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

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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.

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 "upscaleing" 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
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 glean insights 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
that in an efficient market identical commodities must have the same price regardless of where they are traded. In the context of consumer credit markets, then, the operation of the LOP at the level of the nation implies that identical default risks (e.g. individuals with equal credit scores) must have identical prices no matter where they are priced in the national space. Though nothing resembling the LOP actually exists (or has ever existed) in US consumer credit markets, it remains a sort of theoretical lodestone, drawing in economists, legislators and policy makers attracted to the desirable outcomes its reign is supposed to herald. For example, in addition to removing spatial barriers to accumulation through financial channels, a market which complies with the LOP is supposed to be one where risk cross-subsidization is minimized. Credit markets that obey the LOP are supposed to be markets where “deserving”, low-risk borrowers are not “punished” for the riskiness of others with higher interest rates, and “underserving”, high-risk borrowers are not “rewarded” for the conscientiousness of others with lower interest rates, based simply on where they live. Thus, the reign of the LOP within a particular space is supposed to confirm, and coincide with, the realization of an efficient, meritocratic and objective system for the allocation of credit.

Using the recent history of the FCRA, this paper documents legislative efforts to create legal and institutional conditions conducive to the performance of the LOP. These efforts to realize the LOP are linked in important ways with the production of scale, in both the monetary sense of increasing the volume of credit in circulation, and in the geographical sense of reworking differentiations, orderings and hierarchies of spatial relations.

Amendments made to FCRA, by preempting various state laws, have initiated a process of rescaling in the consumer credit industry. The effects of this rescaling have been myriad. Most obviously, rescaling has accelerated the growth of consumer credit information and debt circulating in the US economy, and disrupted existing scalar hierarchies by reallocating law-making power over consumer credit markets from the state to the federal level. Less obvious is how this “upscaling” of regulatory sovereignty has concentrated the forces of financialization at the level of the individual. By promoting popular access to the market devices of credit reports and scores (Poon, 2007; Muniesa et al., 2007), amendments made to FCRA in the mid 1990s recruited the financial practices of individuals and households in the performance of the LOP at the national scale. The last two decades of FCRA’s history, then, provide a revealing case study of the relationship between financialization and the production of scale. It shows how changes in the relations between state and federal levels transform financial practices (responsibilities, knowledges, competencies) at the level of the individual and, in turn, how the financial practices of households and individuals produce and reproduced the conditions required for the rule of the LOP and accumulation in national financial space.

The scale effects of financialization and the financial effects of scale

Despite scale’s status as a privileged geographical concept in the financialization literature (French et al., 2011), little emphasis has been placed on the relationship between financialization and what Brenner calls “scalar structuration,” or “the production, reconfiguration or contestation of particular differentiations, orderings and hierarchies among geographical scales” (Brenner, 2001: 600). The relationship between financialization and the production of scale is central to the history of FCRA. FCRA’s history shows how the spreading and deepening role of finance in the mediation of social relations remakes the practices that constitute scalar levels as well as the relations between and within levels. FCRA’s recent history, then, is a study in the co-constitution of scale and processes of financialization. In making this argument, I am following the work of others sensitive to the co-production of scale and financial relations. Particularly influential here is Langley’s (2010, 2013) work on financial subject formation, Lipuma and Lee’s (2004, 2005) on derivatives, and, most recently, Clark’s, (2010) on the nascent field of “behavioral economic geography”.

Langley (2010: 7), noting a predilection in social studies of finance to focus on “global finance” at the expense of everyday financial practices, explores the “intersection between changes in the capital markets, on the one hand, and transformations in everyday spaces, practices and identities, on the other”. Understanding this intersection, for Langley, is a question of how aggregate quantitative increases in the scale of saving and borrowing are expressed in qualitative transformations in people’s everyday lives (15). To answer this question, he draws heavily on Foucault, opening a door to a more complex understanding of conventional scalar categories like the global, the household and the individual.

In the Birth of Biopolitics, Foucault (2008[1979]: 186) claims the analysis of micro-powers and governmentality should “not be confined to a precise domain” or particular scale, but instead “be considered simply as a point of view, a method of decipherment which may be valid for the whole scale, whatever its size”. If “the analysis of micro-powers is not a question of scale” but “a question of point of view” (2008[1979]: 186), how should we understand Langley’s interest in the connections between the macro-level of global capital markets and the micro-level of everyday financial practices? If the “out there” of global finance and the “on the ground” of everyday financial practices can be reduced, in part, to “points of view”, it makes little sense to think of financialization as consisting in distinct processes unfolding at discrete geographical levels. When financialization is conceived of as a trans-scalar process experienced across scalar levels, everyday financial routines become a part of the global, and can be seen as meaningful sites of contestation and resistance to contemporary finance at any scale. Langley’s Foucauldian account of everyday saving and borrowing points toward an analysis of financial practices, not only at or between particular scales, but of how such practices actively reconfigure and contest particular hierarchical orderings of sociospatial relations.

