# TROUBLED ASSETS:

# FINANCIAL EMERGENCIES & RACIALIZED RISK[1]

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## ABSTRACT

This paper argues that new state strategies towards financial volatility have created dramatic new forms for the racialization of credit risk. Focusing on the aftermath of the banking crisis in the late 1980s, the paper examines the active role played by a series of exceptional measures in creating the legal and market spaces that increasingly trapped minority borrowers in a spiral of high cost lending. The resulting triage of minority borrowers into the subprime market has differentially exposed them to the expropriation of wealth through delinquencies, foreclosures, and the intensification of competition during the most recent speculative bubble. As this actually reproduces and extends financial risk, I conclude that the best way for us to understand this process is to examine this as a regime of differential citizenship that has reorganized the conditions for advancement among different racial and ethnic groups and whose features may be consolidating through the current crisis.

## INTRODUCTION

Credit risk has been distinctly racialized in the US since its assessment emerged as a "science" in the early 20th century. During the financial crisis of the Great Depression, Homer Hoyt and Frederick Babcock identified neighborhood racial transition as a key threat to property values, and promoted neighborhood categorization as a triage technique to limit the exposure of banks and the federal mortgage insurance pool to the risks of devaluation (Stuart, 2003). This placed race at the center of a series of rules for housing finance that, while ostensibly designed to ensure the safety and soundness of the banking system by limiting excessive risk-taking, had the effect of reorganizing the conditions for social and economic advancement among different racial and ethnic groups.

As regulations governing the US banking sector advanced in tandem with increasing disinvestment and decline in minority neighborhoods through the postwar period, overt racial treatment or "triage" was transformed into a series of subtler, but no less powerful, financial proxies for race. For instance, fewer loans made in African-American neighborhoods meant diminishing resources for property upkeep and lower demand for homeownership, both of which further contributed to declining property values and made the practices of redlining and neighborhood triage self-reinforcing (Dymski, 1996; Stuart, 2003). As a result, the federal and state regulatory agencies overseeing the banking system could enforce rules governing the treatment of credit risk that had racially exclusive effects without necessarily making any direct reference to the racial status of applicants or neighborhoods (Dymski, 1996; Stuart, 2003).

The conflation of race and risk has not gone uncontested, as housing advocates and civil rights groups have turned the rules governing the financial system into a sphere of political conflict over the economic and social status of marginalized groups (Squires, 1992). By the early 1970s, this resulted in the elaboration of a civil rights regime, focused on the housing and retail finance sectors, which mandated fair treatment for minority borrowers, full disclosure and transparency in loan transactions, and the affirmative obligation of banks to meet the credit needs of the neighborhoods where they do business (Taibi, 1994). Whereas there have been widely varying assessments as to the effectiveness of these rules, they nonetheless articulated a set of remedies to the practices of neighborhood triage and a coherent vision of financial inclusion for racial and ethnic minorities.

However, the application of these norms has evolved through different phases of in the development of financial markets, marked since the early 1970s by increases in the pace and volatility of international financial flows. In response to the economic crises of the 1970s and 1980s, US policymakers promoted financial liberalization and the integration of housing finance into broader financial markets as ways to adapt the domestic financial sector to the decisional uncertainties produced by heightened financial volatility. As the liberalization of financial markets has exacerbated their instability, this has transformed the modes of financial regulation inherited from the postwar period, producing new state strategies oriented towards anticipating or managing periodic financial crises. These strategies have been clearly visible in the nearly-unprecedented interventions into financial markets that have unfolded in the US and globally since late 2007, oriented towards triaging "toxic" institutions or their assets and preventing contagion. The economic-financial state of emergency has become emblematic of the exercise of state sovereignty in the era of financial liberalization.

This sets the context for this paper, which argues these state strategies have created dramatic new forms for the racialization of credit risk since the early 1980s, with the practices of redlining and neighborhood triage finding their modern equivalence in the increasing concentration of minority borrowers in the subprime mortgage market.[2] This argument unfolds in two parts. First, I argue that a series of exceptional measures in the wake of the banking crisis in the late 1980s, oriented towards isolating and disposing of loans to high-risk borrowers or other "toxic" assets, played an active role in creating the legal and market spaces that increasingly trapped minority borrowers in a spiral of high cost lending. Second, I argue that the migration of these exceptional measures into a growing subprime market focused on minority borrowers has differentially exposed them to the expropriation of wealth through delinquencies, foreclosures, and the intensification of competition during the most recent speculative bubble. As this actually reproduces and extends credit risk, I conclude that the best way for us to understand this process is to examine it as a regime of differential citizenship that has reorganized the conditions for advancement among different racial and ethnic groups and whose features may be consolidating through the current crisis.

## THE FINANCIAL EXCEPTION & THE TRANSFORMATION OF RACIALIZED RISK

The global financial crisis that has unfolded since mid-2007 provides an opportunity to engage with the nature of risk, which has become a central axis in understanding the dimensions of crisis.[3] Conventional interpretations of credit risk, both within individual lender-borrower interactions as well as in their agglomerations as forms of systemic risk, have tended to treat risk as an object and as a "primitive" – a characteristic whose sources and dimensions are external to the financial system, to be assessed, absorbed and priced by financial firms and markets (Dymski, 1998). On this basis, innovations – either technical or institutional – that result in more accurate risk assessment or management are often heralded as efficient (Ashton, 2009). That perspective changes if we consider credit risk as a set of social relationships, ones that change with successive interactions between groups of borrowers and the financial system. Here, the ongoing structuration of financial risk through the behavior of market actors and financial regulators has the potential to set in motion distinct risk paths for different groups of borrowers (Gotham, 2006).

This section begins by placing credit risk at the center of a postwar citizenship regime in the US that reorganized the conditions for social and economic advancement among different racial and ethnic groups. It then examines the transformation of that regime by highlighting new forms of state strategy towards risk that have emerged in the era of financial volatility. These new types of regulatory activities help us locate the production of *exceptional spaces* through periods of financial crises and instability, and they identify the role played by the financial state of emergency in restructuring the position of racialized risk in the financial system.

### RISK MANAGEMENT & CITIZENSHIP REGIMES

[2] The subprime mortgage market refers broadly to a set of institutions that "concentrate on offering terms and seeking borrowers generally not acceptable to prime lenders"(Canner, Passore, & Laderman, 1999).

[3] Risk is an expansive category. Here I use it to refer to exposure to uncertainty derived from the behavior of other economic actors. Credit risk (risk rooted in interactions between a principal (firm) and an agent (borrower)), market or business risk (a broad category of risks deriving from competition), and systemic risk (collective exposure to adverse events deriving from market structures or patterns of liquidity that encompass a broad range of actors) all refer to different dimensions to risk (source).

The ability to protect of the quality of money and ensure the integrity of financial transactions have long been capacities at the center of any formal definition of state sovereignty (Arrighi, 1994; Dodd, 1995; Knafo, 2008). The development of these capacities has evolved through the advent of the modern central bank in the 19th century, an innovation designed to centralize control over the money supply and limit banks' ability to leverage their reserves to create credit money (Knafo, 2008; Langley, 2002). It took on new forms in the 20th century, as the circuits of productive capital become ever more tied to the issuance and trading of financial instruments (joint stock, corporate bonds, options and futures contracts, etc) (Harvey, 1999). Monetary policy and financial regulation were among the distinctive capacities defining the sovereignty of the Keynesian welfare state (Jessop, 2007, p. 196), and lender-of-last-resort powers emerged as essential to safeguarding the ability of the financial system to coordinate critical economic and social policy goals.[4] In the US, the expansion of the state apparatus into the financial system was marked by the Federal Reserve Act of 1913, which centered control over the creation of credit money within the Federal Reserve Bank and its affiliates. These powers were expanded and modified as more components of the financial system (such as mortgage lending and consumer credit) were organized under different auspices of state regulation; much of this expansion occurred during extraordinary moments, such as the rescue of the US banking system in 1933, when significant threats to the ability of the financial system to produce credit money elaborated a regulatory apparatus focused on managing the overall level of risk-taking (Kushmeider, 2005). While this system became quite variegated through the postwar period, the rationalization of risk management was a critical strategy of the Keynesian welfare state (N. Brenner, 2004), one whose logic of institutionalization could be seen in quotidian modes of financial regulation designed to ensure an appropriate relationship between risk-taking and the production of credit money, as well as in periodic lender-of-last-resort interventions to isolate threats to the functioning of credit markets (Helleiner, 1994).

