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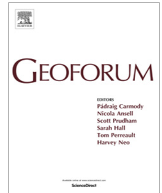

The scale effects of financialization: The Fair Credit Reporting Act and the production of financial space and subjects

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ABSTRACT

This paper excavates recent legislative efforts to construct a national space for the purchase and sale of consumer credit risk in the United States. During the mid-1990s and early 2000s the Fair Credit Reporting Act (FCRA 1970) was amended several times in an effort to produce a national space in which consumer credit risk could be priced in "place-free" terms. This effort to produce a national consumer credit space provides insight into several extant and emerging issues in financial geography. First, the recent history of FCRA shows how the (re)production of financial relations at a national level can reshape financial relations at other scalar levels, and vice versa. Second, it reveals that processes of financial subject formation are more closely tied to the production and reproduction of geographical scale than has been previously demonstrated. Finally, I argue that the rescaling(s) that have attended the amendment of FCRA have reworked the relationship between individuals and their virtual financial selves (i.e. credit reports and scores) in ways that have created new tensions, contradictions and sites of struggle in the nascent post-crisis politics of financialization.

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Introduction

Since roughly the mid 1990s, geographers have been concerned with the role of financial products and logics in shaping broader social patterns of exclusion and privilege (Leyshon and Thrift, 1995; Kempson and Whyly, 1999; Dymski, 2006, 2009; Kear, 2013). This research covers a broad and growing terrain, exposing exclusionary patterns of bank branch divestment (Pollard, 1996), the predatory landscapes of "fringe" financial institutions (Graves, 2003), the uneven geography of foreclosure (Wyly et al., 2012), as well as the role of credit reporting and scoring technologies in structuring these patterns of uneven development (Leyshon and Thrift, 1999; Marron, 2007, 2009; Ashton, 2011). These developments have all unfolded against the backdrop of national, mass-market spaces of credit consumption and risk pricing; however, work on financial exclusion, and industry deployments of profit- and risk-scoring technologies have somewhat overlooked the production of the spaces in which such activities and processes unfold. This paper brings the production of financial space to the fore, excavating the legislative efforts, and underlying political-economic rationales, that have created the institutional conditions necessary for the emergence of a national market in consumer credit risk in the United States.

To this end, the paper explores the coproduction of financial and geographical scale using the recent legislative history of the Fair Credit Reporting Act (FCRA, 1970). In the mid 1990s, FCRA was amended several times, preempting state law and progressively concentrating regulatory sovereignty over US consumer credit markets in federal hands. Geographically, what marks out these FCRA amendments from broader trends in financial regulation toward the "upscaling" of regulatory sovereignty is their role in reconfiguring financial relations at and across scalar levels, and in catalyzing mutations in the governmental function of the key market devices (Callon, 2006; Poon, 2009) of credit reports and scores. The FCRA amendments, justified in the name of national consumer credit reporting standards, were underpinned by a belief in efficient markets and aspired to produce conditions conducive to the performance of the "law of one price" (LOP) in consumer credit markets; that is, to create a space in which consumer credit risk could be priced in "place-free" terms. While this geographical mission in the service of financial market efficiency is arguably an impossible one, the effort to realize the LOP has been productive of important new geographical and financial relations. Through a sequence of contingent events, efforts to create and maintain national uniform consumer credit reporting standards have remade individual financial practices, processes of financial

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subject formation and, more recently, the efforts of municipalities to produce financially "self-sufficient" citizens.

The paper begins with a reflection on the relationship between financial scale and the genesis of FCRA as response to new social claims to financial rights and emerging accumulation crises in the 1970s. The following section gleans insight into the coproduction of geographical and financial scale using the recent work of financial geographers. The next three sections constitute the empirical core of the paper, and provide an account of recent legislative changes to FCRA and their role in reconfiguring spatial and financial relations across scales. The paper closes with a discussion of the novel political dynamics produced by tensions between traditional, creditor-centered uses of credit-scoring technologies and more recent policy applications, which envision risk scores as a means of behavior modification and borrower-led "self-improvement".

Scale, rights and finance

In 1968, when Senator William Proxmire introduced "A Bill to Protect Consumers Against Arbitrary Or Erroneous Credit Ratings, And The Unwarranted Publication of Credit Information," the volume of consumer debt circulating in the United States was approximately $100 billion. While $100 billion is a small fraction of the $2.8 trillion in consumer debt that keeps the US economy idling today, it was a large enough sum to convince renown legal and privacy scholar Arthur R. Miller to argue before Congress that consumer credit had become such a "commonplace" and "basic aspect of contemporary financial life" that "to constrict [its] flow would, for many Americans, have the effect of choking off significant aspects of their economic existence and deprive them of many of the amenities of modern life" (US House, 1970: 185). In Miller's estimation, the size of the consumer credit industry had crossed a line beyond which it "no longer [could] be permitted to hide behind that conclusory epithet that credit is a 'privilege' and not a 'right,' which it [had] employed so successfully in the past to justify extracting large quantities of personal information from credit seekers and using it for their own commercial purposes..." (US House, 1970: 185).