More recently, Langley and Leyshon, in their 2012 (4) “Introduction” to a special issue of the Journal of Cultural Economy on the “growing array of subjects being produced, through a variety of channels, by finance”, ask, following Callon (1998), what role finance plays in the “configuration” of homo economicus? We might further ask what the geographies of financial configuration look like? In other words, what are the enabling geographies of financial subject formation? This question is also raised by Langley’s (2013) reflection on Deleuze’s “control society”. As Langley explains, in control society “order is achieved in a world that appears to be marked by a spatiality of movement, motion and circulation as opposed to one of cellular and disciplinary enclosures” (i.e. institutions for the production of docile bodies – the prison, the hospital, etc.) (Langley 2013: 9). The credit consumer’s credit score, according to Langley, is an exemplar of the “ultrarapid forms of free-floating control” (Deleuze, 1992; cited in Langley, 2013: 8) that Deleuze associates with societies of control. But as I will show in the sections to follow, even such forms of “free-floating control” are territorialized – the spaces of control in which “individuals” consume their credit scores (and produce themselves as certain types of financial subject) must themselves be produced through legal and political processes that have received little attention in financial geography and cultural economy. This involves relations between the production of space and the production of financial subjects, which operate on a scale that is much larger than the City of London (McDowell, 1997), the trading floor (Zaloom, 2006) or the classroom (Hall and Appleby, 2012) and other more intimate
scales that have often been prioritized in research on financial subject formation (for a review of recent work on financial subjectivities research in geography and cultural economy, see Hall, 2012).

Lipuma and Lee's work on financial derivatives (2004, 2005), while primarily engaged with the relationship between temporality and financial circulation, also provides insight into the co-production of geographical scale and financial relations. The story they tell about the origins of the modern derivatives market starts with the global reorganization of production in the 1970s, which they contend generated “problems of connectivity immune to traditional solutions” (406). Specifically, the proliferation and institutionalization of outsourcing exposed firms to new forms of political, currency and counter-party risk. These new risks encouraged financial improvisation (Engelen et al., 2010), expanding the range of derivatives products used to “hedge” against a growing variety of risks. What they describe is an iterative interaction between geography and finance. In the first moment, the spatial scale of production relations expands; in the second, new financial products and forms of risk-trading evolve to smooth the frictions of those novel geographies, which in turn create new platforms for financial speculation with knock-on implications for financial geographies.

Lipuma and Lee's description of the relationship between financial derivatives, liquidity and overaccumulation in the metropole exemplifies the back-and-forth between spatial and financial relations. As the authors explain, for derivatives to provide an effective hedge, principals must always be able to buy or sell on demand; that is, derivatives markets must be liquid at all times. The constant need for liquidity “furnished a new avenue and opportunity for absorbing the over-accumulation of capital in the metropole, giving birth to new institutions, such as hedge funds and new banking divisions, that specialized in managing speculative capital” (2005: 406). This is a sort of “spatial fix” wherein overaccumulated money capital in one part of the globe is kept in motion and protected from devaluation by circulating at the global level in financial derivatives markets. Thus, while perhaps simple lessons, Lipuma and Lee's work shows that (i) accumulation through financial channels occurs across scalar levels, and that (ii) the imperatives of capital accumulation condition the ways in which scale and finance constitute each other.

It is not only through “up-scaling” to the global that financial relations are reworked in the service of accumulation. The scale of human decision-making has recently become an object of study, policy intervention and market making. While the temporal scale of financial decision-making has been of interest to behavioral economists for some time (Kahneman, 2011), only recently, with the work of Clark et al. (2009, 2010) on retirement planning, has the relationship between geographical scale and personal financial decision-making been given much consideration. Noting the consensus view in behavioral economics that humans are cognitively biased toward making decisions based on “local”, easy-to-access information, Clark et al. ask what factors influence this apparent aspect of “human nature”. “Are people always ‘local’?, and under what conditions do they “scale-up their search for advice and information in making planning decisions” (Clark, 2010: 167)?

The authors mostly leave the answers to these questions to a future behavioral economic geography, and direct their discussion away from an individualistic behaviorism, toward a social theory of financial decision-making. Critical of the methodological individualism of behavioral economics, they ask how “the scope of observed [individual] behavior” […] is “produced” by society (the environment) and is “regulated” by the performative requirements (context) that attend certain social roles and responsibilities” (Clark, 2010: 165)? Answering this question requires attention to the relations in which people are socially embedded (Portes and Sensenbrenner, 1993) as well as the scales and levels people are inclined to employ and prioritize in making financial decisions. Such questions also open the door to further enquiries about the “proper” or “best” scale from which to evaluate financial decisions, and how the financial subject might be “nudged” (Thaler and Sunstein, 2009) to up- or down-scale the perspective of their decision making in accordance with the interests of lenders, non-profits, government agencies or other entities. Moreover, if the default scale of financial decision-making is socially produced, then how do certain scales come to matter more than others?