Race was central to the elaboration of this mode of risk management in the US. In the wake of the financial crisis of the Great Depression, analysts Homer Hoyt and Frederick Babcock isolated racial transition as a key threat to property values, and used neighborhood categorization (notably employing the "red line" on maps of neighborhood quality) as a triage technique to limit the exposure of banks and the federal mortgage insurance pool to the risks of devaluation and loss (Stuart, 2003). The patterns of racial marginalization this subsequently set in motion unfolded in very local arrangements, incorporating the varied behavior of local banks, different housing market actors and practices as varied as restrictive covenants, land contracts, block busting and overt violence (Hernandez, 2009; Hillier, 2003; Sugrue, 1998). Nevertheless, all of these practices were given coherence by their coordination through the broader system of housing finance (Dymski & Veitch, 1996; Harvey, 1977). Rules governing the relationship between risk and the production of credit money provided the fault lines that established different paths of financial development, producing "absolute spaces" defined by the relationships between financial institutions, local fractions of property capital, and households (Harvey & Chatterjee, 1974).

As regulations governing the banking and financial sectors advanced in tandem with increasing disinvestment and decline in minority neighborhoods through the postwar period, overt racial treatment or "triage" was transformed into a series of subtler, but no less powerful, financial proxies for race (Dymski, 1995; Stuart, 2003). For instance, fewer loans made in African-American neighborhoods meant diminishing investment in property upkeep and lower demand for homeownership, both of which further contributed to declining property values and made the practices of redlining and neighborhood triage self-reinforcing. This was reinforced by the cumulative effects of racial treatment in other areas of economic and social life (Dymski, 1995). The disconnect of minority households from labor markets and the distance of minority neighborhoods from centers of job growth meant lower incomes and a more tenuous connection to the labor market; this increased household financial instability and the "possibility that borrowers will fail to pay their loan obligations as scheduled", a key factor defining credit risk (Avery, Bostic, Calem, & Canner, 1996, p. 621). As a result, the federal and state regulatory agencies overseeing the banking system could enforce rules governing the treatment of credit risk – such as the use of

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[4] Lender of last resort refers to the role of banking regulators in providing liquidity to troubled financial institutions, injecting short-term capital to shore up those firms and avoid having financial losses push them into insolvency (Minsky, 1982).

credit history or property appraisal as risk assessment techniques – that had racially exclusive effects without necessarily making any direct reference to the racial status of applicants or neighborhoods (Immergluck, 2004; Stuart, 2003).

This placed risk management at the center of a citizenship regime that reorganized the conditions for social and economic advancement among different racial and ethnic groups, with credit risk forming part of the "institutional arrangements, rules and understandings that guide and shape concurrent policy decisions and expenditures of states, problem definitions by states and citizens, and claims-making by citizens" (Jenson, 2000, p. 232). The practices and discourses of risk management came to embody differences between Whites, African-Americans and Latinos (Mitchell, 2006), naturalizing the differential application of norms of fairness, equality or opportunity to African-Americans and other key minority groups with critical implications for their inclusion in the polity and the economy (Lake & Newman, 2002).

These rules have not gone uncontested, as housing advocates and civil rights groups have turned the rules governing the financial system into a sphere of political conflict over the economic and social status of marginalized groups (Squires, 1992). By the early 1970s, this resulted in the elaboration of a civil rights regime, focused on the housing and retail finance sectors, and mandating full disclosure and transparency in loan transactions, fair treatment for minority borrowers at all points in the credit process, and the affirmative obligations of banks and other financial actors to meet the credit needs of the neighborhoods where they do business (Immergluck, 2004; Taibi, 1994). Whereas many of these struggles exposed overt political tradeoffs made between the postwar mode of risk management and the norms of fairness and equity, they nonetheless articulated a set of remedies to the practices of neighborhood triage and a coherent vision of financial inclusion for racial and ethnic minorities.[5]

## FINANCIAL VOLATILITY & STATE STRATEGY

However, the application of these norms has evolved through different phases of in the development of financial markets, marked since the early 1970s by increases in the pace and volatility of global flows of capital. With the collapse of the Bretton Woods currency regime in 1971 and the move to floating exchange rates, the process of institutionalizing risk management took new forms (Minsky, 1982). While floating exchange rates seemed to enhance nation-state sovereignty by giving policymakers the autonomy to pursue policy directions without direct negotiation with trading partners, it also institutionalized and extended the growth in volatile international capital flows (LiPuma & Lee, 2004; Meerschwam, 1991). I will argue below that this had dramatic implications for the racialization of risk, but it is important to start by understanding how this new era of financial volatility produced new kinds of decisional uncertainties that structured how financial regulators and markets defined risk (Rothstein, Huber, & Gaskell, 2006, p. 98).

First, the position of national currencies came under external threat as floating exchange rates led to a significant increase in speculative activity based on the daily shifts in currency exchange rates (LiPuma and Lee, 2004). In extreme circumstances, central banks have had to suddenly mobilize their currency reserves and those of their allies, intervening in global markets in rear guard attempts to protect the stability of their currency from speculative attack (Bryan & Rafferty, 2006; Krugman, 2009). In other cases, such as in the US through the 1970s, the pressures of currency speculation were felt more chronically through rising inflation, interest rate volatility, and the continued erosion of the balance of payments (Meerschwam, 1991). Either way, in the post-Bretton Woods era the exercise of sovereignty in the financial realm has involved new forms of financial statecraft focused on safeguarding the relative position of the national currency or managing volatile interdependencies among currencies (Bryan and Rafferty, 2006).

[5] For instance, the text of the Community Reinvestment Act of 1977 – which made explicit the affirmative obligation of banks to help meet the credit needs of the local communities in which they are chartered – directs financial regulators to assess bank performance in meeting those obligations "consistent with the safe and sound operation of such institutions" (12 USC 2901). See Sydney (2003) and Immergluck (2004).

A second set of pressures, derived from the same financial volatility but expressed in different form, came from the deteriorating position of domestic commercial and savings banks that had been at the center of the New Deal financial architecture. Throughout the 1970s the US banking system faced a growing solvency crisis, as high inflation, interest rate volatility and competition from nonbank lenders led to a net outflow of capital from the retail banking system. This eroded bank balance sheets, jeopardizing their ability to produce credit and pushing many toward insolvency by the end of the decade (Ball, 1990). These pressures highlight new state strategies that emerged to protect the capacity of the financial system to coordinate the production of credit money in pursuit of critical economic and social policy goals (Krippner, 2003). These strategies can be seen clearly through two moments in the 1980s: banking deregulation after 1980; and the subsequent banking crisis that took shape in the late 1980s.

Initially, federal policymakers looked to financial liberalization and the integration of banking with broader financial markets to solve growing solvency pressures on banks and make the retail finance system more durable. This strategy was apparent in a series of landmark bills through the 1980s that removed barriers to banks' competitive activity that had been in place through the postwar period.[6] These moves aimed to repair banks' balance sheets by allowing them to shed unproductive assets, to issue and price credit with fewer restrictions, and pursue new avenues of growth (FDIC, 1997). The promotion of mass securitization was a critical component of this strategy, allowing banks to sell their underperforming mortgage portfolios to secondary market investors and giving them the resources to engage in direct price competition with nonbank firms (Meyerson, 1986). Thus, this first broad attempt to shore up the US retail finance sector in the face of financial volatility did so by relaxing direct regulation of certain critical elements of the production of credit money – namely the pricing and structure of credit products, the product segments open to direct competition, and the sources of liquidity for those products – rather than choosing to extend more aggressive regulations to the "shadow" banking system of mutual funds and finance companies. It correspondingly gave banks the powers necessary to respond to the faster pace and heightened volatility of financial activity, securing their ability to produce credit for households and businesses.