In Miller's telling, then, financial scale is marked by thresholds at which quantitative changes take on special qualitative (social and political) significance. Instead of a liquid turning to vapor, Miller described a socio-financial change of state where the volume of consumer debt expands, dollar by dollar until "privilege" sublimates into "right". A similar understanding of the relationship between quality and quantity is implicit in many contemporary accounts of financialization. Whenever profit shares (Brenner, 2000; Arrighi, 2009; Krippner, 2005, 2011), debt loads (Palley, 2007), or other quantitative indicators are employed as evidence of financialization, tacit assumptions are being made about the nature of financial scale, and the thresholds at which (as well as mechanisms through which), quantitative change is manifested qualitatively as changes in financial motives, markets, actors and institutions (Epstein, 2005: 3). In other words, financialization is not merely a process in which finance grows in new places, in new ways or for new reasons; it is necessarily a growth process that transgresses thresholds – socially-constructed boundaries where financial relations take on new qualitative significance.

Miller also highlights the intersection of personal information with the process of financialization and the production of financial scale. The imperfect flow of information across space and time, the hard-to-appraise intentions of borrowers, and moral restrictions on the pricing of risk (i.e. sanctions against usury) have long been framed as barriers to the extension of credit to certain populations and the expansion of creditor-debtor relations. Put another way, the size of credit markets, in both monetary and spatial terms, has long been limited, to varying degrees, by lenders' access to information about borrowers, and restrictions on the uses of that information. This information dependence means that the supply of consumer credit can expand to meet demand only as far as information is allowed to flow and risk can be priced. As Leyshon and Thrift (1999) presciently argued, the codification of once tacit, site-specific (branch-specific) knowledge in the form of credit scores has had profound implications for the spatiality of information asymmetries as well as patterns of financial inclusion and exclusion.

In the late 1960s and early 1970s "powerful forces generated by our rapidly changing society", to borrow Miller's phrasing, made the diminution of such limitations on the flow of credit information an objective of the state and capital for a variety of reasons. New forms of social claims-making, and demands to "Give Us Credit for Being American" (Kornbluh, 2007; Clapovitz, 1967) made access to consumer credit into a civil rights issue at the same time as stagflation and growing international competition threatened the mass consumption that underpinned the Fordist class compromise. The expansion of consumer credit markets offered a way to keep the consumption engine going at a time of economic uncertainty and the emerging fiscal crisis of the state. The promise of expanded consumer credit markets also neatly circumvented demands for new social rights. In place of a "right" to credit, Americans were offered new consumer protections to mitigate the credit industry's most egregious and discriminatory practices. Instead of new financial rights, Americans got a sophisticated apparatus for the collection and distribution of consumer information that promised to both expand liquidity and allocate it with scientific impartiality.

Social claims to credit and macroeconomic pressures gave unprecedented urgency to efforts to make credit decisions everywhere instantly, and for everyone. Only if credit decisions could be made "wherever a consumer might appear to transact business", "virtually upon request," for "masses of [new] customers" (Miller testimony, US House, 1970: 185), would consumer credit be able to substitute for consumption-sapping precautionary cash savings and more substantive claims to social rights. In 1970, however, as Miller emphasized in his testimony, the legal and technical infrastructure needed implement such a credit "fix" only existed in inchoate form.

FCRA was part of a suite of financial consumer protection legislation passed in the early 1970s to realize the aspiration of a national, impartial, accurate, profitable and accessible system of consumer credit that could help mollify consumer-protection and civil-rights activists while stimulating effective demand. Building this national consumer credit space has turned out to be a never-quite-finished process. Viewed through the history of FCRA, this process demonstrates the coproduction of financial and geographical scale. This history provides a case study in the reconfiguration of financial and geographical relations across scalar levels, from the nation all the way down to the body. Indeed, by shifting responsibility for the accuracy of credit information onto the shoulders of individuals, recent amendments to FCRA have made the US credit reporting system increasingly dependent on the collective performance of prescribed financial subjectivities and processes of financial subjectivization (making oneself into a certain type of subject) and subjectification (being made into a certain type of subject) (Arthur, 2011: 155; Hamann, 2009).

By imagining that consumer credit markets are potentially governed by the "law of one price" (LOP), these growing connections between the microphysics of financial practices and the maintenance of the national, uniform credit reporting system become much more comprehensible. For something resembling the LOP to operate in national financial space, individuals must be actively involved in the production of "efficient" markets. The LOP holds

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