These examples of the intersection of finance and geographical scale show that (i) financial relations at one spatial level are tied to relations at other levels; (ii) the coproduction of scale and financial practices is conditioned by accumulation, and the scale/magnitude of accumulation is conditioned by the production of geographical scale; and (iii) even the scale of human cognition can become a target and a site of scalar structuration in the service of accumulation or a certain mode of regulation. In the following sections, I provide insight into these scale effects of financialization, and financial effects of scale, using the history of FCRA.

**Producing a national space for the LOP**

[The Consumer Reporting Reform Act] fails to recognize the legitimate need for this interstate business to have uniform regulation in all 50 States instead of a patchwork of different standards across the country. - Barry Connelly, Executive VP, Associated Credit Bureaus US House 1993

The Consumer Reporting Reform Act (introduced in 1993) was the first attempt to substantially update FCRA since its passage in 1970. The Bill aimed to improve the accuracy of credit reports by imposing a greater “burden of proof” (Sen. Bryan in US House 1993) on credit reporting agencies (CRAs) and data furnishers, and by making it easier for consumers to access, verify and dispute information on their credit reports. Owing in part to Republican opposition and objections from the consumer credit industry, the Bill failed to make it through the Senate. The consumer credit industry argued that the completeness and accuracy of consumer credit files would be better served by the enforcement of national, uniform standards (Hillebrand, 2004) than by forcing CRAs to give “their product” away to consumers “free of charge” (Connelly in US House 1993), or by “impos[ing] severe civil and administrative liability upon hundreds of thousands of credit grantors that voluntarily report their customers’ account payment history” (Orser in US House 1993). From the CRAs’ perspective, the Bill’s principal shortcoming was its failure to smooth industry operations across state borders. According to the CRAs, the industry faced a “patchwork” of consumer protections and regulations that inhibited commerce and limited millions of Americans’ access to credit. In essence, the CRAs argued that to expand the quantity of consumer credit in circulation the organization of financial regulatory sovereignty among scalar levels had to be reconfigured.

Twenty-three years after FCRA became law, progress toward an information infrastructure capable of pricing consumer credit risk everywhere, instantly and for everyone had run aground, frustrated by an uneven regulatory geography. Ultimately, the consumer reporting industry got the uniform, national standards it wanted. When FCRA was finally amended in 1996, the new legislation preempted state law on seven key issues (Table 1). The passage of 1996 preemptions, was not merely a victory for the lobbyists of a sub-faction of finance capital, but a contingent moment in an ongoing search for a way to organize competition in US consumer credit markets such that risk could be priced in place-free terms. That is, to create the conditions for the rule of the LOP in US credit markets.
The LOP is a sort of hypostasized intuition about how capitalist social relations (e.g. competition and arbitrage) enforce the equalization of prices across space. To the extent that reality observes the “law” it is an organizational achievement, realized to varying degrees and through various means in different times, places and industries. Even in the mid-nineteenth century, the “supposedly ‘competitive stage’” of capitalism, the mechanisms for equalizing prices “were anything but perfect” (Harvey, 1999: 142–143). Most industrial and agricultural activity was small-scale and decentralized, transportation costs were high, and the flow of information about prices, investment opportunities and production techniques was slow and sporadic. Such barriers to competition meant prices for identical products varied markedly from place to place.

While the forms of fragmentation and the specific barriers to uniform risk-pricing faced by the consumer credit industry in the early 1990s were not the same as those faced by 19th-century capitalists, the perceived threat they posed to accumulation and the efficient allocation of liquidity still shaped the actions of capital and the state in important ways. In Congress the threat was constructed, not simply as a matter of industry profitability or market efficiency, but as a threat to the nation itself – especially to its more vulnerable citizens. In 2003, when the 1996 preemptions were set to expire, federal legislators took action to preserve the uniform system by passing the Fair and Accurate Transactions Act (FACTA), which made the 1996 preemptions permanent and carved out additional restrictions on the purview of state law-mak-ers (Table 1). During FACTA hearings, the 1996 preemptions were routinely conflated with earlier iterations of FCRA, and promoted as a source of American economic exceptionalism. Rep. Bachus (Alabama) (US House, 2003b) likened the national credit reporting system to an essential piece of national infrastructure – “‘like our national interstate highway system, like our national powergrid, like our national communications system’” – integral to the functioning and competitiveness of the American economy. Indeed, for Bachus, the smooth invisibility with which the national uniform credit reporting system operates is part of what makes the nation imaginable as a cohesive scalar arena of financial relations.

Consumers today are able to move from state to state, they are able to finance loans, get mortgages at low rates, and part of the reason is what they never see, and that is the national uniform credit reporting system (Bachus US House, 2003b: 8).

The achievements of this unseen infrastructure were described in almost mystical terms, able to work what Federal Trade Commission (FTC) Chairman, Muris, called the “miracle of instant credit” – a “miracle that occurs all over America everyday” (US House, 2003b: 12). This “miracle” not only made credit available anywhere, instantly, but to people once beyond the pale of the mainstream credit economy. In his 2003 testimony, then Treasury Secretary Snow impressed on Congress how important the FCRA preemptions “[had] been for lower income people and how many people at the lower income scales in the United States [had] credit today because of the FCRA [preemptions]” (US House, 2003b: 11). Citing the Council of Economic Advisors, Snow argued that uniform national standards lead to the approval of 280,000 additional mortgages, worth $22 billion a year. According to Rep. Maloney (New York), failure to reauthorize the preemptions “could cost the economy nearly $90 billion in GDP, $19 billion in additional incremental interest for consumers, and over 19,000 . . . single-family homes” (2003a: 8).