However, if these interventions helped policymakers and regulators solve certain intractable economic and financial problems from the 1970s, those solutions were temporary and they set in motion new dynamics of financial fragility. Banks used their expanded powers to heighten competition for household and business deposits, and increased competition drove many banks out of their traditional business lines in search of higher risk (and potentially higher return) investments in commercial real estate, commercial paper (including non-investment grade or "junk" bonds) and other highly speculative investments (FDIC, 1997). As these risk-taking strategies helped to bid up the prices of commodities in those speculative market segments, they further extended the security of the retail finance sector as a whole on optimism about future growth.

The collapse of the junk bond market after 1987, and the bursting of the real estate bubble shortly afterwards, signaled the failure of this strategy. Banks and thrifts were left with deposit liabilities that far exceeded the streams of revenue from their speculative assets, leading once more to growing insolvency pressures. As this began to translate into mass failure of banks and a growing financial panic by 1989, federal regulators were thrust into lender-of-last-resort interventions on a much more dramatic scale to isolate threats to the safety and soundness of the financial system. This ultimately led to the "huge de facto nationalization of a major part of the US finance industry" (Ball 1990, p. 73) between1989 and1994 in an attempt to restore the basis for renewed accumulation.

Thus, state strategies in the face of the decisional uncertainties created by financial volatility involved a twin move on the part of regulators. First, reducing regulations governing the production of credit money allowed financial institutions to adopt more credit or market risk in order to sustain their critical functions in an era of greater financial volatility. As the expansion of bank powers facilitated over-competition and heightened speculation, this displaced the exercise of state

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[6] These included the Depository Institution Deregulation and Monetary Control Act of 1980, the Garn-St. Germain Act of 1982, the Secondary Mortgage Market Enhancement Act of 1984, and the Tax Reform Act of 1986 (Ball, 1990; Gotham, 2006).

power towards those moments where increased risk-taking produced financial instability or crisis. The mirror of deregulation, then, is an increased state role in protecting the safety and soundness of the financial system through situation-specific interventions to address new forms of systemic risk. This has made the economic-financial state of emergency a key feature of the economic and political landscape (Scheuerman, 2000, 2004).

## THE PRODUCTION OF EXCEPTIONAL SPACES: THE RISE OF THE SUBPRIME MORTGAGE MARKET & THE RESTRUCTURING OF RACIALIZED RISK

Conventional economics and policy analysis understand these shifts in regulation, and their relationship to a legacy of racialized risk, in fairly straightforward terms. Deregulation, it is argued, opened up forms of lending activity that had not previously been possible due to overregulation (Chinloy & Macdonald, 2005). To the extent that the New Deal financial system combined limits on competition with rigorous management of credit risk, it encouraged banks to engage in credit rationing – avoiding risky loans, and the potential losses associated with them, by increasing underwriting standards. Rooted in an interwar system of risk management that equated race with risk, in the postwar period these racialized risk measures became a rational response to regulatory limits on risk-taking and competition. As deregulation removed strict regulation of loan products or bank competitive behavior, it has been interpreted as critical to the formation of new market segments, especially around borrowers disconnected from the financial system. This interpretation naturalized the development of the subprime mortgage market, which through the 1990s and early 2000s was hailed as representative of the "completion" of the mortgage market (Ashton, 2009).

Viewed from the lens of shifting state strategies in the era of financial liberalization, however, these transformations take on a different cast. Deregulation did not spill over directly to the subprime market, at least not at any significant scale, until the early 1990s – almost a decade after deregulation conferred on banks the power to make nontraditional loans (Temkin, Johnson, & Levy, 2002). In order to understand the rise of that market, and to situate the transformation of racialized risk, we need to look more closely at the interplay between two roles that define new state strategies in the era of increased financial volatility: (1) situation-specific interventions to mitigate systemic risk during periods of financial crisis; and (2) modes of regulation that intensified risk-taking during periods of speculative market development. These new types of regulatory activities and roles help us locate the production of exceptional spaces through periods of financial crises and instability, and they identify the financial state of emergency as a critical moment in the restructuring of racialized risk.

### RISK MITIGATION: EXCEPTIONAL MEASURES & TOXIC ASSETS

The extraordinary events of 2007 and 2008 have brought to the forefront how this new orientation towards risk management functions in practice. Faced with mounting losses in their portfolios of subprime mortgage backed-securities by the spring of 2007, investors and financial institutions rushed to trade those assets for higher-quality financial instruments. This triggered a process of deleveraging and devaluation that reverberated throughout global financial circuits, recasting the non-performing risks at the center of that process into "toxic assets" that weigh on the profitability and solvency of individual firms, and that increase overall uncertainty in the market as a whole (Fender & Hördahl, 2007). While at first banking regulators in the US mobilized individual lender-of-last-resort interventions to try to isolate system-threatening risks and prevent contagion, the growing scale of the crisis transformed this into a sudden and revolutionary expansion of the powers of the Treasury and the Federal Reserve – invoking an economic state of emergency to facilitate widespread triage of failing institutions and risky financial assets (Krugman, 2008). This state of emergency encompassed not only traditional depository institutions but also a wide variety of other firms and markets whose role in producing credit money has become indispensable in the era of financial liberalization – investment banks, insurance companies, hedge funds, secondary market institutions such as Fannie Mae and Freddie Mac, and even the interbank market as a whole (Freixas & Parigi, 2008). The orientation towards the *financial exception* (Agamben, 2004) – in this case, exceptional measures intended to isolate system-threatening institutions or assets and avoid contagion – aimed to allow the norms of risk management to function within the broader financial system according to prevailing expectations and models, and to restore the ability of the financial system to coordinate the production of credit money.

This provides a window into what has been a troubling question for scholars focused on the subprime mortgage market: how could decades of racial exclusion from credit markets be transformed so quickly and decisively? The concept of the financial exception points us to moments after deregulation where state risk management strategies during periods of financial instability or crisis produced the conditions for the racialization of risk to take new forms. In particular, it points us to the exceptional measures enacted in the aftermath of the banking crisis of the late 1980s and their role in the genesis of the subprime mortgage market.

Then, as during the current mortgage crisis, repairing the banking system and preventing its troubles from reverberating more widely meant having to distinguish those banks and bank assets that posed the most significant risks to the financial system by virtue of their capacity for loss or contagion. Whereas this approach had been immanent in lender-of-last resort interventions throughout the postwar period, the scale of the banking crisis required interventions on an extraordinary scale. The central piece of legislation authorizing federal intervention, the federal Financial Institutions Reform, Recovery and Enforcement Act of 1989 (FIRREA), established the Resolution Trust Company (RTC) as a temporary agency with broad powers to seize more than 750 insolvent savings banks and sell their assets (Ball, 1990; Gotham, 2006). RTC was to act as a "receiver" of risk, removing failing institutions or toxic assets from circulation by absorbing them onto its books before looking for least-cost ways to dispose of those assets (FDIC, 1997, 1998).

In the process, regulators were forced to address losses associated with the particular speculative excesses of the 1980s, including failed commercial real estate projects and "non-performing mortgages" – mortgages where homeowners had missed payments, often because of recession-induced job loss. Unlike real estate or performing mortgages, which RTC could sell to other institutions or investors, direct auction was not feasible for non-performing loans because of their poor risk profile. The risk of these loans also complicated the use of government guarantees to make them palatable to investors (FDIC, 1998, pp. 408-9). Instead, RTC looked instead to innovations in securitization to maximize disposal of those "toxic" assets while minimizing direct costs to taxpayers. It pooled loans into independent trusts, which then issued securities with a hierarchy of claims on the underlying stream of interest generated by the pooled mortgages. These claims were divided into risk classifications, or *tranches*, each defined by the degree of exposure to underlying risk of loss; those classes least exposed to credit risk resembled investment-grade assets and were able to qualify for good credit ratings (FDIC, 1998, pp.413). These securities were similarly priced according to risk exposure, with tranches most exposed to credit risks earning a much higher return. This structure, which had been used with car loans or other assets since the mid-1980s, allowed RTC to issue the first mortgage-backed securitization that included non-performing loans, in June of 1991, and by October of that year it had completed 12 securitizations totaling $5 billion including such higher-risk loans (FDIC, 1998, pp.415).[7] By 1995, RTC had completed 45 such deals and was second only to the GSEs in mortgage securitization volume.

