either of these questions was yes, there would be good reason to question Tiger's conduct in structuring these trades. For those who understand how short selling works, the answer would be a resounding no. Given the (relatively) significant attention these trades received, perhaps short selling is still misunderstood.

Advocates of short selling have long argued the significant and beneficial role short sellers have to play in financial markets both in terms of providing liquidity and helping the price of stocks more accurately reflect their true values. To emphasise the latter point, if a stock is overvalued, it is less likely to be brought to its correct value if the choice is simply between buying the stock or choosing not to buy it. It follows that markets are more likely to be efficient and less prone to bubbles if short selling is widely practised. Part of the problem is that short selling is still largely only practised by hedge funds.

During the financial crisis of 2007-2008, a number of companies (in particular financial institutions) claimed to be victims of hedge funds' shorting. In fact, while short sellers might have been a catalyst to a number of companies' share prices falling substantially, the more likely cause of the fall in value was poor management and financial imprudence.

A common misconception is that short sellers collude to bring down the value of a company's share price. This practice amounts to market abuse and is not the proper business of a hedge fund manager. Market abuse is not synonymous with short selling and it is just as likely (perhaps more likely) to affect long holdings of shares.

Turning to the anonymity of the short holdings, this is also justifiable, particularly in Tiger's case. Disclosure by well-known and successful hedge funds would likely attract attention, making it harder to establish a large short position due to crowded markets driving up borrowing costs. It should not be forgotten that Tiger is one of the most successful hedge funds of all time; disclosure would likely lead to others attempting to copy its investment strategy. Tiger might consider privacy as merely a way of protecting its proprietary rights.

It is understood that some EU MEPs are encouraging rule makers to consider closing what they consider to be a loophole in the rules on disclosure. It is hard to see what impact such a change to the rules would have (other than serving to disclose an investment manager's investment strategy).

If it is concluded that short selling is a positive market practice and that the anonymity of Tiger's holdings was not detrimental to the companies' share price, perhaps the focus on Tiger's short selling has just served to underline how badly it is misunderstood. Perhaps it is time the industry and regulators did more to emphasise the importance of short selling in increasing market efficiency. ■

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# THE SHORT VIEW

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This week saw the FCA revamp its registration platform for new funds, service providers and approved persons.

With the existing ONA platform switched off on 1 December, all firms now need to use the regulator's enhanced Connect system to complete applications, registrations and passporting requests.

The move to streamline processes and improve user functionality – Connect offers greater search and permission access and will be available 24/7 – is part of a much wider push to improve its technology systems.

On 20 October, its Gabriel platform launched Annex IV submissions, with the system being modified from its previous incarnations.

Although criticised for a lack of clarity and certain functionality issues, the platform is seen as a useful aid by many, with Indos Financial's Bill Prew telling *HFMWeek*: "I've heard it is a bit of a disaster zone in many other EU countries, so I think the FCA has done its best."

The Gabriel system update cost £1.22m ($1.92m), a Freedom of Information request from *HFMWeek* has revealed.

In its 2014-2015 business plan, the regulator said expenditure on IT infrastructure will jump from £15m ($24m) in 2013/14 to £22.6m ($36m) for this financial year. Coupled with its spend on IT systems development, total IT spend by the regulator is expected to exceed £44m ($69m) for 2014/15.

The FCA is also starting to show more interest in cyber-security, appointing its first ever chief information security officer in September. As fund managers take a growing interest in front- and back-office technologies and service providers face pressure to evolve their offerings, it is welcome to see the UK regulator following suit. ■