While such figures, and the “democratization of credit” they were intended to confirm, appear less impressive in hindsight, they speak to the importance of credit to the imagined health of the American economy. Indeed, in 2003 consumer credit was such an integral part of the American economy that through a few loose equations the national credit reporting system could be made a metonym for the economy as a whole. As Rep. Bachus (US House, 2003a) succinctly put it, “it is our national credit reporting system that provides a great deal of the fuel to the engine of consumer spending that is currently driving our economy”.

The “illusion” of Say’s law and American financial exceptionalism

According to then FTC Chairman, Muris (US Congress 2003), the US “economy has a few simple reasons why it is so much better than many other economies, and two of those reasons are our labor markets are so flexible, and another is our credit markets are so flexible . . . [and] that flexibility crucially hinges on having national standards in the credit markets.” Here Muris is using “flexibility” as a sort of code for the smoothness with which Say’s law appears to operate within US borders.

For Keynes, Say’s law – commonly aphorized as “supply creates its own demand” – describes only rare or “special cases” of market equilibrium, which classical (and to an extent neoclassi-cal) economics assumes and mistakes for the way markets operate in general (2007:3). Say’s law is based on the intuition that since commodities are purchased with other commodities, every act of buying must ultimately be an act of selling. This identity implies that an increase in the supply of commodities constitutes an equal expansion in the means of payment, and consequently, demand. This apparent equilibrium, according to Keynes, is a sort of “optical illusion” (21) sustained by the faulty assumption that “if people do not spend their money in one way they will spend it in another” or that “an individual act of saving leads to a parallel act of investment” (2007: 20–21). In short, Say’s law assumes that saving is always either zero, or that it has no effect on aggregate demand; to save is simply to spend differently. However, as both Keynes and Marx point out, the translation of saving into
spending and investment, and the very act of exchange are uncertain processes.

For Keynes, uncertainty is intrinsic to the money form, and arises from tensions between the function of money as a medium of exchange and as a store of value. As a store of value, money presents a barrier to the smooth operation of Say's law. When the desire to hold money (liquidity preference) is high relative to inducements to spend and invest (i.e. relative to the marginal efficiency of capital), circulation is curtailed, demand may fail to match supply and factors may be left involuntarily unemployed. There is much at stake in the certainty with which Say's law is perceived to operate for (neo)classical economic ideology. Without uncertainty in the operation of Say's law, “the rest follows,” as Keynes put it: “the social advantages of private and national thrift, the traditional attitude toward the rate of interest, the classical theory of unemployment, the quantity theory of money, the unqualified advantages of laissez-faire... and much else we shall have to question” (21).

These are the stakes invoked by the term “flexibility”. The “flexibility” described by Muris is a measure of how well an economy can be made to perform the illusion of Say's law and conform to the ideal of classical economics. Flexibility is a euphemism for how convincingly supply appears to create its own demand; how well the nation ensures that for every seller there is a buyer and for every buyer a seller; how quickly saving becomes spending and markets clear.

Consumer credit has at least two roles to play in this performance. First, by stretching purchasing power beyond the limits of current income, or by allowing small businesses to invest beyond current profits, consumer credit increases the flexibility of buyers to buy and sellers to sell, speeding up the exchange process and reducing the risk of devaluation. But perhaps more importantly, consumer credit – to the extent that it can be made available everywhere, instantly, for everyone – can substitute for precautionary savings and reduce liquidity preference. Why save when you can borrow? Indeed, there is considerable evidence linking the growing use of credit cards beginning in the 1980s and 1990s to falling savings rates (Browning and Lusardi, 1996; Gross and Souleles, 2002). However, the portion of the population for whom credit can substitute for saving and increase purchasing power flexibility depends on how well Say's illusion operates when the commodity on offer cannot be directly observed – when the commodity for sale is consumer risk itself. It is here where consumer credit reporting has the biggest role to play in enacting the illusion of Say's law, and providing the flexibility extolled by Muris.

For Say's law to operate in consumer credit markets the supply of consumer risk must match demand. For a variety reasons this coupling often fails, and demand for risk fails to match supply. Even in the absence of prejudice, lenders commonly deny credit to those willing to pay a premium for it (Stiglitz and Weiss, 1981). The first reason is that higher interest rates may attract borrowers who are desperate, engaged in speculative activity or who simply have no intention of honoring their debts (adverse selection). The second is simply that higher debt-serving costs create perverse incentives for borrowers to default. Credit reporting is supposed to compensate for these information problems by providing credit granters with data to help them divine the true intentions of borrowers, predict their future behavior, and price their default risk. Rarely addressed in the literature on credit market imperfections are the ways in which geography can confound efforts to compensate for information asymmetries.