So, the need mitigate systemic risks during extraordinary moments of financial crisis took the form of isolating credit risk into more precise corners of financial market, with two effects. First, it created an *exceptional space* within a set of financial instruments, and within financial markets more generally, where the risks posed by non-performing loans could be isolated; this took the form of the legal space of the *tranche* where investors could clarify their exposure to credit risk and their claims on the underlying loans. Second, it mitigated those higher risks by assigning higher rates of return, defining exceptional spaces as sources of profitability in order to facilitate their disposition. In so doing, it created the basis for transformation of the exceptional space of non-performing or "toxic" loans into a market space integrated with broader capital markets and thus open to a wider group of investors.

[7] RTC also used this approach with commercial mortgages, developing several special programs to develop market capacity in non- and sub-performing commercial loans (FDIC, 1998; Gotham, 2006).

## RISK INTENSIFICATION: THE PRODUCTION OF SUBPRIME LIQUIDITY

However, it was not only during extraordinary moments such as the banking crisis that state strategy shaped the exceptional spaces that would come to define the entrapment of minority borrowers. In the case of the subprime market, the financial exception endured and was transformed into a market space by expanding to encompass borrowers whose profile matched a social history of disconnection from credit markets. New forms of financial regulation provided two different kinds of moments where the spaces of exception could be developed and extended along these lines; these were (I) the rationalization of competition and the introduction of new risk dynamics into the production of credit money, and (II) periodic currency crises and other forms of financial instability that unfolded through the 1990s and early 2000s. Both of these had the effect of intensifying the level of risk-taking within the market spaces that emerged out of the banking crisis of the late 1980s.

First, even as the production of exceptional spaces has been oriented to the triage of system-threatening risks, crises were simultaneously moments where capital flows were liberalized on a situation specific basis to facilitate their re-absorption into the financial system. This orientation, which included "reduced capital standards, liberalized ownership restrictions for stockholder-owned thrifts, and capital and accounting forbearance that allowed [banks] to operate with minimal or no equity while their true condition was obscured" (FDIC, 1997, p. 41), was evident in many individual lender-of-last-resort interventions over the past forty years. Loosened regulations and forbearance were pragmatic strategies to allow solvent banks to purchase the assets of failed banks, or to allow failing banks to operate outside of prevailing risk management norms while they attempted to raise additional capital or grow their way out of insolvency. As the scale of financial volatility increased through the 1970s and 1980s, however, forbearance in individual cases was broadened to cover entire cohorts of financial institutions.[8] FIRREA further generalized this process by seeking to open up and rationalize competition within retail finance – for instance, by dismantling the historical separation between savings and commercial banks (FDIC, 1998). This was followed quickly by the removal of geographic restrictions on interstate banking and branching, also aimed at rationalizing the banking system, which set in motion a wave of interstate mergers and financial consolidation (Dymski, 1999).

These interventions became cornerstones of a new mode of credit market regulation, characterized through the 1990s as "financial modernization," which extended and generalized regulatory forbearance across the broader financial system. This orientation sought to harness the ability of highly liquid equity and capital markets to efficiently arbitrate financial risk, substituting the discipline of competition for direct regulation of the housing and retail finance system (Dymski, 1999). As one component of this strategy, the Federal Reserve and other regulatory agencies selectively withdrew from the direct regulation of risk throughout the decade, either by loosening risk management rules for banks or by refusing to extend those rules to the firms and practices defining the growing subprime market. Interventions ranged from altering quotidian risk management rules to allow greater use of risky financial instruments such as derivatives (Greenspan, 1997), all the way to major systemic reforms establishing market-based regulation as the meta-governance framework. These latter were enshrined in a new architecture for domestic banking (the Financial Modernization Act of 1999, which removed the remaining barriers to competition remaining from the New Deal financial system) as well as for international financial activity (the Basel Accords of 1988 and 2004) (Immergluck, 2004).

As a result, regulations governing the adoption of risk during the process of producing credit were either selectively applied or they delegated responsibilities for setting risk standards to financial firms themselves – the presumption being that highly liquid financial markets are better judges of firms' business strategies than regulators. In place of quotidian forms of financial regulation, regulators promoted disclosure and transparency as critical to ensuring that credit or market risks were priced

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[8] Examples from the banking crisis through the 1980s included FDIC's Net Worth Certificate Program, implemented by the Garn St. Germain Act of 1982 to stabilize savings banks, as well as a set of reduced capital standards later in the decade that were targeted to banks active in states affected by the downturns in the energy and agriculture sectors (FDIC,1997, p.117).

accurately and allocated to investors with an appropriate tolerance (Calomiris & Litan, 2000). Correspondingly, many of the new loan products that defined the subprime mortgage market were only subjected to regulatory guidance, as it was felt that firms should develop their own internal risk management system appropriate to their appetite for risk. And even those weak guidelines did not apply to the non-bank lenders outside of the formal regulatory apparatus of the banking system. In order to consolidate and rationalize this regime, regulators began to invoke federal powers of pre-emption, allowing financial firms to disregard state laws setting limits on certain practices or products (Immergluck, 2004).

Second, the endurance of the space of exception, and its transformation into a significant segment of the mortgage market, was given a critical boost by monetary policy interventions aimed at maintaining foreign capital flows into the US financial system in the wake of international currency crises. As monetary policy in the post-Bretton Woods era has become oriented towards creating certainty for financial markets – for instance, by keeping inflation low and ensuring the relative stability of the national currency – sudden shifts in interest rates or currency values to address actual or threatened instability have provided the fault lines around which markets take shape (Bryan & Rafferty, 2006; Krugman, 2009; LiPuma & Lee, 2004).

Of particular importance to the subprime mortgage market was the Mexican currency crisis of 1995. In the wake of substantial US exposure to the collapse of the Mexican peso in late 1994, investor confidence in US financial markets was shaken and the Federal Reserve Bank had to raise short-term interest rates to maintain their attractiveness to foreign investors. In this it was successful: foreign purchases of US government debt grew from $197.2 billion in 1995 to $312 billion in 1996 (R. Brenner, 2002, p. 141). While much of this activity was focused on US government debt (such as Treasury securities), foreign buyers were also increasingly attracted to other government agency securities, including Fannie Mae and Freddie Mac. The effect of this flood of foreign capital into government securities was similar in all cases: it drove down their price and with it long-term interest rates. The influx of foreign capital lowered the costs of borrowing both for consumers as well as for corporations, "freeing a cascade of liquidity to purchase US equities" – including subprime mortgage securities (R. Brenner, 2002, p. 141). Declining long-term interest rates also made the returns to prime mortgage lending seem much less attractive by comparison, sending domestic investors elsewhere in search of higher returns.

In this competitive environment, securities backed by subprime mortgage loans offered higher profit margins and potentially unlimited growth to a yield-starved market (Ashton, 2009). The technologies that had characterized the financial exception – the legal space of the tranche and the risk management techniques embedded in securitization – signaled to lenders and investors that their exposure to the full risks of lending to borrowers with poor credit histories could be limited even as it was tied to above-average profits. Subprime refinance mortgages at the time carried interest rates of 11-14% depending on the credit quality of the applicant, representing a premium of 2-6% over conforming loan rates (Weicher, 1997). Subprime mortgage lending quickly grew, increasing four-fold from $40 billion in originations in 1994 to $160 billion in 1999, and subprime lenders' share of all home mortgage originations tripled during the same period (to 14%). As the rush into the subprime market began to put pressures on profits, lenders and investors pushed the market in new directions by adding borrowers from new market segments or by developing new loan products that further allowed borrowers to leverage their incomes or household assets. This set in motion patterns of excessive risk-taking, with "institutions [trading] the apparent lowering of credit risk - accomplished through the mechanisms of securitization as well as the movement of the market into higher quality borrowers – for loosened underwriting standards and nontraditional loan terms" (Ashton, 2009, p.20).