Even if a perfect “data double” (Haggerty and Ericson, 2000) could be assembled and used to perfectly price a borrower's risk of default, it would not be enough to sustain the illusion of Say's law in credit markets on a national scale. Doing so would require not only that each consumer emit sufficient information to permit the assembly of a data double, but that this new species of ersatz borrower be perfectly portable, able to follow their doppelganger like a shadow wherever they go, completely intact, no matter what borders they cross, or be conjured, upon request from the data ether with the same spell everywhere. Meeting such requirements, quixotic as the effort may be, is what national uniformity and state preemption aim to achieve for the credit reporting system.

This flexibility confounding intersection of information asymmetry, uncertainty and geography is well captured by a 2003 exchange between Rep. Sanders (Vermont) and two expert witnesses on “the Importance of the National Credit Reporting System to Consumers and the US Economy” (2003). Sanders, interested in preserving states’ rights to enhance consumer protections beyond those provided by federal law, asked the defenders of preemption on the panel why they felt “the world [would] collapse if the California legislature addresses what they see as a pro-consumer need? Or Vermont does the same?” The Vermont congressman received two categories of response: the first relates to risk modeling and price determination, and the second to reputational portability.

For Michael Turner, President and CEO of the Policy and Economic Research Council, the necessity of a uniform national system was an artifact of the limitations of risk modeling. To provide insight into the challenges an uneven regulatory geography poses to the risk modeler, Turner asked the hearing to imagine 50 states continually passing legislation. You have to continually then adjust 50 separate [risk] models to moving targets, at considerable expense and considerable time. Now these models are based on sample sizes that are national currently [due to the 1996 preemptions], but if you go to a state, and particularly a small state with a small population, the predictive ability of smaller sample sets is diminished. So for example, what you get is you get a small state/big state dichotomy. So in some senses, then, where you live determines your credit, and people in smaller states could be handicapped (2003: 50).

In other words, Say's law would not function with equal ease in all states. Not only would failure to reauthorize the 1996 preemptions unduly harm the residents of small states, but it would impair the functioning of the LOP. It would exacerbate inefficiencies in the allocation of capital. It would hinder the ability of the credit reporting system to organize competition in US consumer credit markets such that risk could be priced in “place-free” terms. Equal risks in New Jersey and New York might command different prices on opposite sides of the Hudson.

The second response to Sanders emphasized the impacts of regulatory fragmentation on reputation. Lack of uniformity from state to state with respect to, say, the responsibilities of furnisher's, the sharing of data between affiliates, or the types of information contained in one's credit report, it was argued, would make one's credit reputation less mobile. For instance, if Arizona were allowed to pass legislation imposing greater liability for inaccurate information on data furnishers, furnishers in Arizona (retailers, car dealers, etc.), fearing legal action from delinquent consumers, might be reluctant to report negative information to the CRAs. If someone from Arizona were now to move to Maine, creditors in that state, looking at the Arizonan's clean credit history would have no way to know whether the Arizonan's clean history reflects consistent on-time bill payment, or merely that they are from Arizona, where furnishers are afraid to report negative information. Creditors in Maine would price this uncertainty into the cost of the loans they make to people from Arizona. The uncertainty produced by this lack of legislative standardization would ripple. In addition to paying more for credit,
the Arizonan might be denied credit altogether and be unable to buy a home in Maine. Without the “portable reputations” made possible by the 1996 FCRA amendments, Abernathy explained, “the mobility of our labor force and the ability of a consumer to move from state to state while […] preserving their ability to access […] cheap capital” would be impaired.

FACTA was passed in the fall of 2003, making the 1996 FCRA amendments permanent. Despite the step represented by FACTA toward the ideal of portable reputations and an information infrastructure capable of facilitating underwriting decisions everywhere, instantly and for everyone, the information problem in consumer credit markets was further complicated by technological developments in the late 1990s and early 2000s. Owing to a variety of factors, including the growth of e-commerce, a dramatic increase in identity theft occurred during this period (Whitson and Haggerty, 2008). Identity theft not only threatened to contaminate credit files with erroneous derogatory information, but also to induce states to legislate new consumer protection laws that would undermine the hard-won uniformity brought by the 1996 FCRA amendments. To address identity theft, while preserving national uniform standards and without imposing potentially liquidity constraining liability on furnisher and CRAs, Washington was pushed to redistribute responsibility for data integrity. The “solutions”, which FACTA, and subsequent legislation, would ultimately provide, shifted much of this responsibility onto the shoulders of individuals. The effects of this shift have been far reaching, transforming the relationship between individuals and their data doubles as well as their role in creating and reproducing the conditions required for the operation of the LOP.