These two different sets of interventions shaped and extended the market space that had been opened by the exercise of the financial exception during the banking crisis of the late 1980s and early 1990s. The management of periodic financial instability through monetary policy reorganized the landscape of profitability throughout the financial system, in the process spurring a dramatic influx of capital into the subprime mortgage market seeking high profits, with similar shifts occurring in the wake of Federal Reserve responses to currency crises in Russia and Asia in 1997-1998 and post-9/11. The orientation towards regulatory forbearance subsumed risk regulation to firm strategy, which through the 1990s and early 2000s became ever more focused on intense competition for market share within the growing subprime market. This empowered the non-bank mortgage lenders that were at the center of the subprime market and elaborated a market structure where high-cost lending could proliferate and where unchecked financial competition could increasingly catch borrowers in a cycle of speculative market development.

## REMAPPING RACIALIZED RISK: RISK COLONIZATION AND THE SUBPRIME MORTGAGE MARKET

For Ong (Ong, 2006), state strategies producing spaces of exception are emblematic of the contingent exercise of sovereignty under neoliberalism. The growing weight of financial volatility and the periodic financial crises that accompany it force policymakers and regulators into contexts of decisional uncertainty to which they opt to respond in situation-specific terms to protect the ability of financial institutions to coordinate critical aspects of economic and social policy. Alternately, financial regulators articulate state strategies – deregulation in the 1980s, financial modernization in the 1990s – that anticipate uncertainty in an attempt to solve broader problems of wealth, wellbeing and security. I join Ong and Mitchell (2006) in seeing the results of these decisions and articulations as producing spaces of exception with significant degrees of variegation. System-threatening risks could lie in any form of fictitious capital whose unraveling during financial crisis threatens to leverage further losses and reverberate through the broader economy. The exercise of the exception during periodic financial crises also takes it place within a range of exceptions promoted as technologies of governance in the face of decisional uncertainties produced by neoliberalization.[9] Similarly, the exercise of the exception could result in quite different hierarchies, with different temporalities or spatialities, according to the context of its application.

However, in the case of the subprime mortgage market the space of exception was both durable and expansionary. By stretching to realize the untapped profit potential of high-risk lending, lenders and investors expanded the market to encompass borrowers whose *social* histories – their neighborhood context, their levels of wealth or liquid assets relative to other borrower groups, or the paths that they or their families had followed to enter the housing market in the first place – mapped onto the risk profile established within the nascent non-performing loan market. This facilitated a process of *risk colonization* (Rothstein, et al., 2006), whereby the techniques of risk management embodied in the financial exception came to "colonize aspects and domains of the lending process beyond the original problematic" (Marron, 2007, p. 116).

In many cases, the personal and the social were one in the same, as minority households were disproportionately harmed by the economic restructuring of the 1980s (Abu-Lughod, 1999). However, there were at least three other paths shaping the colonization of the financial exception into market spaces that increasingly defined the entrapment of minority borrowers. First, there was the promotion of credit scoring and automated underwriting as industry best practices for isolating higher credit risks and assigning them to lenders and investors with an appropriate "appetite" for risk (Avery, et al., 1996; Leyshon & Thrift, 1999; Straka, 2000). Experience with non-performing loans during the banking crisis had led a number of industry participants – including Fannie Mae and Freddie Mac, as well as private mortgage insurers and the Federal Housing Administration (whose mortgage portfolio had seen significant losses) – to a concern with "improved screening or pricing of the highest-risk 'tail' of loans that had previously been included under manual underwriting and quality control" and that "accounted for a much higher percentage of actual and expected default losses" (Straka, 2000, p. 217). Fannie Mae and Freddie Mac were instrumental, beginning in 1994-1995, in the diffusion of credit scoring and automated underwriting as standard industry practices to ensure that borrowers were allocated to loan products based on their risk profile, and that those products were priced based on that risk.

With these practices, it was no longer direct experience of non-performance that defined credit risk. Rather, comparison of a borrower's profile against statistical models of default produced an anticipated likelihood of adverse credit events that

[9] For instance, a number of other scholars have already developed the concept of the financial exception regarding circuits of capital associated with the War on Terror (Atia, 2007).

could be used to segment broader credit markets along the lines laid out in the space of exception. While the subprime market was slower to adopt credit scoring internally (Straka, 2000), the broader use of scoring and automated underwriting sharpened the boundaries between mainstream market segments and the residual space of the subprime market (Temkin, et al., 2002). Non-performance found its equivalence in the high-risk borrower, as the social proximity of many minority households to risk factors – including labor market disconnection, low levels of liquid assets, experience with default or other forms of financial distress, or declining property values – was captured by credit scoring and formed the basis for the colonization of the space of exception into new market segments (Aalbers, 2005).

Second, for many minority homeowners who had bought in the 1960s through the 1980s, the path to ownership had often been through FHA or other government-insured loan programs. This was often due to the lower levels of wealth among minority homebuyers, which required the higher loan-to-value ratios allowed by those loan programs to overcome downpayment constraints (Bradford, 1979). In other cases, it was informal credit that opened the door to homeownership, as the retreat of mainstream banks from minority neighborhoods left few options outside of installment credit or land contracts (Harvey & Chatterjee, 1974; Stuart, 2003). By the 1990s, these two paths had created neighborhoods with sizable cohorts of minority homeowners in many US central cities, and long-term owners had developed equity in their homes by virtue of having paid down their loans, and much of the early explosive growth in subprime lending came through refinance lending to African-American neighborhoods (Immergluck, 2001; Newman & Wyly, 2004; Temkin, et al., 2002).

Third, the colonization of the space of exception into a broader market space was facilitated by local market structures inherited from a legacy of disinvestment and decline under the New Deal financial system. As financial development in the postwar period saw fewer mainstream banks active in minority neighborhoods, borrowers in those neighborhoods came to rely much more heavily on local mortgage brokers or finance companies operating in the shadow banking market. The competitive advantage of these lenders was their ability to spread their business through word of mouth (Stuart, 2003), as well as their familiarity with higher-risk borrowers through participation in government-backed loan programs. This made it easy for them to develop expertise in new forms of lending – such as low credit score or high LTV refinance mortgages, or simultaneous second ("piggyback") loans in the 2000s – that quickly defined the subprime market (Temkin, et al., 2002). The continuing development of banking markets away from underserved neighborhoods – rooted in the behavior of the large financial conglomerates at the center of financial modernization (Ashton, 2008; Dymski, 1999) – enhanced the market power of subprime lenders to set the terms of their loans opportunistically rather than according to a strict accounting for risk (Lax, Manti, Raca, & Zorn, 2004).

As a result, many subprime loan terms were calibrated to producing or protecting yields for lenders and investors – with profits from high interest rates and onerous fees being only one aspect (Peterson, 2007). High LTV loans, for instance, allowed brokers and lenders to maximize loan volumes even as they often required relaxing debt-to-income standards to qualify borrowers. Loan terms such as adjustable interest rates allow holders of subprime mortgage securities to profit through interest rate volatility, whereas high prepayment penalties ensure that projected cashflow streams on subprime securities are not disrupted (Farris & Richardson, 2004). Other terms or practices, such as single premium credit life insurance, represented little more than pure rent-seeking, and outright predation became a strong undercurrent in the new market structure that formed in minority neighborhoods through the 1990s (Wyly, Atia, Foxcroft, Hammel, & Phillips-Watts, 2006). The technologies and profitability norms defined through the exercise of the financial exception – that high credit risks could not only be mitigated but turned into financial instruments with above-average rates of return – shaped the paths for market development, with "the systematic determination of default risk… subsumed and integrated into another, wider and more complex determination of risk – the risk that the credit consumer will be unprofitable to the lender" (Marron, 2007, p. 121). The process of risk colonization, in other words, transformed the financial exception into an exceptional space defined by the profit potential of captive minority borrowers.

Even if the personal histories of borrowers did not flag them as high risk, they came to be encompassed within the space of exception by virtue of the aggressive expansion of this market structure. By 1998, half of the refinance mortgages extended in predominately African-American neighborhoods were subprime, five times as prevalent as in predominately white neighborhoods (Immergluck, 2001; Temkin, et al., 2002, p. 6). An early dynamic that has subsequently defined the subprime market is the disconnect between the prevalence of subprime lenders and the distribution of "real" credit risks; different studies have found that anywhere from one-third to one-half of minority borrowers who end up in the subprime market could have initially qualified for prime credit (Lax, et al., 2004).

The scale and ferocity of the mortgage crisis that had unfolded since 2006, with its rampant foreclosures and destruction of property values, is a forceful indicator of the effects of this market structure (Crump, et al., 2008). However, a strict focus on foreclosure masks the degree to which concentrated subprime lending has transformed the credit risk relationships that prevailed throughout the postwar period. One way to map the process of risk colonization is to expand the conceptualization of financial risk. Instead of seeing the owners of capital as the sole bearers of risk, such a conceptualization would include those risks borne by households as they seek the scarce resources necessary for survival or advancement (Dymski & Isenberg, 1998). These household risks take different forms at different points in the housing lifecycle. For instance, the racialization of risk through the postwar period produced *entry risk* for many minority households, defined as "the risk of not finding adequate housing when entering the housing market" (Dymski & Isenberg, 1998, p. 223). This risk was directly tied to the dearth of lenders willing to provide loan capital for home purchase, just as it was to the lack of quality housing in the declining neighborhoods where minority households were disproportionately crowded.

With financial liberalization and a new institutional landscape to mortgage lending that emerged from the banking crisis of the late 1980s (Ashton, 2008), these entry risks were transformed as lenders began to crowd into minority neighborhoods at an increasing pace through the 1990s (Wyly, Atia, & Hammel, 2004). The sudden influx of mortgage capital began to translate into heightened home purchase and refinance activity in many minority neighborhoods, as loosened underwriting standards allowed greater leverage for homebuyers pursuing ownership with limited income or assets and for existing owners seeking to cash out home equity. This set in motion a dangerous pattern – more buyers and existing owners in these markets resulted in price appreciation, requiring in turn more flexible underwriting standards to qualify borrowers for loans. These trends were often surprising to observers, as they came in neighborhoods that had experienced decades of weak demand and stagnant or declining home values (Crump, et al., 2008).

The transformed conditions of entry highlight two additional forms of household risk accompanying the concentration of subprime lending in minority neighborhoods. A second form of household risk is *tenure risk*, which focuses on the sustainability of a household's occupancy and is directly tied to the interest rate and terms contained in the mortgage contract. Higher interest rates and greater leverage mean that more household resources have to be dedicated to debt service, whereas high points or fees transfer limited household savings into the hands of lenders. "Trigger events," such as job loss, medical crises or catastrophic repairs challenge the ability of households to maintain payments and avoid default and displacement. These risks are particularly acute for the minority households that make up the major part of the subprime borrower pool, and are among the factors that have propelled the high rates of default and foreclosure among subprime borrowers (Quercia, Stegman, & Davis, 2007). Adjustable rate mortgages expose households more directly to changing patterns in the circulation of money though the broader economy. High prepayment penalties further reduce the likelihood that households will be able to use evidence of steady payments as a resource to secure lower-cost refinancing, trapping them within a form of debt bondage (Farris & Richardson, 2004). This has been a critical factor shaping the characteristic experience of concentrated subprime lending in minority neighborhoods – that being differential exposure to wealth expropriation through delinquencies, foreclosures, and the intensification of competition during the most recent speculative bubble.

This in turn produces a third form of household risk – *reentry risk*, defined as "the risk that a household vacating a housing unit will be unable to find an adequate replacement unit within its means" (Dymski & Isenberg, 1998, p. 223). Within mortgage lending, reentry risk is tied to whether a household successfully negotiated the homeownership process, retrieved or expanded her original equity investment, and improved her ability to bargain for increased housing opportunity. Unsuccessful homeowners – those who have defaulted or been foreclosed on – face much higher reentry risks in the form of poor credit ratings, diminished savings, or bankruptcy. Personal histories of these adverse events results in exclusion from credit markets or even higher risk premiums, requiring that these households dedicate more of their scarce household resources to servicing debt.

These risks capture even successful owners – those without a personal history of adverse events. As concentrated foreclosures reverberate through neighborhood property markets, they produce declining property values that heighten lender hesitancy to issue new loans or result in more stringent underwriting criteria. Existing owners seeking to re-enter the market to refinance or trade up (along with prospective buyers seeking entry) find themselves unable to do so, either due to a lack of available credit or to negative equity produced by housing price declines.[10] The result of concentrated subprime lending, in other words, is a self-fulfilling prophecy of credit risk. The pricing and terms of the subprime market produce financial instability and reproduce the very problems that justify its concentration in minority market segments. It has also produced a significant cohort of "troubled assets" – non-performing loans or foreclosed properties facing rapid price declines – whose concentrated losses threaten the solvency of the banking system and the norms of risk-taking in the broader financial system. As the latest rounds of exceptional measures have turned to these problematic assets since late 2007, we can only expect the result to be further transformations in the racialization of risk.

## CONCLUSION: THE STATE OF EXCEPTION & RACIALIZED RISK

The concept of risk has been a central axis for understanding the dimensions of the financial crisis that has unfolded since 2007. Various accounts of the crisis have brought different elements of financial risk to the forefront, including: the changing science of risk assessment that has flattened personal and social histories of interaction with financial markets into single metrics that become the basis for the production of new credit hierarchies (Leyshon & Thrift, 1999); the re-commodification of that risk through risk-based pricing, securitization or other technologies that make loans to high-risk borrowers into highly profitable financial instruments (Wyly, et al., 2006); and the culture of risk-taking that encouraged the speculative development of markets, pushing lenders and borrowers alike to extend the boundaries of financial risk across the entire financial system (Langley, 2008).

This analysis has focused on yet another dimension, that being the ongoing structuration of financial risk through regulatory policy, and its effects on the social relationships underlying financial actors' assessments of risk and return (Gotham, 2006). I have tried to situate new forms of racialized risk within two interrelated state strategies – deregulation and the financial state of emergency – forged in response to the decisional uncertainties produced by heightened financial volatility. In particular, the exercise of the financial exception in the wake of the banking crisis of the late 1980s focused on isolating "toxic" risks – borrowers whose histories of default or foreclosure problematized regulators' attempts to repair the banking system and allow the norms of risk management to unfold according to prevailing models and expectations. This elaborated new techniques of risk management – such as risk-based pricing within the legal and market space of the *tranche* – that transformed non-performing loans into profitable financial instruments open to broader capital markets.

In turn, a process of risk colonization mapped those risk management techniques onto inherited geographies of racialized risk and financial disconnection. As monetary policy and financial modernization – additional state strategies anticipating the uncertainties of volatile financial markets – produced conditions for the intensification of risk-taking within those market spaces, the resulting patterns of market development disproportionately exposed minority households to a cycle of high-

[10] Negative equity – a situation where an owner owes more on a loan than the value of the home used to secure it – has been a significant source of risk through the most recent financial crisis, produced by declining home values. A textbook response to this risk can be seen in Fannie Mae's Declining Markets Policy, which increased downpayment requirements for loans in neighborhoods experiencing price declines (FNMA, 2007).

cost lending and over-competition, with "the 'normal' laws governing lending practices… suspended for this territory, and the rent gap territory in which their homes are located [becoming] the new spaces of exception" (Mitchell, 2006, p. 101).