Identity theft complicates tensions in the operation of credit markets between the desire for information completeness, and the desire for data objectivity. Realizing the LOP in consumer credit markets requires not only that reporting be standardized, but that individuals consent and commit to making themselves priceable. In much the same way as the operation of stock markets depends on the financial reporting of publicly traded firms, consumer credit markets require that default-correlated data flow from borrowers and lenders. The completeness, or at least the volume, of this information flow depends substantially on how compelled (internally and externally) individuals are to provide it and care for it. The active participation of individuals in their own pricing, however, is fraught with contradiction. The more involved one is in transmitting data about themselves, the greater their ability to manipulate that data – to conform their data double to the gaze of scoring algorithms and lenders. Put another way, the more responsibility for the care and production of credit data is shifted onto the shoulders of citizen-consumers, the more aware they become of how they are being observed, and the less “objective”, and therefore valuable, the data becomes. Identity theft forced the state and the industry to confront this contradiction between objectivity and completeness/accuracy in ways that have expanded the role of credit reports and scores as apparatuses of government, at the same time as they have been undermined as objective assessors of default.

Financial subjectivization in the service of the LOP

Rep. Kelly: Do you think there are potential ways that we can help consumers get more information to help them combat identity theft, and fraud? […] perhaps we can energize consumers themselves to do a bit more to help protect against identity theft?

Ass. Sec. Abernathy: Yeah, they are really the first line. And I think a lot of identity theft can be stopped if people knew [sic] a little more about their credit reports.

[- US House (2003a)]

From the perspective of today’s financial subject, encouraged by public and private institutions alike to seek out, monitor and even purchase their own credit information as an alienated commodity (see Langley, 2013), the suggestion that people should “know more” about their credit information is little more than platitude. But when viewed against the backdrop of the long history of successful credit industry campaigns to limit individuals’ access to information, and retain proprietary control over consumers’ data and the products and revenues derived from it, the novelty becomes more apparent. FACTA was a turning point in this regard, having arguably the greatest impact on the relationship between individuals and their credit information since FCRA’s enactment in 1970 (see Table 2). During his 1970 testimony, Arthur R. Miller argued that just as people have the right to defend themselves against physical injury, we need “to give individuals an effective way of finding out what [their] information profile looks like, to allow [them] to get into the information flow that relates to [them]”. This idea, that people have a right to “their” information, and to verify and contest it, has animated the efforts of consumer advocates concerned with effects of credit reporting for a generation. In 2003 this extant movement for access to information merged with concerns over identity theft to tilt the incentives governing access to credit information. The effect was to refocus and rescate the object of state intervention from the industry and the firm (e.g. lenders and furnishers) to individuals and their financial decision-making capacities. The integrity of the national, uniform credit reporting system was made to depend on processes of financial subjectivization – on the individual consumer-citizen’s internalization of the desire to care for their data doubles and maintain “clean” and accurate credit reports and scores.

For much of the history of consumer credit reporting, the use-value of credit-scoring technologies has been assumed to depend on their internal workings being hidden from borrowers, who might otherwise behave strategically in order to “game the system” and manipulate their scores (Eisenbeis, 2002). A basic tenet of positivist science is that researchers must not influence the behavior of their object. This means that borrowers must be kept in the dark about how their behavior is being recorded and evaluated by credit bureaus and creditors. Consequently, from the early days of the American consumer financial protection movement, calls for greater transparency and access to credit records have been rebuffed, and resisted strongly by furnishers, lenders and bureaus, alike. The growing prevalence of identity theft in the late 1990s upset this status quo resistance to transparency and information access, further confounding tensions between the desire to expand credit markets while making sure that borrowers pay no attention to the algorithms behind the curtain.

Between 2001 and 2003, the FTC reported a tripling in reported cases of identity theft. The contamination of millions of credit files with erroneous information injured not only borrowers and lenders, but also to the integrity of bureau databases responsible for the “miracle of instant credit.” Identity theft created a dilemma for the reporting and scoring industry: while liability for the accuracy of credit reports is not desirable, the exchange value of their product is derived from its accuracy, and use value in underwriting and risk pricing. In other words, lenders and CRAs wanted to mitigate the impacts of identity theft without taking on new legal and regulatory burdens. According to some in the industry, the only politically feasible way to do this was to concede a more active role for the individual financial subject in policing the accuracy and completeness of their credit files. Reflecting on mounting demands to provide consumers with greater access to their credit files, in 1999 President of the Consumer Data Industry Association, Barry Connelly, predicted that “political and consumer pressure for disclosure will be so great that it will no longer be possible to hide behind the claim that, ‘you
won’t understand it if we tell you.’ It will no longer be acceptable to say, ‘we are afraid that you will manipulate your score because you know what is in the little black box’” (2002: 223). Three years later during Congressional FACTA hearings, Secretary Snow (2002: 29) articulated the ascending orthodoxy on the proper relationship between individuals and their information:

We want people to know their credit reports. We want them to know that this information is being used to create scores. We want them to have a sense of how the scores are being created. We want them to have some sense of what they can do to improve their credit profiles. And it seems to me, you go to the identity theft issue, it is very important they have these records so they can correct them if they are wrong and wrong information doesn’t continue to be circulated in the credit system.

The way out of the dilemma was to “empower” consumers by giving them greater access to the data collected about them, and making them the “first line” of defense against erroneous information. Providing individuals with controlled access to their data doubles acknowledged the demands of consumer groups, while ensuring that the burden of responsibility for protecting the integrity of the price mechanism would not be taxing for industry.

It was just such a compromise that FACTA effectuated: enlisting individuals in the pricing of their own risk and in the search to perfect the LOP in consumer credit markets at the national scale. FACTA gave individuals unprecedented access to their credit information (Table 2). For the first time individuals could access their credit reports without being rejected by a credit card company, car dealer, landlord or employer, and consumers were given the “right” to obtain their credit scores for “a reasonable fee”. Moreover, by circumscribing and standardizing the responsibilities of lenders, bureaus and furnishers with regard to identity theft, FACTA and its new preemptions (Table 1), served to simultaneous responsibilize individuals while protecting businesses from consumer litigation. As Whitson and Haggerty (2008) argue, this responsibilization imposed almost absurd expectations on individuals to alter their routines and cultivate new competencies both to protect themselves from the “inevitability of victimization” (Whitson and Haggerty, 2008: 580) and to ensure that they are equipped to prove their victimhood should it be necessary.

FACTA’s emphasis on consumer empowerment resonated with neoliberal nostrums of self-sufficiency, personal responsibility and faith in the power of financial incentives (Williams, 2007). Individuals have distilled incentives to police the contents of their credit reports because, unlike bureaus and lenders, they cannot spread the consequences of erroneous negative data across millions of files. The ideal neoliberal subject, incentivized to ensure they are not unfairly denied access to financial products, housing or employment, should be expected to take advantage of opportunities to monitor their credit files and verify that they truly reflect their creditworthiness. FACTA responded to the threat posed by identity theft by enrolling the individual more wholly in the search to perfect the operation of the LOP. It put the interpellated financial subject on quality-control duty for the CRAs, ensuring that inaccuracies would be expunged from their databases, their product kept

Table 2

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<th>Period</th>
<th>Individuals’ Access to Their Personal Credit Information (e.g. credit reports and credit scores)</th>
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| Pre FCRA (1970) | - Credit reports sold to individuals at the discretion of CRA  
- Individuals have no legal right to access their credit information                                                                 |
| Early FCRA (1970-1996) | - Credit reports free to individuals who request a report following an adverse action                                            |
| 1996 Amendments to FACT Act (2003) | - Free access to 1 report per year, upon request, for individuals who are unemployed but seeking employment, on public assistance, or who suspect fraud  
- Credit files (excluding credit scores) available to individuals for a charge of $8 or less                                             |
| FACT Act to Dodd-Frank (2010) | - Individuals entitled to 1 free credit report each year from each of the three major CRAs, upon request  
- CRAs required to make credit scores available to individuals for a “reasonable fee”  
- Mortgage lenders required to disclose credit scores to applicants  
- Lenders required to provide a risk-based pricing notification to applicants when their credit report has been used to justify charging higher interest rates than they charge many other borrowers  
- Credit reports free to individuals who request a report following a risk-based pricing notification |


pure and its use value to lenders and conscientious consumers, alike, preserved. By placing new responsibility for the integrity of the national credit reporting system on the shoulders of consumers, FACTA also imparted new macroeconomic importance to the behavior and self-monitoring capacities of individuals.

However, regardless of how important individual behavior is to accumulation and the national economy, subjects do not come formatted with the right suite of capacities and priorities installed. Not surprisingly, then, the passage of FACTA reinvigorated efforts to educate the financially “remedial,” “illiterate”, or insufficiently financially “capable” to help them perform the subject positions FACTA envisaged for them (Kear, 2013). To this end, the act created the Financial Literacy and Education Commission (FLEC) to “improve financial literacy and education through the development of a national strategy” (GAO, 2005). The Act directs FLEC to promote the awareness and importance of (i) credit reports and scores in obtaining credit and the terms of credit, (ii) accuracy in credit reports and scores, (iii) correcting inaccuracies, and (iv) “the effects of common financial decisions on credit reports and scores”. Today FLEC is the principle body through which financial education initiatives are coordinated across federal agencies and departments, and national standards in financial education promoted. Together FACTA and FLEC have made credit reporting and the financial capabilities of the population a site of federal intervention to an unprecedented extent. The liquidity of consumer financial markets and the reign of the LOP at the national scale is governed through the behavior of financial subjects; objects of power/knowledge, who can be counted on to respond predictably to the stimulus of credit reports and scores – a financialized Homo Economicus.

To ensure what Assistant Secretary Abernathy described as, the “widest availability of financial services at the lowest cost to as many people as possible” (2003: 13), FACTA drafted the individual as a quality control officer for the national credit reporting system. In so doing, the function of the credit report was dramatically expanded. Once almost singularly conceived as an underwriting tool hidden from borrowers, the credit report has become a tool for the government of the self and others (Foucault, 1988; Marron, 2007; Miller and Rose, 1990). This expansion in the governmental function of the credit report was coextensive with the rescaling of financial relations. In the name of a national uniform credit reporting system that can price risk is place-free terms, and make credit available to anyone, anywhere, instantly, the function of “local,” micro financial practices in the reproduction of the macro economy was remade.