I have highlighted *exposure to risk* emanating from the financial sector as a defining element of the new forms of racialized risk produced by the exercise of the financial exception. However, any exploration of differential citizenship in the subprime mortgage market would need to integrate other dimensions to highlight how an entirely different normativity is brought to bear within its market and legal spaces. For instance, the entrapment of African-American and Latino borrowers within the subprime market has the effect of narrowing their ability to make political claims regarding their status. Scheuerman (2000; 2004) and others have pointed to how the financial state of emergency diminishes popular sovereignty in favor of the situation-specific exercise of executive power, subsuming claims for fair treatment or equal outcomes to those of financial safety and soundness. While the consolidation of executive power is clearly at work in the current crisis, there are more subtle ways in which the norms of risk management have stifled political action. For instance, the isolation of credit risk in the legal space of the tranche has subsumed the social history of that risk – its connection to racialized histories of financial disconnection – to a definition appropriate to negotiable financial instruments. As a result, borrowers who have been disproportionately harmed by their exposure to the subprime market, or whose exposure has been shaped by social histories of financial disconnection, are forced into institutional venues or areas of the law (such as rules governing contracts, fraud, and discrimination) where remedies for unfair treatment are narrowly construed or where higher standards for success prevail (Engel & McCoy 2002). In both the political and the juridical realm, then, the norms of risk management give legitimacy to the "hierarchies of embodied difference that 'make sense' to a given society at a given time [and that]… hook into pre-existing commonsense understandings that were formed through constructions of biological difference inherent to the actual development of liberalism and modern (state) sovereignty" (Mitchell 2006, pp. 103-104).

Similarly, as policymakers and financial regulators propose and implement a series of exceptional measures specific to the present financial crisis, the framework of differential citizenship provides an opportunity to investigate the degree to which whether we are currently witnessing an opportunity to remedy historic inequities, or a deepening or further restructuring of racialized risk. A series of interventions proposed by the Obama administration in early 2009 are illustrative of how policies attempting to recuperate at-risk borrowers or remedy the problems of concentrated subprime lending may represent new forms of hierarchy. The "Helping Families Save Their Homes Act of 2009" is a case in point; it allows borrowers in bankruptcy proceedings to have their loans forcibly restructured to make them affordable. As this option is only available to borrowers who have filed for bankruptcy, borrowers are put in the paradoxical position of needing to signal their status as high credit risks in order to obtain relief. Similarly, other remedial programs – such as the "Making Home Affordable" Program, created in early 2009 – focus their attention on market segments or loan products where the likelihood of successful loan workouts or the capacity to leverage private funds is highest. These programs use key indicators or eligibility criteria to segment the pool of at-risk borrowers, including local property values (moderate versus precipitous decline), the prevalence of foreclosures (light versus severe), loan characteristics (wholly-owned by a stand-alone bank versus fragmented ownership in a securitization trust), or market structure (prevalence of GSE-backed loans versus private equity). As many of these eligibility or risk criteria directly map onto the characteristics of concentrated subprime lending, remedial programs come to function as their own form of financial exception or triage – isolating borrower segments or neighborhoods where the subprime market and its speculative development came to ground in the most severe fashion.

Individual borrowers may win or lose in this process. What seems certain is that the exercise of the financial exception will continue to redraw the lines of credit risk in ways that will further condition prospects for advancement.

## REFERENCES


Aalbers, M. (2005). 'The quantified customer' or, how financial institutions value risk. In P. Boelhouwer, J. Doling & M. Elsinga (Eds.), *Home Ownership: Getting In, Getting Out* (pp. 33-57). Delft: Delft University Press.

Abu-Lughod, J. (1999). *New York, Chicago, Los Angeles: America's Global Cities*. Minneapolis, MN: University of Minnesota Press.

Agamben, G. (2004). *State of Exception*. Chicago, IL: University of Chicago Press.

Arrighi, G. (1994). *The Long Twentieth Century: Money, Power, and the Origins of Our Times*. London and New York: Verso.

Ashton, P. (2008). Advantage or disadvantage? The changing institutional landscape of underserved mortgage markets. *Urban Affairs Review, 43*(3), 352-402.

Ashton, P. (2009). An appetite for yield: The anatomy of the subprime mortgage crisis. *Environment and Planning A, advance online publication, doi:10.1068/a40328*.

Atia, M. (2007). In whose interest? Financial surveillance and the circuits of exception in the War on Terror. *Environment and Planning D: Society and Space, 25*(3), 447-475.

Avery, R., Bostic, R., Calem, P., & Canner, G. (1996). Credit risk, credit scoring, and the performance of home mortgages. *Federal Reserve Bulletin, 82*(7), 621-648.

Bradford, C. (1979). Financing home ownership: The Federal role in neigborhood decline. *Urban Affairs Quarterly, 14*(March), 313-335.

Brenner, N. (2004). *New State Spaces: Urban Governance and the Rescaling of Statehood*. Oxford and New York: Oxford University Press.

Brenner, R. (2002). *The Boom and the Bubble: The U.S. in the World Economy*. New York, NY: Verso.

Bryan, D., & Rafferty, M. (2006). *Capitalism with Derivatives: A Political Economy of Financial Derivatives, Capital and Class*. Basingstoke and New York: Palgrave Macmillan.

Calomiris, C. W., & Litan, R. E. (2000). Financial regulation in a global marketplace. In R. E. Litan & A. M. Santomero (Eds.), *Brookings-Wharton Papers on Financial Services* (pp. 283-339). Washington, DC: Brookings Institution.

Canner, G. B., Passore, W., & Laderman, E. (1999). The role of specialized lenders in extending mortgages to lower-income and minority homebuyers. *Federal Reserve Bulletin, 85*(November), 709-723.

Chinloy, P., & Macdonald, N. (2005). Subprime lenders and mortgage market completion. *Journal of Real Estate Finance and Economics, 30*(2), 153-165.

Crump, J., Newman, K., Belsky, E., Ashton, P., Kaplan, D. H., Hammel, D. J., et al. (2008). Cities destroyed (again) for cash: Forum on the U.S. foreclosure crisis. *Urban Geography, 29*(8), 745-784.

Dodd, N. (1995). Money and the nation-state: Contested boundaries of monetary sovereignty in geopolitics. *International Sociology, 10*(2), 139-154.

Dymski, G. (1995). The theory of bank redlining and discrimination: an exploration. *The Review of Black Political Economy, 23*(3), 37-74.

Dymski, G. (1996). Money as a 'time machine' in the new financial world. In P. Arestis (Ed.), *Keynes, Money, and the Open Economy: Essays in Honor of Paul Davidson* (pp. 85-104). Brookfield, VT: Edward Elgar.

Dymski, G. (1998). Disembodied risk or the social construction of creditworthiness? In R. J. Rotheim (Ed.), *New Keynesian Economics/Post Keynesian Alternatives* (pp. 241-261). London: Routledge.

Dymski, G. (1999). *The Bank Merger Wave: The Economic Causes and Social Consequences of Financial Consolidation*. Armonk, NY: M.E. Sharpe.

Dymski, G., & Isenberg, D. (1998). Housing finance in the age of globalization: From social housing to life-cycle risk. In D. Baker, G. Epstein & R. Pollin (Eds.), *Globalization and Progressive Economic Policy* (pp. 219-239). New York, NY: Cambridge University Press.

Dymski, G., & Veitch, J. M. (1996). Financial transformation and the metropolis: booms, busts, and banking in Los Angeles. *Environment & Planning A, 28*(7), 1233-1260.

Farris, J., & Richardson, C. A. (2004). The geography of subprime mortgage prepayment penalty patterns. *Housing Policy Debate, 15*(3), 687-714.

FDIC. (1997). *An Examination of the Banking Crises of the 1980s and Early 1990s* (Vol. 1). Washington, DC: Division of Research and Statistics, Federal Deposit Insurance Corporation.