This reconfiguration of the financial relations that tether the macro to the micro continues today. The link that FACTA established between individuals and their data doubles in the service of an errorless, uniform national credit reporting system is now being exploited to measure, diagnose and treat financial marginality. The 2008 financial crisis, and the marks it left on people’s credit histories through job loss, default and foreclosure, has further encouraged the objectification of the data double as a target for improvement. Both struggling financial subjects, deprived of liquidity, as well as revenue strapped governments, desperate to “streamline” public programs through the fortification of the self-helping capacities of their citizens, have seized upon credit reports and scores as expedient indicators of financial capability and self-sufficiency.

Perhaps the best example of this appropriation of the credit report as a tool of public policy is New York City’s Office of Financial empowerment (OFE). Established in 2006 by the Bloomberg Administration, the OFE pioneered the integration of “financial empowerment” programing into the delivery of existing public programs. The integration of financial counseling and asset building programs into key City services is supposed to produce a so called “supervitamin” effect, enhancing treatment outcomes for “clients,” and saving money for taxpayers by increasing the self-sufficiency of program participants. The credit report is used to perform a sort of financial triage and to measure and track financial outcomes for domestic violence survivors, the homeless, the jobless, those on probation, and variety of other client types. This use of municipal services to provide “touch points” and “warm hand offs” for an emerging cohort of professional financial social workers is a relatively new phenomenon that remains little studied outside of US philanthropic research networks. This financialization of the safety net is an important new site in the post-crisis politics of financialization (Newman, 2012; Weber, 2010). It is one that has been made through processes of rescaling that have qualitatively transformed the function of market devices and the relationship between individuals and their virtual financial selves, and now between the state, the financial system and their subjects.

Conclusion: rights, scale and the politics of financialization

In 1949, T.H. Marshall argued that citizenship had become “the architect of legitimate social inequality.” Inequalities of social class could be legitimized, according to Marshall, only if mitigated by the “rights of citizenship” (Marshall, 1964: 77). However, the specific set of rights needed to legitimate social inequality is a variously expanding and contracting terrain of contestation. In the 1960s and early 1970s, according to Miller, credit underwent a socio-financial change of state, growing in volume to a point where its status as “privilege” or “right” became ambiguous, inaugurating a new role for financial markets in the determination of legitimate social inequality and entering credit in the contest to be included in the rights of citizenship.

After three decades of financialization, the notion of “financial citizenship” (Leyshon and Thrift, 1995; Dynsiki, 2006) remains little more than an ethical claim to hypothetical rights guaranteed by no one. There are many reasons that demands to “Give Us Credit for Being American” have faded. Among them fundamental incommensurability between the logic of financial accumulation and rights (Kear, 2013), and the palliating substitution of substantive claims to social rights with anemic consumer rights to disclosure and other protections (e.g. the Truth in Lending Act), but also the production of a national information infrastructure capable of pricing the risk of anyone, anywhere, instantly. A liquid, “efficient” and objectively discriminating (Marron, 2007) consumer credit apparatus promises to render financial rights redundant: surely only the “undeserving” need rights when the nation floats on an ocean of credit? The production of an evermore liquid and accessible national credit system has been under appreciated as a geographical project of scalar structuration.

As the foregoing has shown, since the early 1990s the expansion of credit availability has been pursued through the reworking of geographical differentiations, orderings and hierarchies in spatial relations. Attempts to bring credit markets into compliance with the LOP, and produce and preserve a national, uniform consumer credit reporting system via multiple rounds of state preemption, has dismantled informational borders, reallocated sovereignty across scalar levels, responsibilized the individual for the care of their data, while creating new modalities of financial government. These cascading scale effects of financialization are contingent outcomes of efforts to create the conditions required for the performance of the LOP and market efficiency.

Through processes of financial subjectification and subjectivization the consumer/citizen/client has learned both to enforce the LOP and secure their livelihood through the care of the virtual financial self. The enrollment of the individual in the performance of the LOP has created new contradictions and axes of conflict in
the still nascent politics of financialization. Among these are tensions arising from the dual role of credit reporting and scoring devices as tools for, on one hand, the evaluation of risk and monitoring of financial behavior, and, on the other, the modification and regulation of financial behavior. At what point do the personal practices required to make our risks monetizable become opportunities for financialized dissimulation? At what point do financial coaches, financial social workers and asset-building organizations cease being agents of the financial system and efficient financial markets helping us to conform and make ourselves priceable, and, instead, become enablers of strategic behavior, “manipulation” and “system gaming”? Surely struggles over our data doubles, not only access to them, but control over their composition and applications are only just beginning as “big data” enters the underwriting business (Hardy, 2012), and states devise new rationales for the privatization of risk. That individuals, and the processes by which their concrete risks are abstracted, read, managed and priced, should be a site of financial politics is not surprising. However, there is a geographical history to the present biopolitical moment that has been largely untold. It is through processes of rescaling in the name of market efficiency that the cognitive capacities and predictable irrationalities of the human have come to matter so much to the financial system and the national economy.

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