FDIC. (1998). *Managing the Crisis: The FDIC and RTC Experience*. Washington, DC: Federal Deposit Insurance Corporation.

Fender, I., & Hördahl, P. (2007). Overview: Credit retrenchment triggers liquidity squeeze. *BIS Quarterly Review*(September), 1-16.

FNMA. (2007). Maximum Financing in Declining Markets Policy (Vol. Announcement 07-22). Washington, DC: Fannie Mae.

Freixas, X., & Parigi, B. M. (2008). The lender of last resort of the 21st century. In A. Felton & C. M. Reinhart (Eds.), *The First Global Financial Crisis of the 21st Century* (Vol. 2, pp. 163-168). London: VoxEU/Center for Economic Policy Research.

Gotham, K. F. (2006). The secondary circuit of capital reconsidered: Globalization and the US real estate sector. *American Journal of Sociology, 112*(1), 231-275.

Greenspan, A. (1997). *Remarks: Government regulation and derivatives contracts.* Paper presented at the Financial Markets Conference of the Federal Reserve Bank of Atlanta, Coral Gables, Florida.

Harvey, D. (1977). Government policies, financial institutions, and neighborhood change in United States cities. In M. Harloe (Ed.), *Captive Cities* (pp. 123-139). New York, NY: John Wiley.

Harvey, D. (1999). *The Limits to Capital* (2nd ed.). London and New York: Verso.

Harvey, D., & Chatterjee, L. (1974). Absolute rent and the structuring of space by financial institutions. *Antipode, 6*(1), 22-36.

Helleiner, E. (1994). *States and the Re-emergence of Global Finance: From Bretton Woods to the 1990s*. Ithaca, NY: Cornell University Press.

Hernandez, J. (2009). Redlining revisited: Mortgage lending patterns in Sacramento 1930–2004. *International Journal of Urban and Regional Research, 33*(forthcoming).

Hillier, A. (2003). Spatial analysis of historical redlining: A methodological exploration. *Journal of Housing Research, 14*(1), 137-167.

Immergluck, D. (2001). Stark differences: Explosion of the subprime industry and racial hyper-segmentation in home equity lending. In S. M. Wachter & R. L. Penne (Eds.), *Housing Policy in the New Millennium: Conference Proceedings* (pp. 235-255). Washington, DC: U.S. Department of Housing and Urban Development.

Immergluck, D. (2004). *Credit to the Community: Community Reinvestment and Fair Lending Policy in the United States*. Armonk, NY: M.E. Sharpe.

Jenson, J. (2000). Restructuring citizenship regimes: The French and Canadian women's movements in the 1990s. In J. Jenson & B. de Sousa Santos (Eds.), *Globalizing Institutions: Case Studies in Social Regulation and Innovation* (pp. 231-252). Aldershot, UK: Ashgate.

Jessop, B. (2007). *State Power: A Strategic-Relational Approach*. Cambridge: Polity.

Knafo, S. (2008). The state and the rise of speculative finance in England. *Economy and Society, 37*(2), 172-192.

Krippner, G. R. (2003). *The Fictitious Economy: Financialization, the State and Contemporary Capitalism.* University of Wisconsin-Madison, Madison, WI.

Krugman, P. (2009). *The Return of Depression Economics and the Crisis of 2008*. New York, NY: W.W. Norton.

Kushmeider, R. M. (2005). The U.S. federal financial regulatory system: Restructuring Federal bank regulation. *FDIC Banking Review, 17*(4), 1-30.

Lake, R. W., & Newman, K. (2002). Differential citizenship in the shadow state. *GeoJournal, 58*(2), 109-120.

Langley, P. (2002). *World Financial Orders: An Historical International Political Economy*. London: Routledge.

Langley, P. (2008). Sub-prime mortgage lending: A cultural economy. *Economy and Society, 37*(4), 469-494.

Lax, H., Manti, M., Raca, P., & Zorn, P. (2004). Subprime lending: An investigation of economic efficiency. *Housing Policy Debate, 15*(3), 533-572.

Leyshon, A., & Thrift, N. (1999). Lists come alive: electronic systems of knowledge and the rise of credit-scoring in retail banking. *ECONOMY AND SOCIETY, 28*(3), 434-466.

LiPuma, E., & Lee, B. (2004). *Financial Derivatives and the Globalization of Risk*. Durham, NC: Duke University Press.

Marron, D. (2007). 'Lending by numbers': Credit scoring and the constitution of risk within American consumer credit. *Economy and Society, 36*(1), 103-133.

Meerschwam, D. M. (1991). *Breaking Financial Boundaries: Global Capital, National Deregulation and Financial Services Firms*. Boston, MA: Harvard Business School Press.

Meyerson, A. (1986). Deregulation and the restructuring of the housing finance system. In R. Bratt, C. Hartman & A. Meyerson (Eds.), *Critical Perspectives on Housing* (pp. 68-98). Philadelphia, PA: Temple University Press.

Minsky, H. P. (1982). *Can "It" Happen Again? Essays on Instability and Finance*. Armonk, NY: M.E. Sharpe.

Mitchell, K. (2006). Geographies of identity: The new exceptionalism. *Progress in Human Geography, 30*(1), 95-106.

Newman, K., & Wyly, E. (2004). Geographies of mortgage market segmentation: The case of Essex County, New Jersey. *Housing Studies, 19*(1), 53-83.

Ong, A. (2006). *Neoliberalism as Exception: Mutations in Citizenship and Sovereignty*. Durham and London: Duke University Press.

Peterson, C. L. (2007). Predatory structured finance. *Cardozo Law Review, 28*(5), 2185-2284.

Quercia, R., Stegman, M. A., & Davis, W. R. (2007). The impact of predatory loan terms on subprime foreclosures: The special case of prepayment penalties and balloon payments. *Housing Policy Debate, 18*(2), 311-346.

Rothstein, H., Huber, M., & Gaskell, G. (2006). A theory of risk colonization: the spiralling regulatory logics of societal and institutional risk. *Economy and Society, 35*(1), 91-112.

Scheuerman, W. E. (2000). Exception and emergency powers: The economic state of emergency. *Cardozo Law Review, 21*(5-6), 1869-1894.

Scheuerman, W. E. (2004). *Liberal Democracy and the Social Acceleration of Time*. Baltimore, MD: Johns Hopkins University Press.

Squires, G. D. (Ed.). (1992). *From Redlining to Reinvestment: Community Responses to Urban Disinvestment*. Philadelphia: Temple University Press.

Straka, J. W. (2000). A shift in the mortgage landscape: The 1990s move to automated credit evaluations. *Journal of Housing Research, 11*(2), 207-232.

Stuart, G. (2003). *Discriminating Risk: The U.S. Mortgage Lending Industry in the Twentieth Century*. Ithaca, NY: Cornell University Press.

Sugrue, T. J. (1998). *The Origins of the Urban Crisis: Race and Inequality in Postwar Detroit*. Princeton, NJ: Princeton University Press.

Taibi, A. (1994). Banking, finance, and community economic empowerment: Structural economic theory, procedural civil rights, and substantive racial justice. *Harvard Law Review, 107*(7 (May)), 1463-1545.

Temkin, K., Johnson, J. E. H., & Levy, D. (2002). *Subprime Markets, The Role of GSEs, and Risk-Based Pricing*. Washington, DC: U.S. Department of Housing and Urban Development, Office of Policy Development and Research.

Weicher, J. C. (1997). *The Home Equity Lending Industry: Refinancing Mortgages for Borrowers with Impaired Credit*. Indianapolis, IN: The Hudson Institute.

Wyly, E., Atia, M., Foxcroft, H., Hammel, D., & Phillips-Watts, K. (2006). American home: Predatory mortgage capital and neighbourhood spaces of race and class exploitation in the United States. *Geografiska Annaler, 88b*(1), 105-132.

Wyly, E., Atia, M., & Hammel, D. J. (2004). Has mortgage capital found an inner-city spatial fix? *Housing Policy Debate, 15*(3).